

Bad Goods: On the Political Morality of Production and Consumption in Global Supply Chains

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Dissertation] submitted in partial fulfillment of
the requirements for the degree of Doctor
of Philosophy in the Department of
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ABSTRACT

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Abstract

People buy many goods produced in ways that appear to call for a remedy or a reaction from actors in developed countries: these are goods which appear to have “grave flaws” in the upstream supply chain. For example, one can buy products produced by firms which routinely clear-cut forests, employ child or forced labor, defy domestic health-and-safety laws, intimidate labor organizers, and so on. On the other hand, many of the global poor rely on the employment opportunities that global production networks create, and developing countries tend to see their low production costs as their comparative advantage to attract foreign investment and upgrade to higher stages of development. In this dissertation, I explore different aspects of the moral, political and social philosophy surrounding grave flaws, particularly what they entail for consumers in affluent countries. Chapters 2-4 concern the appropriate role of consumers and those who would mobilize them to remedy grave flaws. In Chapter 2, I survey the kinds of moral relationship that consumers might have to the grave flaws. I then ask under what conditions an individual consumer has strong moral reasons to react to grave flaws by practicing selective purchasing. I conclude that the deep epistemic difficulties surrounding recognising each good’s connection with a grave flaw, and the effects of switching to apparently better products, mean consumers do not typically have strong moral reasons to practice conscientious consumption. Chapters 3 and 4 turn to consider what I call political consumerism, practiced by consumers as an

aggregate group, mobilized by those who aim to remedy some of the grave flaws. In Chapter 3 I raise concerns about the necessity, effectiveness, and risks of political consumerism, and argue that it might be an effective and appropriate means to remedy grave flaws in global supply chains only in rather specific circumstances. Furthermore, in Chapter 3, I argue that because political consumerism threatens several liberal-democratic values, the mobilizers of political consumerism should attempt to apply more deliberative and democratic elements to their campaigns. Finally, in Chapter 5, I turn to the question of which flaws in supply chains are actually grave. I use the apparel industry as an example, and argue that, apart from outright fraud and coercion, cases of firms trying to undermine or ignore attempts to collectively overcome systemic market failures in the supply chain are the grave flaws we in affluent countries should be most concerned about.

Dedication

To Tori, for her constancy, and Graham, for his kindness.

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1 Introduction

1.1 Apparent grave flaws of global supply chains

Supply chains behind common consumer items involve activities many people in affluent countries find morally troubling. The best way to illustrate this is with some cases.

1.1.1 Laptops

Xiaoyu had been studying costume design at a Chinese vocational school. Part way through her studies, she was told, like the rest of her classmates, that she must work three months as an “intern” helping assemble laptops with brands such as Sony, Acer and HP, or she will not be able to graduate. 60% of the production line are people are also recruited students. Due to lax enforcement of labor laws in inland Chongqing, compared to the coastal provinces, she works 12-hour days with few days off. Next, she hears, she will be sent to an automobile factory for another “internship”. The practice of using student labor as nominal “interns” appears to be widespread in other industries in China (Hodal & Bengsten, 2017).

1.1.2 Clothing

Mohammad was working in the Ali Garment factory in Karachi, Pakistan when it caught fire, with all exits but one blocked. "It was terrible; suddenly the entire floor filled up with fire and smoke and the heat was so intense that we rushed towards the windows, broke the steel grills and the glass and jumped out" (Ghosh, 2012). Almost 300

people died in that fire, the same day (September 11, 2012) that a fire in a Pakistani shoe factory killed 23. Whereas similar disasters in Bangladesh have led to the somewhat successful Multi-Party Accord on Workplace Safety, no such institution has developed in Pakistan (Clean Clothes Campaign, 2017)

1.1.3 Paper

Asril is the head of a Sumatran village. A few years ago, giant Indonesian firm Asia Pulp and Paper cut down the local rainforest and replaced it with acacia trees, to be harvested for paper. Asril says that the plantations have ruined the local environment "In the past we could go into the forest and catch deer. We could look for birds," he recalls. "But now, there is nothing, as you can see. No animal can live in the acacia forest. We cannot shelter in its shade. It's hot. It's a greedy tree — it uses up a lot of water." (Kuhn, 2013) Such deforestation has global effects too - One NGO holds that clear-felling and peat-burning by Asia Pulp and Paper contributed 67- 86 million tons of CO₂ to the global emissions, putting the firm ahead of more than 165 countries in total emissions. (Bacon, 2017)

1.1.4 Gold

Sarah, a resident of Sohuma in the Democratic Republic of Congo (DRC), was taken prisoner in 2013 by a militia led by Manu Mboko, raped, and held for ransom. Her captors demanded payment in gold from artisanal miners in the community. While such a story is tragic, it is not surprising. Only 2% of the gold mined in the DRC is exported

legally, the rest is smuggled out (UN Group of Experts on the DRC, 2014; Yager, 2010). In this black market, much of the gold mined by villagers is “taxed” (stolen) by militias, often to be exchanged for arms, further fueling the ongoing crisis in which over 5 million people have lost their lives (Moszynski, 2008). While legislators and activists have tried to create mechanisms to ensure that minerals used to make, for instance, consumer electronics have not passed through the hands of such militias, perhaps 80% of US companies cannot certify that their products are “DRC-Conflict Free” (Kim & Davis, 2017).

1.1.5 Cocoa

A reporter is interviewing a police officer in Ivory Coast, who has just picked up two child laborers in the cocoa industry, most probably two of the estimated 12,000 or so trafficked there from other parts of Africa. “What would it take... to bring charges against the chief if there was evidence that he was involved? The officer smiles ruefully. ‘You don’t take a chief like this to prison,’ he says. ‘There’s also the social order to maintain. It’s a fine line’” (O’Keefe, 2016). Until recently slavery was technically legal in Ivory Coast, and even now the national police’s anti-human-trafficking unit budget is only \$7,700. The problem of child labor in West African cocoa production is persistent. Ivory Coast and Ghana house 2.1 million of the 200 million child laborers worldwide, up from 1.75 million five years earlier (O’Keefe, 2016). Almost all are engaged in what is classed by the International Labor Organization (ILO) as “hazardous” work (that which

directly endangers their health, safety, and moral development), with 1 in 4 suffering cuts from machetes (ILO, 2017). This is despite continued efforts by the major chocolate companies over the last 15 years to eliminate child and trafficked labor from their supply chain (O'Keefe, 2016).

1.2 What are grave flaws?

The vignettes above are intended to form something of a provisional, ostensive definition of what constitutes a “grave flaw” in the upstream (closer to the raw materials) side of the supply chains. The central idea is that a grave flaw is a feature of a supply chain that is bad enough that it gives individuals, NGOs, governments and firms in developed countries strong reason to either attempt to search for, and if possible put into place an appropriate response. This could be a *remedy* (some course of action aimed at reducing the flaw) or a *reaction* (an action of some other sort, such as simply trying to sever one’s connection with the practice)¹. In short, a grave flaw is an upstream feature

¹ My discussion concept of “grave flaw” is comparable to David Miller’s discussion of “remedial responsibility”. Miller’s concept applies to the “all too many instances of deprived or suffering people” where the prime question, he claims is not whether something should be done, but who should step in and do it (D. Miller, 2001, p. 453). Miller’s paradigm example, from the late 1990s, is the question of who should provide medical aid to Iraqi children suffering from the imposition of sanctions on Iraq, and his discussion turns on exploring the notion of “remedial responsibility” the responsibility to remedy the “bad situation”. My project could be seen as an attempt to flesh out remedial responsibility for grave flaws in global supply chains. However, the specific nature of global supply chains, belonging to the domain of business and not humanitarian assistance, and the slipperiness of the concept of responsibility means that I do not make use of Miller’s main contribution: the distinction between four factors that might influence remedial responsibility: causal responsibility, capacity, effectiveness, and community links with the victims.

of a supply chain that seems to call for a response from at least some of those downstream².

For the first three chapters, the term “grave flaw” is meant to function as a placeholder. That is because there is some controversy about the *kinds* of upstream phenomena that those in developed countries ought to remedy or react to.

For instance, we could focus on instances of wrongdoing in a deontological sense. These might include direct violations of persons’ rights in ways even libertarians should see as problematic: conditions such as the fraud in *Laptops* modern slavery in *Cocoa* or physical abuse at the workplace. Alternatively, we could be concerned with the broader (and less clear) category of wrongful exploitation, which might appear in any of the five vignettes above. Or we could focus on threats to the wellbeing of the global poor, which might point us more in the direction of curbing pollution and environmental degradation, like that in *Paper*, and perhaps promoting health and safety standards in businesses, as in *Clothing*. Or we might instead look for the worst cases of market failure in the relevant markets. Or we might reject the whole process of trying to decide what is a grave flaw from the perspective of academics in developed countries as misguided and focus on institutional measures – violations of *de jure* domestic or international law. I will begin to address these issues in Chapter 5.

² I define “upstream” and “downstream” below.

The overall approach for chapters 1-3, however, is that, whatever are the right categories of upstream phenomena that actors in developed countries should respond to, we can explore responses to grave flaws (considered as a placeholder) in global supply chains. For instance, we can ask, as we do in Chapter 2, whether there is good reason to think individual consumers have strong moral reasons to practice conscientious consumption or not. We can ask, as in Chapter 3, whether mobilizing conscientious consumption is an effective strategy to remedy the grave flaws, all things considered. We can also ask, as in Chapter 4, whether mobilizing conscientious consumption might seriously threaten certain liberal-democratic values.

1.2.1. Flaws outside the scope of this project.

That said, there are certain kinds of potential grave flaw I am *not* concerned with investigating. For instance, a potential feature that some might think should lead to responses from downstream agents are those that pertain to *political statements* made by firms or their representatives. Consider, for instance, the boycott (and counter boycott, or “buycott”) of Chic-Fil-A restaurants for the statements of the CEO opposing same-sex marriage represent such a case (Tomhave & Vopat, 2018). These cases are especially difficult because, whatever else we might say about these cases it is unclear (a) whether firms or their agents are justified in promoting their political opinions in the first place, and (b) what role toleration of controversial ideas should play.³

³ Tomhave and Vopat (2018) give an interesting argument based on the value of free speech, to

Likewise the quality of a good being made in a specific country, which has been the target of boycotts, such as China, South Africa, Israel or Mexico, is not what I mean by a “grave flaw”. At least with regard to typical moral flaws in global supply chains, being made in any particular country doesn’t have any intrinsic moral disvalue; focusing on a country is best seen as using a proxy to respond to a more particular moral flaw, such as occurred with apartheid in the South African case, or support for Palestine in the Mexico case (Hussain, 2012a).

I also purposely make no direct reference to potential grave flaws that relate to the purchase of animal products. The assessment of conscientious consumption as a response to this element (i.e. ethical vegetarianism and veganism) has developed a mature literature on its own. But again, the issue of commercial animal agriculture is complicated by deep-rooted debates on several fronts. These include the value of the anthropocentric viewpoint common in political philosophy, the debate between “abolitionists” and “reformists” of animal agriculture and the relative importance of the social function of food traditions.⁴ I believe that, with further work, my analysis of conscientious consumption and political consumerism might be applied to the issue of

suggest that conscientious consumption triggered by a company merely expressing an unpopular view is pro tanto wrong. But they also suggest that the line between expression and substantive practice, especially in the business world, is blurry.

⁴ For an overview of such debates, see (Barnhill, Budolfson, & Doggett, 2018).

vegetarianism and veganism, but I want to develop my more general account independently of those debates to begin with.

More positively, I focus on grave flaws in global supply chains that (i) affect humans, either directly or through the environment, and (ii) are triggered by the upstream *business activities* of firms: the production, procurement, marketing and retail of products⁵ But before we turn to the political morality of responses to grave flaws in global supply chains, we need to know a little about types of global supply chains, and lay out two normative assumptions in this work that some might find surprising.

1.3 What are global supply chains?

In the simplest picture of global supply chains: “upstream” firms and workers, closest to the raw materials, produce goods or parts of goods that are sold to “downstream” firms, and eventually to a consumer. Products, or components of products, cross national borders going downstream, and payment and orders etc. move upstream.

⁵ There are some cases where it is indeterminate whether a potential grave flaw is a political statement or a regular business activity; the recent #metoo-referencing Gillette ad and the Nike ad featuring Colin Kapernick ad walk a line between political statement and regular advertising. I will focus on those instances of grave flaws in global supply chains that are clearly related to business activities.

But this simple picture belies more than one important kind of structure: As Gary Gereffi recognized back in the early 1990s, there are highly significant differences between “buyer-driven” and “producer-driven” supply chains (Gereffi, 1994)

When supply chains involve production processes that require serious capital investment – such as drilling for oil and distributing it around the world, or assembling automobiles, supply chains are usually dominated by large producing firms that invest in infrastructure in upstream countries where the resources are, or where the labor is cheap. Such producing firms can, and often do, organize the production in webs of subsidiaries and affiliates, but relationships between these organizations tend to be relatively stable and their interests align.⁶

Another kind of supply chain, referred to as “buyer-driven”, will involve goods that can be assembled by suppliers with relatively little capital investment, such as apparel. These typically, are made by suppliers under contract to meet a range of specifications, and sold to wholly independent companies, “merchandisers” like Nike or Walmart that specialize in the design, advertising, and sometimes retail of the goods. As a vice-president for Nike could plausibly claim in 1992 “we don’t know the first thing about manufacturing. We are marketers and designers”⁷. As we will see in Chapter 5,

⁶ An example of the coordination between affiliates is the practice of “transfer pricing” by which goods are exchanged across borders among affiliates of a multi-national enterprise at non-market rates, in order to (e.g.) take advantage of different tax structures (Ruggie, 2013).

⁷ See (R. Goldman & Papson, 1998, p. 7)

buyer-driven supply chains usually contain links that are *ephemeral* (suppliers changing from season to season) and *volatile* (amounts ordered from a given supplier can spike dramatically) depending on the tides of fashion and demand. Further the supply chains are *tangled*—often a single factory will supply a number of different downstream brands/retailers, each with different codes of conduct regarding the labor standards they want to see followed. We will consider the ramifications of such ephemeral, volatile and tangled structures in Chapters 2 and 4.⁸

1.4 Two Assumptions

Here I outline two assumptions that hold throughout this work, but are not shared by all those who write on the ethics of global supply chains.

- (1) Global trade is not necessarily bad for developing countries.
- (2) Neither world economic consumption nor levels of global trade need to be drastically reduced in order for humanity to live within ecological limits.

I realize both (1) and (2) are controversial. If you disagree, you could treat the rest of this dissertation as hypothetical. While a full defense of (1) and (2) would take us very deep into a range of technical literature, I will say a few words here in support of them.

⁸ Later work by Gereffi and students of his approach specified different variations of these two kinds of supply chains, and as a least-structured form, consider an open market where relatively homogenous non-perishable commodities are produced cheaply and collected by intermediaries, which are then purchased and processed by a large number of downstream companies (Gereffi, 2014). I choose to distinguish simply between buyer-driven and producer-driven supply chains to keep my analysis accessible, while containing enough complexity to make my main points.

1.4.1 Global trade is not necessarily bad for developing countries.

Regarding (1), the efficiency and desirability of global trade at a large scale is one of few practical points of consensus among economists. Theoretically, world production can be most efficient when each country focuses on those goods it has a comparative advantage in producing (meaning those goods and services it can produce more efficiently than other goods). It is true that the world trading regime is still slanted strongly in favor of developed countries, who maintain tariff and non-tariff trade barriers despite the commitments they have made in the General Agreement on Tariffs and Trade. However, there is strong evidence that despite this handicap, growth predicated on exports to other countries is still a very promising strategy for developing countries. Oft-cited work by Jeffrey Frankel and David Romer (Frankel & Romer, 1999) shows that not only is there a strong correlation between the extent to which a countries' level of trade is associated with income, but that there is good reason to think this relation is causal⁹.

⁹ Frankel and Romer (1999) proceed by using countries' positions on the globe (which closely mirrors trade) as an "instrumental variable" to stand in for trade levels. Since it is absurd to suggest that income also causes a countries' geography in this way, the best explanation is that trade causes growth in income.

1.4.2 Consumption and trade are compatible with ecological limits.

There is also controversy about (2): the extent to which overall consumption can continue growing without running into ecological limits. Ecological economists hold that sustained growth in the long term is not compatible with the fact of finite natural resources. Environmental economists believe that it is possible to “radically decouple” economic consumption from growth in use of raw materials and pollution, through a “circular economy” that uses true recycling of natural and synthetic materials (Hawken, Lovins, & Lovins, 2013; McDonough & Braungart, 2010). However, if only a moderate version of what the ecological economists claim is right, and overall consumption within the developed world needs to drastically reduce, the questions of this dissertation would still be important. Presumably, the ecological vision of drastically reduced levels of consumption in developed countries will still include some goods made in developing countries with grave flaws, and the questions will remain how consumers should react to those goods. However a more radical version of the ecological economist position would hold that not only do overall levels of consumption need to drop, but that virtually all consumption should become hyper-localized, since standards of transporting goods across regions and across the globe is inescapably built on a very unsustainable use of fossil fuel energy. This position would render the complexities of the question about grave flaws in global supply chains moot in the long run, since global supply chains would no longer be an important part of the global economy with some

potentially serious grave flaws, but an unsustainable relic of a bygone age that need to be rapidly eliminated. However, I believe the extreme, hyper-localized ecological economist position relies on some faulty assumptions. Transport by cargo ship is currently around an order of magnitude more energy-efficient than trucking goods for the same cargo and distance (ECTA, 2011). Restricting consumption to only locally produced goods, as well as being economically inefficient, is highly energy inefficient as well (C. Young, 2017). And finally, even if the hyper-localism is desirable with regard to tangible goods, we would still have the issue of grave flaws in (presumably desirable) global service supply chains to deal with.

1.5 The responsibility deficit

1.5.1 Primary responsibility to the upstream state?

Intuitively, one might think that the state that has jurisdiction over the territory in which some production of a given product is taking place (the “upstream state”) has the obligation¹⁰ to prevent or regulate whatever significant flaws occur as a result. On this view, it is the upstream state that should pass and enforce regulation that (e.g.) protects basic rights of workers and safeguards the environment. This idea is upheld in international labor and environmental law. In the domain of labor, the International Labor Organization (ILO)’s *Declaration on Fundamental Principles and Rights at Work* states

¹⁰ I use “obligation” to refer to cases where some agent ought to do X because of some special relationship they hold (in this case a state to its members). I use “duty” where some agent ought to do X regardless of any special relationship.

that, by virtue of being part of the ILO, the 187 member states “have an obligation... to respect, to promote and to realize” the four principles of the eight “core conventions”, i.e.:

- freedom of association and the effective recognition of the right to collective bargaining
- the elimination of all forms of forced or compulsory labor;
- the effective abolition of child labor;
- the elimination of discrimination in respect of employment and occupation.

(International Labor Organisation (ILO), 1998, Article 1.2)

The Declaration does not spell this out, but in the context of international law, it is clear that this obligation refers to what each state can do in its own territory.¹¹ No such high-level body as the ILO exists with regard to the environment but literally hundreds of environmental treaties place obligations on individual upstream states to protect natural resources and public health from grave flaws.¹²

¹¹ There are signs, however, that the ILO might be changing to more of a supply-chain rather than national-jurisdiction orientation. See (Thomas & Turnbull, 2017)

¹² The University of Oregon’s International Environmental Agreements Database records some 1,300 multilateral environmental agreements (<https://iea.uoregon.edu/>)

1.5.2 Local and global barriers to effective regulation

However, the regulatory states in developing countries hosting the upstream portions of many global supply chains, are often in a weak position from which to provide such protections. In one kind of case, such upstream states lack appropriate laws regarding the relevant grave flaws. In a second kind of case, such upstream states do have adequate labor and environmental laws (say), but these are not well enforced. We can recognize potential reasons for such deficits at different levels of analysis.

Many believe that the *global* structure, under which countries compete for highly mobile foreign investment and business, best explains the lack of effective regulation of grave flaws in many states (Føllesdal, 2004; Hertz, 2002; Hussain, 2012a; Lawford-Smith, 2015). Such theorists argue that pervasive collective action problems retard effective regulation in upstream states. For example, if a state, *Producia*, acts first to introduce or enforce basic environmental protections (say), this will (theoretically) make *Producia* less attractive to foreign firms looking to invest, or buyers wanting to purchase exports from the upstream state, due to the increased costs of doing business there. On this model, *Producia* faces serious disincentives from being such a first mover, and yet so does every other country competing for investment and a share of the total export market. I just described a case of a *chilling effect* – states refraining from introducing or enforcing regulations that they otherwise would introduce or enforce, because of a serious collective action problem. The stronger version of this explanation for missing or poorly

enforced regulations is that there is a *race to the bottom* – each state is actively reducing regulations, because competitor states are doing the same: to maintain its position in the global economy, each state must mirror such deregulatory action. If either kind of collective action problem obtains, regulatory responses to grave flaws might be lower than is collectively rational, because each individual player faces strong disincentives to enact strong regulations.¹³

But even if neither the chilling effect nor the race to the bottom is in play, upstream states might still face serious restrictions on their ability to enact effective regulations. Where legislation is absent, it may be a case of a lack of political will, dysfunctional legislature, or a legitimate prioritization of goals (e.g. basic security) while a country is rebuilding after a major upheaval, or the need to kick-start economic development. In the case of missing enforcement of regulation, it may be due, for instance, to a low perception of legitimacy of the regulations amongst those officials charged with enforcing it, or a culture of nepotism and/or corruption.¹⁴

¹³ I should note here that I don't mean to suggest that grave flaws are a problem that only arises with regard to global supply chains. In developed countries, regulatory capture and other forms of government failure are serious problems, meaning that these states face their share of grave flaws. Perhaps, though, some of the conclusions I draw in this dissertation will be applicable to grave flaws that arise from these other sources.

¹⁴ I refer in my title to the political morality of production and consumption in global supply chains. "Political morality" is often used (e.g. in (Raz, 1986) and (Perry, 2017)) as referring only to the norms and constraints that apply to governments and government officials, against a background of significant disagreement about what values should be honored or promoted and how they might be best promoted. As I use the term, political morality does refer to the norms

1.6 Ideal or non-ideal theory?

Discussing realistic constraints on upstream states in developing countries leads to the question, to what extent is this work a piece of ideal or non-ideal theory? Those terms have been used in a number of different ways. It will be helpful to consider three different kinds of non-ideal theory, as laid out in the “conceptual map” by Laura Valentini (2012).

1.6.1 Full vs partial compliance

This is the use of “ideal/non-ideal distinction familiar to many from Rawls. In Rawls’ work, ideal theory is *full compliance theory*, which considers the demands of justice in the counterfactual case in which “everyone is presumed to act justly and to do his [sic] part in upholding just institutions” (Rawls, 1999, p. 8)¹⁵

1.6.2 Feasible vs infeasible

This use concerns not the level of compliance but the overall level of feasibility. Non-ideal theory with regard to feasibility asks: is the normative vision in the theory

and constraints belonging to actors in the political sphere (broadly construed) taking into account significant disagreement about fundamental normative issues. However, given the inherently global nature of the topic I am discussing, and the lack of a world government, I wish to conduct this investigation into a normative landscape in which a *variety* of actors work to shape our interactions together. The focus in this work is primarily on developing a sound political morality of consumers and those who would try to mobilize them, but at other times I refer to firms and national governments as well.

¹⁵ Rawlsian ideal theory has another condition: it assumes minimally favorable conditions of economic development.

one that could feasibly be brought about in our world or something close to it? It seems to the most scalar of the three uses of the concept: more ambitious theories require greater and greater departures from the actual world we live in.

1.6.3 End-state vs transitional theories

The third use has a temporal dimension – a theory can be more ideal in the sense that it specifies an end point to aim at, and less ideal theory proposes improvements from the status quo, without consideration of how it refers to a further or end-state of human relations.¹⁶

1.6.4 Ideal/non-ideal theory in this dissertation

Where does my dissertation fit along these three dimensions: Does it assume full or partial compliance? How important are feasibility constraints? Does it map out an incremental improvement or a vision of a better world some way in the future? To begin with, it is squarely in non-compliance theory. It concerns who has what reason to remedy grave flaws. These are deeply regrettable states of affairs, some which have come about through the wrongdoing of others. And when I consider the moral reasons that individual persons have to practice conscientious consumption, for example, I do not assume that everyone will follow the dictates of morality or political obligation. I

¹⁶ A final form of hyper-ideal theorizing, like that of GA Cohen, might be thought of as answering a different kind of question (Hamlin & Stemplowska, 2012). For Cohen, “The main ‘job’ of the political philosopher is not to discover what we should do, but rather to discover what we should ‘think’” (Valentini, 2012, p. 657).

also take feasibility constraints very seriously. I am eager to consider recommendations that are feasible, given the epistemic and character flaws, institutional mechanisms, and other claims on resources, that exist in our world. Finally, chapters 2-4 of this work, at least, are closer to end-state theory than incremental theory. Global trade is an important enough feature of our current civilization that I believe we should have patience and resolve to figure out comprehensive, lasting and just institutions that might see it continue with minimal grave flaws many generations into the future, despite widespread non-compliance and other constraints in the present. On this note, my dissertation lays the groundwork for a further argument that while conscientious consumption and political consumerism might sometimes seem to provide an incremental improvement from the status quo, they might also make more far reaching, stable and democratic reforms less likely to occur. At the least, I hope to provide good reason to temper some fashionable enthusiasm about the promise of mobilizing consumption to remedy grave flaws in global supply chains.

The way in which we see the political morality of mobilizing consumers to remedy flaws depends in part on how we see the moral landscape that faces each individual consumer. If there is an unambiguous strong moral reason for individuals to selectively purchase in certain ways regarding grave upstream flaws, mobilizers might often be simply trying to encourage consumers to do what they individually have a duty to do. Thus, before we dive into the political morality of political consumerism, we

should assess the moral landscape that faces each individual consumer. This is the subject of Chapter 2.

2. Do I know how to save the world through shopping?: Conscientious consumption and the epistemic objection

People may generally use consumption to promote positive change, and often we know when consumption fulfils this condition.

Nicole Hassoun. "Consumption and social change" (2019, p. 43)

The most significant gap in the literature is the lack of systematic knowledge about the real-world impact of existing labour standards. Our ignorance here is close to total. It is difficult to find a single case, no matter how publicized, in which one can be confident that attempts to enforce transnational labour standards have in fact improved working conditions. Everybody knows that the American television performer Kathie Lee Gifford cried on television when confronted with working conditions at the factories in Honduras producing clothing sold under her name, but few know much about whether this resulted in any improvements there.

Alan Hyde, "A game theory account and defence of transnational labour standards" (2006, p. 143)

2.1 Introduction

In the introduction to this dissertation I introduced the concept of a *grave flaw* in a global supply chain: an upstream feature which is ethically troubling and provides strong moral reason for either seeking a remedy or a reaction of some other kind from at least some of the agents connected with it. The systematic difficulties or disincentives facing developing-country governments in remedying grave flaws raise the question whether more distant agents, such as the consumers downstream, have strong moral reasons to react to such flaws. I also pointed out that while there is controversy about which features of supply chains are actually grave flaws (explored in Chapter 5) we can

use the concept as a placeholder to discuss various aspects of the ethics of global supply chains, especially as they apply to consumers. These include the relative appropriateness of consumer action in the aggregate as a remedy for grave flaws (Chapters 2 and 3). This chapter assesses the reasons to practice conscientious consumption that might apply to individual consumers.

Call the goods with very significant or numerous grave flaws in their upstream production processes “dirty” products, and goods with no such flaws “clean” products. We can talk of individuals practicing “conscientious consumption” intentionally selecting clean(er) and/or avoiding dirty (or dirtier) goods.¹ This chapter assesses whether there are typically strong moral reasons for an individual consumer to generally practice conscientious consumption in global supply chains.

Recall from the introduction that I am concerned with grave flaws that concern people and the environment (not those that impact animals) relating to upstream business activities (not political statements by firms). In what follows, by “conscientious consumption” I refer to conscientious consumption in reaction to grave flaws in global supply chains relating to upstream business activities.

¹ I use “conscientious consumption” when many others use “ethical consumption” to describe situations in which consumers selectively avoid (or purchase) products with perceived grave flaws (or good qualities). “Ethical” consumption appears to be a success concept, or at least imply that selective purchasing/avoidance is usually the right thing to do by default. Thus, I prefer the more neutral term.

While most of my dissertation critically assesses the potential mobilization of consumers as a force to remedy grave flaws, as mentioned, I begin in this chapter by assessing the case for individual consumers having strong moral reasons to practice conscientious consumption independently. This topic is both interesting in itself, and it has implications for the remaining chapters. If each individual consumer has a strong moral reason to practice conscientious consumption, then mobilizers of political consumerism will often be trying to support or encourage them to do what is independently right thing. If, on the other hand, it is unclear whether individual consumers have such reasons, the mobilizer's actions become much more clearly instrumental. This structure might seem familiar from other situations in which agents try to systematically encourage others to take action. Arguably, we should judge efforts to encourage people to vote differently depending on whether we think individuals have an independent reason to vote or not, or we should judge efforts to recruit volunteers differently when we think the would-be volunteers have independent reason to volunteer.

2.2 Morally significant relationships.

Why might grave flaws, committed by others, and often a result of weak regulation in the upstream territory, reach down the supply chain to give individual consumers strong moral reasons to do *anything*? This is the question of what morally significant relationship (if any) holds between consumers and the grave flaws upstream.

It turns out that there are many theories about what morally significant relationship might hold between an individual consumer and the grave flaws upstream of the goods they consume. It is helpful to distinguish these theories. There are those that rely on or use relatively familiar moral concepts, and those that suggest new moral concepts are needed to best understand the relationship. Of those that use familiar moral concepts, some concern the consequences of consumer choices, others focus more on relationships of complicity, broadly construed, and yet others make use of concepts from virtue theory.

2.2.1 Familiar moral concepts

2.2.1.1 Consequences

Of those approaches that rely on familiar moral concepts, some emphasize the role that individual consumer choices supposedly play in bringing about or avoiding grave flaws in the future. One might be tempted to think that the biggest challenge facing such consequentialist accounts is to show how this kind of approach can issue in strong moral reasons for an individual consumer to act, when the consumption patterns that incentivize morally flawed upstream processes seem essentially an aggregate level phenomenon. However, there has been a great deal of quality work in a consequentialist vein about how to best understand the moral relationship between an individual act of purchase and the aggregate effect of incentivizing grave flaws. Shelley Kagan (2011), Alistair Norcross (2004) and David Schwartz (2010) argue that while purchases have a

large chance of triggering nothing at all morally significant, they have a minuscule chance of triggering some significant market threshold or social threshold. While those views garner some criticism,² such consequentialist approaches are potentially viable as explanations of what moral relationship an individual purchase has to the grave flaws.

2.2.1.2 Complicity

Other approaches trade on moral notions such as complicity or benefitting from injustice. Complicity or “quasi-complicity” (Kutz, 2007) can be spelled out in different ways. Some hold that consumers should avoid “participating” in the grave flaw or “joining” their intention with those who are causing the grave flaw (Schwartz 2010). A different kind of complicity-like view might warn against consumers involuntarily benefitting from injustice, especially when there is no good way to appropriately relinquish the benefit.³

2.2.1.3 Virtues

Other theoreticians suggest that virtues are the right place to emphasize the morally relevant relationships. For example, Nicole Hassoun (2015) argues that we should

² Budolfson (2016) argues that, in many supply chains containing epistemic lag as well as supply inelasticity, the Kagan-Norcross-Schwartz approach overestimates the impact of an individual purchase. But he does not deny it completely.

³The avoid-benefit-from-injustice argument can be found, with less than complete endorsement, in Schwartz (2010, p. 82). Lawford-Smith (2015) thinks it interacts with other reasons. See also (Goodin & Barry, 2014; Butt, 2007).

practice the virtues of creativity and resolve in the face of grave flaws in supply chains. For Michele Micheletti (2003), consumers should practice the virtues of solidarity and judgement. For both these theorists, *the appropriate expression of these virtues is assumed to be selective purchasing*⁴.

2.2.2 Revisionary concepts

While the complicity, consequentialist, and virtue approaches might have some adherents, others are less sure that orthodox moral concepts are the right tools to explain an individual's relationship to the grave flaws. A rather different kind of approach looks to develop new moral concepts to cope with the kinds of ethical challenges that global supply chains pose. After all, most of the collection of moral intuitions, moral emotions, norms, and ethical theories that influence our ethical lives seem poorly suited to the tangled web of weak interpersonal associations that reflect our lives as participants in global markets. The development of neither philosophical ethical theories nor most culturally transmitted ethical traditions had as their prime subject matter large scale collective actions within a market setting. There is good reason to think that conventional, common sense norms or ethical theories developed in the past will both

⁴ Garcia-Ruiz and Rodriguez-Lluesma (2014) argue that a MacIntyerian virtue-ethics approach can illuminate conscientious consumption, but their approach focuses on the supposed virtue of simplicity in consumption practices, not on remedying or responding to grave flaws in global supply chains.

struggle to meet the challenge of guiding appropriate individual responses to global grave flaws.⁵

⁵ In times when we (supposedly) could not easily be involved in harms caused to distant others by the aggregation of numerous everyday actions, living an adequately moral life, Lichtenberg argues, was straightforward:

Don't kill people, don't rape them, don't attack them, don't rob them: if you follow these simple and indisputable rules, you are doing what you ought to do and cannot be faulted; at least you have fulfilled your obligations. Yet over the past few decades, something has changed. We see—or, in many cases, others inform us in no uncertain terms—that our most humdrum activities may harm people in myriad ways we have never thought about before. And because these activities are seamlessly woven into our normal routines, ceasing to engage in these “New Harms” is not at all easy—not simply a matter of refraining from things we never would have dreamed of doing in the first place, like killing and raping and robbing. Not harming people turns out to be difficult and to require our undivided attention. (Lichtenberg, 2010, p. 558)

Derek Parfit makes a similar point:

As conditions change, we may need to make some changes in the way we think about morality. Common Sense Morality works best in small communities... In small communities, it is a plausible claim that we cannot have harmed others if there is no one with an obvious complaint, or ground for resenting what we have done. Until this century, most of mankind lived in small communities. What each did could affect only a few others. But conditions have now changed... It now makes a great difference whether we continue to believe that we cannot have greatly harmed or benefited others unless there are people with obvious grounds for resentment or gratitude. While we continue to believe this, even if we care about effects on other we may fail to solve many serious Prisoner's Dilemmas. For the sake of small benefits to ourselves, or our families, each of us may deny others much greater total benefits, or impose on others much greater total harms. We may think this permissible because the effects on each of the others will be either trivial or imperceptible. If this is what we think, what we do will often be much worse for all of us. If we cared sufficiently about effects on others and changed our moral view, we would solve such problems. (Parfit, 1984, p. 86).

An amusing and insightful illustration of the apparent inapplicability of conventional morality to

Some of the better-known work in this area (Lichtenberg 2010) is negative, and suggests that global supply chains and similar contemporary structures that cause harm should cause us to rethink the distinction between positive and negative duties. Others have worked at developing new moral concepts. For instance, Julia Nefsky (2018) suggests that even if a single purchase has no chance of making a difference on its own, it might, if it is not redundant, fit the morally important category of “helping” bring about a bad (or good) outcome in the future. Other notions are deliberately scalar. Lee Shepski suggests consumers can be more or less “morally distant” from the grave flaws that are upstream of a particular good. Similarly, Budolfson holds that some grave flaws are more or less “essential” to the production of different goods, and we have stronger reason to avoid those products which are more essentially morally flawed, and less reason to avoid products that are less essentially flawed.⁶

We should note here that many such revisionary scalar approaches fit especially well with a particularist approach to conscientious consumption, that does not try to

modern life is also found in the TV series “The Good Place”, where [spoiler alert] it is revealed that no-one has been achieving enough “points” to enter heaven for centuries, because simple acts like buying flowers for one’s mother are now connected to a vast global economy with so many grave flaws.

⁶ Budolfson’s account seems tailor-made to explain the intuitions of, for example, support lacto-ovo vegetarianism despite the similar levels of cruelty to animals in the egg and dairy industries, as in the meat industry. While meat (except lab-grown meat) *essentially* involves grave flaws the intentional killing of an animal, grains and eggs and actually, but not essentially involve such a grave flaw. However, it is unclear how well the account generalizes.

identify concrete duties of conscientious consumption, but exhorts consumers to use practical wisdom in order to choose appropriately. Judith Lichtenberg holds that, there is “no general answer” to the question of what kind of moral relationship between consumption and grave flaws entails (Lichtenberg, 2010, p. 575). Lee Shepski, for instance, suggests that, since his scalar approach provides “no firm general rules for deciding which cases are morally acceptable and which are not”, we must “bring our intuition, judgment, and the concept of ethical distance to bear.” (Shepski, 2010, p. 402).

2.3 Conscientious consumption thesis

Many of those who emphasize the moral relationship between affluent consumers and the upstream grave flaws support what I call the conscientious consumption thesis:

Conscientious consumption thesis: Given the morally significant relationship between acts of consumption and upstream grave flaws, individual consumers have strong moral reasons to intentionally select apparently clean(er) goods and avoid apparently dirty(er) goods from global supply chains

Some philosophers seem to support the conscientious consumption thesis. For instance, after surveying grave flaws and their prevalence in global supply chains, Nicole Hassoun claims “We should try to find good alternatives” to dirty products. (2019, p. 271). Similarly, David Schwartz holds that consumers in affluent countries “need...to reconsider and alter our buying habits” after “acquiring knowledge about the

production history of particular products (or types of products) that one buys..." (2010, p. 86-87).

Notice that discussing the conscientious consumption thesis in terms of the reasons that the morally significant relationships generate allows us to remain somewhat ecumenical about both the morally significant relationship that grounds the reason (see above) but also the final form of the moral demands on the individual. For instance, one could try to establish that there is an imperfect duty of conscientious consumption, which everyone must conform to in some instances, but they have considerable discretion as to when and where. Alternatively, one could, as we discussed above, couch things in terms of virtue, and try to argue that good consumers are those who react appropriately to apparent grave flaws in the supply chain, and that often this appropriate response will be to selectively purchase or avoid particular products (Micheletti, 2003). A third way would be to stress that the reasons facing consumers to practice conscientious consumption vis-à-vis apparent grave flaws is what normative ethicists call a *prima facie* reason, a reason which holds as a default which can be overridden by other morally relevant reasons.

It appears many Non-Governmental Organizations (NGOs) also promote something like the conscientious consumption thesis of the goods of global supply chains. Very often their calls to individuals to practice conscientious consumption are implied rather than stated, but the message is clear. For example, a spoof Kit-Kat

commercial produced by Greenpeace likens eating a Kit-Kat chocolate wafer to eating an Orang-utan finger, due to Nestle's alleged role in Indonesian rainforest destruction.⁷ Other calls to selectively *purchase* often made by conscientious shopping guides, are more overt, as when "ethical" clothing comparison site "Good On You" exhorts consumers to "shop your values" and "wear the change you want to see" (Good On You n.d-a).

It is important to note that the theories of the moral relationships between individual consumers and upstream grave flaws do not, on their own, issue in any kind of practical judgement about the reasons facing a consumer in the supermarket aisle or shopping online. Perhaps benefiting from or being "ethically close" to grave flaws, helping to bring them about, being complicit in them and so on count against an act of downstream purchasing, but we need an argument for this. However, it is relatively easy to see how such an argument might be constructed. Assume that the morally significant relationship (being complicit in, being causally related to, being close to etc.) is typically triggered by consuming a good with an upstream grave flaw⁸. If (as is

⁷ Conscientious comparison website/magazine Ethical Consumer suggests, since the late 1990s, calls to boycott are often made not directly but via "subtext". With regard to a campaign for sustainable tuna: "Not once was the consumer asked to boycott, but the subtext was clear. Who would want to buy their tuna, having heard the story of exploitation, from the (pre-reformed) John West and Tesco - the companies originally at the bottom of the list?" (Ethical Consumer, n.d-c.).

⁸ Gillian Brock (2014) however, points out that, if the main morally relevant relationship between consumers and the upstream flaws is one of benefiting from injustice, this probably also hold

plausible) individuals typically have strong moral reasons to avoid being in such a morally significant relationships, it makes sense to assume that those reasons also apply to avoiding the trigger – the purchase in question.

2.3.1 Objections to the Conscientious consumption thesis

However, objections to the conscientious consumption thesis can come from many different quarters. The view might be *directly threatened*, for instance by the “inefficacy objection”: there is no rigorous way to derive a morally significant relationship between an individual act of consumption and the grave flaw which is caused or enabled by the aggregation of a large series of acts. Such a challenge attempts to show grave flaws do not lead to strong reasons for an *individual* to practice conscientious consumption. A different way to challenge the conscientious consumption thesis is to make a *comparative objection*: to accept that something like the conscientious consumption thesis holds, but point out that individuals have even stronger reasons to respond to the morally significant relationships in other ways. For instance, rather than expend effort on altering buying habits, individuals might have stronger reasons to try

between *non*-consumers and the upstream flaws also (due to the indirect benefit to non-consumers, of (e.g.) cheap consumer goods being widely available). Consequently, Brock argues, if benefitting from injustice is the crucial moral relationship, conscientious consumption cannot be a direct way to discharge whatever obligations are generated by that relationship (Brock, 2014). I take no stand on Brock’s claim. This is because Brock focuses on only one type of concern (benefitting from injustice and avoiding bad consequences, respectively), whereas I intend my analysis to be more ecumenical in its scope.

to work towards more systematic forms of remedy, such as actual or possible political institutions,⁹ or to focus their efforts on their roles as employees and (where appropriate) investors, to act as a moral check on industry, or simply to buy the cheapest goods they can and pass the savings on to the global poor¹⁰

I do not discuss the direct threat of the inefficacy objection, for two reasons. First, it is most squarely aimed at consequentialist theories, that rely on individual acts of consumption having an effect, or at least an expected effect, on the severity of the upstream grave flaws. However, I wish to remain ecumenical about the basis of the morally significant relationships between consumers and grave flaws, so objections to just one proposed relationship are best set aside. Second, as noted above, the inefficacy objection has been the target of many sophisticated responses: (Kagan, 2011; Nefsky, 2017, 2018; Pinkert, 2015; Spiekermann, 2014). The comparative type of objections are, in my view a very important family of objections, and I deal with it in some depth, but with regard to consumers not as individuals, but as a class of actors that might be mobilized to remedy grave flaws, in Chapter 3.

⁹ (Wenar, 2016) provides an example of how this kind of work might be done.

¹⁰ Benjamin Ferguson makes a powerful argument couched towards consequentialist views that the ideal response to concerns about sweatshop conditions in apparel manufacture is to buy the cheaper, dirtier clothing and donate money directly to those suffering from the grave flaws in apparel supply chains (Ferguson & Ostmann, 2018). I return to an argument similar to Ferguson's when I discuss the risks of political consumerism in Chapter 2).

However, the conscientious consumption thesis can also be challenged in a third way, by admitting that there may be good reasons for consumers to practice conscientious consumption but showing that further reasons *count against* individuals trying to practice conscientious consumption. Apart from the simple costs to the consumer in question, one might argue that an individual practicing conscientious consumption will lead to moral licensing, making it less likely that an individual consumer will behave morally after buying a cleaner product.¹¹ One might raise the problem of conscientious consumption crowding out orthodox political activism (Zizek, 2009). One might hold that conscientious consumption leads to an undue and unfortunate politicization of the marketplace (Hussain, 2012a). One might also argue that conscientious consumption overrides the preferences of developing world workers or violates self-determination in an important way (but see Barry & Macdonald, 2018; Hussain, 2012a; Powell, 2014).

Many of these considerations are rather odd to apply to the conscientious consumption thesis as it relates to an individual. A moral theory of reasons for an individual to practice conscientious consumption might be more concerned with what

¹¹ One might think that if moral licensing is a genuine concern, it applies to all cases of doing the right thing. But the worry about moral licensing is more specific – it holds that conscientious consumption, perhaps due to the monetary cost that is often associated with it, has more of a moral licensing effect than other acts. Studies such as (Engel & Szech, 2017) and (Mazar & Zhong, 2010) suggest that moral self-licensing may be particularly powerful in the case of conscientious consumption. I thank Allen Buchanan for raising this worry.

an individual should do, not what she is likely to do, given the imperfect being she is. Complaints that an individual will, for example, feel virtuous after conscientious consumption and give less to charity, say, even if correct, seem less well placed here, than in Chapter 3 when we consider the appropriateness of mobilizing consumers to practice conscientious consumption. Other concerns, like Hussain and Powell's concerns about politicization of the marketplace also seem more appropriately aimed at that question of whether consumers in general should be mobilized to remedy the grave flaws, rather than concerns that apply to the reasons that immediately face an individual considering a given purchase.

In this chapter, I want to raise an objection that counts against the conscientious consumption thesis as applied directly to the case of the individual: the epistemic objection.

2.4 Typical approaches to the epistemological issues

The heart of the epistemic objection to the conscientious consumption thesis is skepticism that individual consumers, even with some aid, will be in a good position to judge (i) how much cleaner some goods are than others, and (ii) the consequences of consumption shifts from dirtier goods to cleaner ones.

Advocates of the conscientious consumption thesis rarely comment on epistemological issues. Rather, they often try to avoid the epistemic objection in one or more of three ways:

2.4.1 Point to “obvious” cases.

Some assume that there at least some relatively uncontroversial cases, in which we can expect most reasonable consumers to accurately suspect which products are cleaner than others. For instance, Hassoun holds that “often we know” when selective consumption “promote(s) positive change” and in these cases, it is both permitted and ideal to undertake such consumption (Hassoun, 2019, p. 434). Hassoun names actual programs she believes “promote positive change”: FairTrade, United Students against Sweatshops, Goodweave International. The difficulties trusting the recommendations of such institutions we will return to throughout this dissertation as well as in Chapters 3 and 4.

2.4.2 Assume away

Another response is to ignore the problem, and continue with one’s theory. Perhaps questions about the degree to which consumers can know the relative dirtiness or cleanliness of any given good are irrelevant, or at best an afterthought to the central moral judgements about conscientious consumption, which concern the relationship between an act of purchase and an upstream grave flaw. Julia Nefsky begins her account of conscientious consumption by assuming “for the sake of argument” that we *know* which feasible production processes “would be better” and never returns to the question of what to do given that we may lack this knowledge about long and complex supply chains (Nefsky, 2018, p. 558). Lee Shepski uses an example of buying coffee and again

asks us to assume “for the sake of argument” that the supply chains behind one particular brand of coffee, unlike the others, may be free from systematic exploitation (Shepski, 2013). Shelley Kagan discusses conscientious consumption without even mentioning the epistemic difficulty concerning knowledge of the extent to which any given good is linked to any particular flaw (Kagan, 2011).¹²

2.4.3 The information-sponge view

When philosophers do consider the epistemic challenges facing the consumer, the response is often to portray the consumer as soaking up, sponge-like, high-quality information about grave flaws, and the main concern is that consumers cannot or should not try to avoid such information. This approach could be seen in a passage by Judith Lichtenberg (2010), when she suggests that “over the last few decades... *we have learned that...* the provenance of products we use every day is compromised in a variety of ways.” (Lichtenberg, 2010, p. 558 [italics mine])¹³ Furthermore, Lichtenberg suggests, we face “the growing impossibility of remaining ignorant of these processes” (ibid, p. 558).

¹² Holly Lawford-Smith mentions at the end of one article that “individuals are in an epistemically opaque situation when it comes to the harms visited upon others as a result of their daily purchases” (2015, 326) but she only here refers only to the supposed ignorance about *which particular purchase* of a particular product will cause harm, not about the relative moral superiority of some production processes over others.

¹³ These statements are highly plausible when taken generally. We do know for sure that the provenance of everyday products *in general* are compromised. What is much harder to know is whether any given product is better or worse than another, and that threatens the conscientious consumption thesis.

David Schwartz also suggests that, if only consumers would open their eyes and ears, they would have much better information to make the right choices in the marketplace: “While it may in fact set too low a bar, avoiding willful ignorance is a good starting point in attempting to address the epistemological burden of ethical consumerism.” (2010, p. 111)¹⁴.

2.5 Rejecting the epistemic assumptions

I think all of these approaches, when applied to grave flaws in global supply chains are premature until we make a careful assessment of the epistemic challenges that face individual consumers. We should not assume away the epistemic problem, treat consumers as receivers of quality information (if only they willed it), or point to supposedly “obvious” cases, in order to reach to motivate the conscientious consumption thesis. Instead, we should recognize that the conscientious consumption thesis above is implausible, due, *inter alia*, to its neglect of the systemic challenges to the epistemic position of consumers. In short, consumers suspicions about relative cleanliness and its ramifications are rarely accurate. More broadly, plausible attempts at providing strong, general reasons to practice conscientious consumption with regard to global supply chains will have to address the serious challenge that consumers do not

¹⁴ For Julia Nefsky, watching a single [fictional] documentary “beans of justice” would allow you to “*learn about* grueling working conditions; exploitative wage systems that keep farmers living in poverty and debt; and the use of child and slave labor” as well as that consumers have power to change the situation “by demanding fair trade coffee” (2018, p. 268 [italics mine]).

know how to shop to save the world. In the next section I lay out the epistemic objection in some detail.

2.6 The challenging epistemic environment and its sources

Below I discuss the complexity of global production networks, which give rise to two kinds of problem: mistakes about the level or strength of any given grave flaw in different supply chains, and mistakes about the consequences of shifts from goods with more upstream flaws to those with fewer upstream flaws.

2.6.1 Complexity

Global production networks typically involve large and complex structures. As we discussed in the Introduction, producer-driven supply chains involve multinational enterprises (MNEs) which conduct action via chains of majority-owned subsidiaries which are connected by a range of different relationships.¹⁵ Buyer-driven supply chains, often the result of hundreds of short-term and changeable transactions between merchandisers and hundreds or thousands of suppliers, pose even greater difficulties for tracking upstream grave flaws. For instance, in 2014, the Apple iPhone 6 was assembled from components produced by 785 suppliers in 31 countries. 60 of these suppliers themselves sourced significant elements of their product from other countries (Ruggie,

¹⁵ For instance, the Total oil and gas company has 900 subsidiaries and equity affiliates, without counting dealer-owned and operated service stations (Ruggie, 2018).

2018). The relevance of this for determining whether the production of the iPhone 6 was significantly morally better or worse for the workers in the upstream supply chain than that of an “ethically produced phone” such as the Fairphone is an extremely difficult task. These networks are also dynamic, as technological improvements, changes in regulatory regimes, in consumer tastes, and so on, all alter the incentives facing the most powerful actors in global supply chains. These highly complex networks of suppliers—including independent contractors, subsidiaries and affiliates—illustrate just how difficult it is for upstream firms themselves to trace the conditions under which their products are made, let alone for consumers to know about this in detail.

2.6.2 Features of the consumer-information infrastructure

In response to this complexity, one might point out that it is not up to the individual consumer to peer into the complex and dynamic supply chains behind the goods she buys. Instead the consumer has the help of what I call “consumer-information infrastructure”: the press, informal social networks, independent and business-led regulation schemes, and conscientious consumption guides¹⁶ that conscientious

¹⁶ For example, the UK’s Ethical Company Organization produces the Good Shopping Guide, which promises information on “which television manufacturer has the best human rights record, which companies are involved in the arms trade, which health and beauty products are kindest to animals, and which banks fund in fossil fuels (sic)” (Good Shopping Guide, n.d). Rival guide Ethical Consumer suggests their recommendations can provide “simple solutions” to “ethical dilemmas” about whether to choose local, organic or fair-trade produce. Ethical Consumer promotes what they call “fully screened” products and companies that have the least amount of moral “cost” in the form of supporting sweatshops, climate change or factory farming (Ethical Consumer, n.d-b).

consumers can draw on to navigate the complex global production networks to deliver credible information about better and worse production processes. However, the information infrastructure faces serious challenges.

We can group the sources of these challenges into three: the practical difficulty of monitoring supply chains; conflicts of interest between the monitors and consumers; and systemic bias in the information infrastructure. I spell these out and then give some examples below. I focus on what challenges face NGOs, independent certification schemes and conscientious consumption guides, for the information that journalists and social media influencers rely on very often come from NGOs and independent certification schemes.

2.6.2.1 Complexity again

To begin with, the complexity of global production networks means that surveying a single company's supply chain, for, say, labor rights abuses, is too costly, for any organization to feasibly perform in a fully comprehensive manner, and is sometimes prohibited by governments.¹⁷ The same complexity that frustrates individual's attempts to measure the cleanliness of supply chains also affects the information infrastructure.

The problem is most stark with conscientious consumption guides, that try to collate and synthesize a huge range of already poor-quality information about grave

¹⁷ See (Vogel, 2007, p. 91)

flaws in supply chains, rely heavily on companies' self-reports and employ idiosyncratic methods such as searching for keywords related to grave flaws in news stories.

Ethical Consumer, for example, nowhere displays a clear general outline of its methodology. It appears that Ethical Consumer typically breaks down its reviews into four categories – People, environment, animals, and politics. The main information that a consumer sees is a numeric score, usually out of a maximum of 20. In the environmental category, however, companies are scored not on their relative performance in terms of environmental impacts but on “*understanding*” their environmental impact and having dated targets for reducing those impacts. Ratings for human rights and workers' rights are even more idiosyncratic, where companies are down-ranked for featuring in news stories about particular abuses, or simply for conducting business in China, Israel or Russia. Large companies and retailers tend to score lower as a function of their diverse business practices. For instance, Coca-Cola is downgraded for including animal gelatin in some of its massive product range, and clothing retailers are downgraded in the environmental category if they are department stores which also sell petrol. (Ethical Consumer, n.d-a)

Those guides, such as apparel-focused *Good On You*, which can afford to undertake relatively vigorous research into the supply chains behind various apparel companies, typically rely on funding from the very brands they recommend, creating the kinds of conflicts of interest I will discuss below (Good on you n.d-b).

Independent certification and monitoring schemes such FairTrade, Fair Wear Foundation, and the Forest or Marine Stewardship Councils, with their narrower focus, can perform somewhat more rigorous analysis of parts of global production networks than conscientious shopping guides can. Still, in order to operate at scale, they must rely on multi-stakeholder cooperation (including from firms and NGOs), simply to gain information and access to production sites to monitor. (Esbenshade, 2012; Seidman, 2007). Again, these cooperative relationships threaten to create bias towards the very actors they are meant to be monitoring. (Bartley, Koos, Samel, Setrini, & Summers, 2015; Esbenshade, 2012; Seidman, 2007).

2.6.2.2 Conflicts of interest.

As suggested above, we should turn to the incentives facing actors within the information infrastructure themselves. While it is well known that firms have an incentive to mislead consumers about the ethical qualities of their own products, industry-led cooperative schemes of self-regulation can be of greater or lesser credibility¹⁸, and it is often hard for individuals to distinguish industry-led schemes from more independent or multi-stakeholder initiatives. But even independent schemes have conflicts of interest: the very environmental and labor NGOs on whom

¹⁸ For instance, there is some evidence that a chemical manufacturer's being a member of the Chemical Manufacturing Association's Responsible Care Initiative was, at least prior to 2002 a signal that the manufacturer is more likely to be a significantly worse polluter than a non-member! (Gamper-Rabindran & Finger, 2013).

conscientious consumers tend to rely on directly or indirectly for information about bad corporate conduct also have interests that might align poorly with the consumer's epistemic interests. While NGOs are usually more explicitly focused on moral values than firms are, as organizations, they also have their own interests that depart from those of the consumers wanting quality information on which to make choices.

One is in surviving and growing in a competitive "marketplace" for institutional funding and donations from individuals. One can see how this might provide pressures to simplifying issues and overstating the impact of conscientious consumption campaigns. Further, NGOs might compete with one another to be the most prominent certifier chosen by industry to have access to sensitive information and funding. As a consequence there is a pressure on NGO monitors to acquiesce to questionable industry practices. Such competition between agencies, such as the Program for the Endorsement of Forest Certification and the Forest Stewardship Council, is one mechanism that might degrade the quality of information reaching the consumer.

Also, as in the corporate setting, agency problems arise: the individuals acting within the organization also may be pursuing personal, rather than organizational goals. This might entail sacrificing the ideals of the organization for short-term gains such as being involved in a high profile (but practically doubtful) scheme of standard setting (Bartley et al., 2015; Cafaggi & Renda, 2012). The large numbers of NGOs that suggest

selective purchasing as a way to combat the worst forms of child labor (a strategy with dubious effectiveness, as we will discuss below) is a potential example of this.

2.6.2.3 Bias towards developed-country concerns

Finally, a clear majority of the most prominent NGO in the informational infrastructure are from developed countries, rather than developing countries (Cafaggi & Renda, 2012). It's not hard to see how this might lead to developed-country biases in the selection of what constitute grave flaws, and judgments of their relative importance. To take an early example, a search of newspapers in 1996 found that child labor (a typical concern of those in affluent countries) was mentioned almost 40 times often as violations of the rights to organize (arguably more of a developing country concern) (Esbenshade, 2012). Gay Seidman has traced how this trend has continued, with child labor and workplace safety forming the main concerns of international NGOs in the apparel-industry monitoring domain, and rights to organize virtually ignored by the NGO infrastructure (Seidman, 2007).

2.6.3 Uncertainty about the informational infrastructure

This survey of the potential challenges facing the informational infrastructure has remained suggestive. I am not arguing that all of these sources of information distortion apply to every NGO. The point is instead a negative one – the individual consumer cannot rely on a high-fidelity informational infrastructure in this space, even when information appears to come from an “neutral” source. Assessing the quality of

the information coming from a particular part of the infrastructure is going to itself be a costly and difficult undertaking for consumers to perform.

Overall, the poor epistemic position of consumers, due to the complexity of global supply chains and the difficulty in clearly monitoring such chains, leads us to question whether consumer's suspicions about upstream grave flaws are a good trigger for a moral reason to select or avoid the goods in question. I go into more detail below.

2.7 Two (plus one) kinds of mistakes in conscientious consumption.

I have argued that the incentives facing players in the information infrastructure, given a complex and dynamic global marketplace, count against the conscientious consumption thesis. I want to fill out this objection some more by assessing the situation from the perspective of individuals, by distinguishing three kinds of mistakes individuals might make.

First, consumers will systematically make mistakes about the relative cleanliness of different production processes. Recalling my convention of calling production processes that contain fewer or less significant grave flaws "cleaner", we could call this mistaking a "clean" production process for a "dirty" one or vice versa.

Second, consumers will systematically make mistakes about the consequences of shifting production processes through consumer demand. This is the case where shifting

to a cleaner production process may exacerbate the very grave flaw one is trying to avoid.

To this we could add that consumers can systematically make mistakes about what constitutes a grave flaw in the first place. I will leave discussion of that issue, however, to Chapter 5.¹⁹

2.7.1 Mistaking dirty products for clean products

For an example of the first kind of case, in which consumers might systematically mistake dirty products for clean (or vice versa) remember our vignette *Paper* and consider the global trade in wood products, linked to the potential grave flaw of deforestation. I choose this example because it contains a long-running certification scheme. The premier certifications with regard to good stewardship practices in wood harvesting are run by the Forest Stewardship Council (FSC)²⁰. Fabrizio Cafaggi and Andrea Renda describe how the FSC has been “gradually shifting” its focus away from bona fide forest preservation due to “growing capture by business interests, geographic imbalances, and reduced de facto representations of NGOs and other stakeholders” (Cafaggi & Renda, 2012, p. 20). In a chapter-length analysis, Bartley et al (2015) show

¹⁹ See also Schwartz (2010), for the point that affluent consumers may lack the appropriate standpoint to imagine what constitutes a morally unacceptable production process in another country, or a production process involving people from very different socioeconomic backgrounds (Schwartz, 2010, p. 107ff.)

²⁰ Hussain (2012a) uses the FSC as his example of a robust, democratic certification that consumers should be following.

how the FSC certification struggles to maintain its integrity as a mark of sustainably produced timber when faced with political issues on the ground. Bartley et al (2015) can only conclude that the FSC certification signifies not that the supplier has followed best practices, but only that “buying this product rather than an uncertified one raises the odds of supporting decent forest management”. What’s more, in many areas “those forest practices may be just slightly above the norm” (ibid, p. 110).

To see how this might happen, consider the tension between sticking to genuine standards and avoiding alienating potential government and industry partners. This dilemma arose for FSC, for instance, when Cambodia removed Global Witness as FSC’s third-party logging auditor and replaced them with a much more permissive NGO, but FSC, reluctant to abandon Cambodia completely, continued to certify forest products from there. Another problem is that limited premiums for FSC products do not provide enough incentive for sound forest management - in many countries, uptake of the FSC standard remains minimal (only 1% of forested land in Indonesia is under FSC certification). In response to the low uptake, the FSC typically lowers its standards of compensation to local communities in order to certify more plantations and cooperate with more businesses to scale up to be a mainstream source of certified wood. The upshot is that the FSC certification on products is signaling less and less of a departure from the status quo in terms of supply chain cleanliness (ibid).

Complicating the epistemic challenges for the consumer is that the FSC is not alone in the space of forestry product certifications. The rival Program for the Endorsement of Forest Certification (PEFC) attempts to harmonize local efforts at certification from European countries, US, Malaysia, Chile and Gabon. While the PEFC and the FSC have converged somewhat on similar standards, differences remain, meaning it is difficult for the individual consumer to keep track of which certification means what, even for this one sector – forestry products. Overall, certification schemes pertaining even to a single or a few grave flaws do not provide us with good reason to believe that consumers are adequately informed about the relative cleanliness of different products with regard to that flaw.

I have been arguing that what might appear to consumers as a significantly cleaner product because it has one well-respected certification mark – that of the FSC – may be only marginally cleaner, or not at all, than those of uncertified wood. This might be more surprising since the forest products industry is one of the few global industries in which NGOs and firms have tried to create objective standards for best practices. The likelihood of thinking dirty products are clean products is arguably much greater with other certification schemes with less impressive pedigrees, in other industries, or concerning other kinds of grave flaw: other harms to the environment, abhorrent labor practices, and so on.

If, as I have argued, consumers often make mistakes about a product's cleanliness even with regard to a single flaw, this difficulty is compounded if consumers try to make an all-things considered judgement about which goods are cleaner or dirtier overall. Consider the other flaws that might be associated with forest products, such as the labor standards violations in the factories that produce wooden furniture, or worse, goods with elements from metalwork and electronics supply chains as well as wood, such as an electric guitar. In all, consumers following appearances will very often be making significant mistakes about the relative cleanliness of products.

2.7.2 Widespread purchasing of clean products might have unexpected consequences.

The second kind of problem I mentioned is, even if consumers are justified in believing that one product is dirtier than another, consumers in general switching away from the dirty product to a cleaner one might, despite appearances, actually lead to worse results overall. This forward-looking concern echoes a familiar challenge to regulating behavior through government policies – attempted interventions very often have *unexpected consequences* that count against the intervention. (It might appear that such a concern only appeals to versions of the conscientious consumption thesis that are grounded in the consequences of consumers switching between products of different production processes. I will argue below in this chapter that the concern is broader than this).

One kind of unexpected consequence stems from an inability for consumers and conscientious consumption NGOs to adequately consider what workers in global production networks will have to substitute for their engagement in a given production network. Take the issue of child labor. As economists Eric Edmonds and Nina Pavcnik have noted, there is a strong case that the availability of work in export industries (that feed global supply chains) is not a main driver of child labor (Edmonds & Pavcnik, 2005). For instance, around 70% of child workers work in agriculture (most of it subsistence, for the domestic market, or producing unbranded commodities) and 17% in services, with only 12% working in industry. If all those children working as part of the foreign production process for apparel were no longer employed (due to effective boycotts rippling through the supply chain) the result might be simply more children working as subsistence farmers or worse, services such as sex work. Particularly in cases where children lack adequate and affordable schooling, well-paid work for a company contracted to produce apparel for export might be the best available option (List & Koenig-Archibugi, 2010).²¹

²¹ Perhaps you might think consumers could become more discerning and aim to purchase goods only from companies that do not employ child labor *and* do provide schooling opportunities for the would-be child workers who otherwise suffer. Yet, even if industry-led funding of education for would-be child workers were feasible in many industries there are serious concerns about entrusting the funding of education in developing countries to apparel firms: for instance, worries about the neutrality of the education provided and the displacement and undermining of perceived state legitimacy.

As a concrete instance, consider the elimination of child labor in the soccer ball industry in Sialkot, Pakistan. In the mid-1990s, NGOs such as UNICEF, Save the Children and the International Labor Rights Fund initiated a campaign encouraging boycotts of soccer balls likely to be linked to child labor, particularly in the region of Sialkot, Pakistan (operating, in part, under the “Foul Ball” moniker). The campaign was largely successful – and led to the virtual elimination of child labor in soccer ball stitching (via an agreement between the Sporting Goods Manufacturers Association of the US, and the Sialkot Chamber of Commerce and Industry) (Cadot, Traca, & Crawford, 2001). To begin with, it is doubtful whether such a model could be replicated in other, less geographically concentrated industries than soccer-ball stitching. But it is also unclear that we would want to replicate the model. As legal scholar Alan Hyde writes:

“One may, however, read directly conflicting reports as to whether production shifted to Pakistani stitching centers monitored to make sure no children were sewing, or instead to India under even lower working standards; whether the displaced children ended up in school, or deprived of home schooling, or working in non-export industries with even lower labor standards, perhaps even as child prostitutes.” (Hyde, 2006, p. 165)

Other studies (Cadot, Traca, & Crawford, 2001; Schrage, 2004) concur. Thus, even in one of the most well-regarded examples of consumers triggering real-world results by shifting from dirty goods to clean goods, it is thoroughly unclear that the grave flaw that triggered consumer concern was not worsened by consumer action.

A lack of attention to unintended consequences also is costly when actors further up the supply chain, or in adjacent supply chains alter their behavior because of conscientious consumption altering the demand for the products of apparently problematic processes. Take the case of militias robbing artisanal miners of hard-worn “3TG” minerals (tin, tungsten, tantalum and gold), which then would be used to buy arms to allow such militias to continue and deepen the brutal civil war in the Democratic Republic of Congo. Assume for the sake of argument that it is possible to effectively label whether an electronics company (say) has conflict 3TG minerals from the DRC in its supply chain.²² Still, the consequence of manufacturers ensuring their goods are “not DRC-conflict-free” could well be an *increase* in harms in the African region. One of the only studies on unintended consequences of corporate avoidance of DRC conflict minerals suggests that, in response to declining demand for 3TG from conflict areas, the militias themselves have turned to other substitutes than effectively taxing artisanal miners – instead shifting to the more violent and devastating practice of raiding farming villages (Parker, Aragon, & Parker, 2017). Further, there is evidence at least one major tech company, rather than try to ensure their supply chains be free of minerals associated with the conflict in the DRC in particular, would likely source from smelters that avoid the *entire continent* to err on the side of safety (Duke University

²² This is what Section 1502 of the Dodd-Frank act originally required, but the regulation is not enforced because of its impracticality.

Advisory Committee on Investment Responsibility, 2012). This move away from conflict regions on a broad scale would jeopardize the livelihoods of poor artisanal miners and mine employees in Africa thousands of kilometers from the conflict zones. Indeed, even the Enough Project, a major conscientious consumption advocate in the conflict minerals domain, warns that the artisanal mining industry in the DRC is “being affected by the transition to a conflict-free economy, and many miners have experienced livelihood challenges” (Enough Project, n.d.).²³

2.8 The epistemic challenge and varieties of moral relationship.

I have suggested that the complexity of global production networks, and the imperfect incentives facing actors in the informational infrastructure, create a challenging epistemic environment for consumers. It is this challenging epistemic

²³ Philosophers Holly Lawford-Smith (2015) and Leif Wenar (2016, p. 292) point to the Fairphone as a paradigm of conscientious consumption that avoids the unintended consequences mentioned above. The Fairphone produces a smartphone that actively tries to “support economic development and encourage responsible mining practices in the DRC and beyond” by “partnering with a variety of initiatives to set up transparent supply chains for the essential minerals used in our phones.” (Fairphone, n.d.). Even if we take at face value Fairphone’s claims to have found good quality sources of 3TG from within conflict areas, the trouble is, such a phone is significantly more expensive than a phone of comparable quality (Cahalane, 2015). Here the apparent cleanliness of the Fairphone might count in favor of purchasing it, but the huge cost difference, and what alternative good could be done with the price differential between the phones should count against it. Even if the consumer is driven by a complicity-based theory and seeks an alternative that is not linked to wrongdoing at all, then it is unlikely that the Fairphone will pass muster as having a morally superior production process. For instance, Fairphone admits that, although it believes the 3TG in its phone come from responsible and fair sources, many other materials, such as cobalt in its battery, comes from sources that are even harder to source responsibly. I discuss the general structure of this kind of case later in the chapter.

environment that counts against the conscientious consumption thesis, and perhaps any similar attempt to provide strong moral reasons to practice conscientious consumption generally.²⁴ Those goods which appear to be cleaner or dirtier have a good chance of being in fact be no cleaner or dirtier than the substitute. And because of unexpected consequences, even if one can be sure that a good is cleaner than another, this does not mean that consumers switching to it will lead to overall better consequences than the status quo.

This approach still leaves room for supporters of the conscientious consumption thesis advocate humility about consumers' ability to gauge which products are actually clean and which are dirty, and what large scale switching from a dirty product to a clean product might cause. But, they might say, it is highly plausible a consumer following appearances, based perhaps on somewhat credible certification schemes and shopping guides has a better chance of tracking the relative cleanliness of different products than ignoring potential grave flaws completely. If we consider the seriousness of the grave flaws in many production processes, doesn't that provide enough reason for consumers to seek out apparently cleaner, rather than apparently dirtier products, even if they often will make both kinds of mistakes discussed above?

²⁴ A further epistemic problem is a second-order problem that faces consumers. As non-experts, how do they know which elements of the informational infrastructure are reliable? (A.Goldman, 2001).

My response to this reply splits into three. Recall from section that some theories hold that individuals have strong moral reasons to conscientious consumption roughly because this will lead to overall better consequences, other theories focus on the complicity or participation that individuals might be involved in, and a third kind of theory tries to introduce new and scalar concepts to explain how bad a given purchase is.

2.8.1 Consequentialist

For more consequentialist approaches, if the epistemic constraints I have identified above hold, the expected benefits of consumers selecting apparently cleaner products is significantly reduced. When balanced against the extra disvalue caused by purchasing the apparently cleaner product, the consequences of conscientious consumption in general might be net-negative. This possibility drops significantly if we think the opportunity cost—what the would-be conscientious consumer would be doing with her surplus money and time—contains significant moral value (Ferguson & Ostmann, 2018). Consider the typical cost increase that certified or goods recommended as “ethical” enjoy: for the goods recommended by conscientious shopping guide Ethical Consumer, this is around 150% (Pooler and Harrison, n.d). Compared to common estimates of the cost of a saving a life or an equivalent benefit in developing countries of

a few thousand dollars, (GiveWell, 2016) selective consumption appears to be an option with a rather poor payoff. (I explore this idea further in Chapter 3)²⁵.

2.8.2 Complicity-based

Those approaches which focus on the complicity in grave flaws generated by purchases of dirty goods place less emphasis on opportunity cost. One might think that such approaches would intuitively lead to the importance of avoiding even *apparently* dirty production processes, and can cope with the epistemic problem more easily. Not so. By showing how often certified “ethical” products are often only a marginal improvement on standard products, because of either of the two mistakes that consumers routinely make, the contrast between clean and dirty products becomes much less stark. Supporters of complicity-based approaches face something of a dilemma. Either the complicity-based approach must remain strict, judging that consumers should avoid any product that is even somewhat likely to have a flawed production process, or it must become relaxed, specifying some threshold of certainty beyond which purchasing a merely apparently clean product is judged permissible. The relaxed version becomes implausible for two reasons. The first is that it is hard to see how the appropriate threshold could ever be specified in a non-arbitrary way. A

²⁵ There is also an interaction effect between confidence in cleanliness and costs of switching. Those goods that are more clearly clean in one or more respects will very often be much more expensive, as in the case of the Fairphone above. Thus the consequentialist calculus will also probably fail with regard to the Fairphone.

separate problem is how consumers could adequately judge that they have met the relevant threshold, since consumers are non-experts in the relevant fields to begin with (A. Goldman, 2001).

The strict version, on the other hand, becomes tantamount to requiring a duty of abstention from global (and many local) production networks entirely. This is because almost no product will be free from all grave flaws. Such a view entails the somewhat troubling result that consumers in affluent countries should cease engaging in what are, on the whole, mutually beneficial relationships with producers in worse off countries, as I suggested in the Introduction. Moreover, the logical extension of the strict deontological approach should suggest that the very relations of complicity or participation (say) that made purchasing the dirty product wrong would likely rule someone who abstained from the goods of global production networks as also acting wrongly. This is because they would be complicit (or a participant, or other deontologically important category) in whatever bad effects might arise from a shift away from global production networks in general.

A supporter of complicity-based views could reply that their view is best seen as an ideal, and that consumers who try to reduce or eliminate their complicity in grave flaws by following appearances are praiseworthy, even if they do not succeed. I respond to such views in the section "Potential Replies" below.

2.8.3 Revisionary scalar, and virtue-theoretic approaches

This leaves the revisionary-scalar, and virtue-based theories. These theories try to ground something like the conscientious consumption thesis by asserting that our moral reasons to avoid dirty products are stronger when those products bring us “closer” to a grave flaw, and weaker when those products mean we keep our distance from such flaws (Shepski 2013). These theories avoid the paralyzing conclusion of the strict version of the deontological approach, and the problem of arbitrary thresholds that the relaxed version faces. They can even, as in Shepski’s version, hold that “knowledge” or even “hearing credible reports” of some upstream grave flaw increases one’s ethical closeness to it, in the same way that other factors, such as the extent to which one benefits, or the degree to which one’s purchase enables the grave flaw also increase ethical closeness. Virtue-theoretic approaches also avoid the paralyzing conclusion, since judgement, solidarity, and creative resolve can often entail continuing to purchase apparently dirty goods (perhaps remaining mindful of the potential grave flaws behind any of them). But the flexibility these approaches mean they run into a similar problem to the consequentialist case. Given the typical consumer’s lack of strong epistemic justification for a belief that any particular good, or abstention from buying a good is cleaner or dirtier than another, the circumstances where one can choose to consume or abstain certain goods in order to increase one’s ethical distance significantly from the grave

flaws, or purchase with wise judgement, will be much rarer than most proponents of the view suggest.

2.9 Potential replies.

Faced with the epistemic objection (as one among many) how should advocates of conscientious consumption respond?

2.9.1 Track knowledge rather than appearances?

One approach would be to suggest that the strong moral reasons are triggered only when a consumer *knows* (or is appropriately certain) that a product is clean (and that consumers buying the clean product will not make the grave flaw worse). For example they might suggest the following in place of the conscientious consumption thesis:

Knowledge is Golden: Individual consumers have strong moral reasons to select what *they know to be* to be clean(er) goods and avoid what *they know to be* dirty(er)goods.)

However, this merely shifts the problem. To the extent my arguments above have purchase against the conscientious consumption thesis, they will show that *Knowledge is Golden* has a very narrow scope in practical terms, since it will be very rare for a consumer to meet the epistemic condition of knowledge. Such a revised view risks being trivial and is far from the radical, practical kind of consumer activism proposed by the advocates of conscientious consumption.

2.9.2 Conscientious consumption as an ideal?

An advocate of conscientious consumption might claim that while the reasons to practice conscientious consumption may not be the kind that lead to a duty or obligation, successful conscientious consumption remains a (difficult to achieve) ideal, and attempts to achieve the ideal are generally praiseworthy, as long as the consumers have made only *reasonable* mistakes. This leads to:

Attempts are praiseworthy: Individual consumers in affluent countries act in a praiseworthy manner when they try to select clean(er) goods and try to avoid what they suspect to be dirty(er) goods. If and when they fail, their actions remain praiseworthy if they have made only reasonable mistakes.

I can accept *Attempts are Praiseworthy*, but I would argue that because the costs of mistakes are not only borne by consumers (they paid too much for some misleadingly “certified” product) but borne by others (in numerous ways), we should hold consumers to a rather high standard of what constitutes a “reasonable mistake”. I have tried to show above that “obtaining sufficient information” to provide “reasonable grounds” about the relative cleanliness of some or other product will be especially difficult for consumers. Thus, like with *Knowledge is Golden*, the actual cases where consumers attempting to practice conscientious consumption will be praiseworthy will be few.

2.9.3 Remove the epistemic criteria and excuse mistakes?

A similar approach refuses to make the conscientious consumption thesis epistemically sensitive at all. Consider the following version.

Absolute thesis: Individual consumers in affluent countries have strong moral reasons to intentionally select clean(er) goods and avoid dirty(er) goods.

The most plausible version of this approach that I can think of is coupled with the idea that given the serious epistemic difficulties facing consumers, consumers typically have an excuse (but not a justification) for purchasing dirty products. (An excuse for action X indicates that X is wrong, but not blameworthy, whereas a justification indicates that X is not wrong at all). I am quite happy to accept this response. After all, the notion of consumers acting wrongly but excusably when purchasing dirty goods is compatible with everything I want to say in this dissertation. It is compatible with consumers having strong moral reasons to try to remedy some of the grave flaws in other ways than selective purchasing (Baron, 2004). It is also compatible with the desirability of the reduction of the incidence of consumers excusably buying dirty goods (Woodruff, 1982). But it does focus our attention on actors other than individual consumers. Often, excuses function to shift blame, rather than dissolve it. In Paul Woodruff's case, a soldier who must kill civilians to preserve his life is excused, but blame shifts to the commander who put that soldier in that situation. Similarly, in our case, that blame could shift from consumers to other agents in supply chains, and those that might govern them, as we discuss in Chapters 2 and 4.

2.9.4 Institutional epistemic solutions?

Given the import of the challenging epistemic environment that faces consumers, could the real imperative of conscientious consumption be to improve epistemic infrastructure across the board? (Barry & Macdonald, 2018). This could take the form of government-sponsored or government-run certification schemes and shopping guides, or increased mandatory labelling to include more environmental information or labelling (Schwartz, 2010). It's true that one could imagine trying to build institutions that try to aid consumers by solving these problems, but then this leads to a difficult question. If we have institutions that are powerful enough to solve the epistemic problems, why then go to the extra step of trying to inform consumers who then provide the enforcement mechanism by performing their duty of selective avoidance? Why not allow those institutions enforcement powers themselves? Of course, huge questions remain whether enforcement institutions can be made adequately accountable and responsive, but neither should we assume that an increased epistemic infrastructure along with "enforcement" in the hands of consumers is the best solution. But this kind of big-picture theorizing about the appropriateness of consumers in the aggregate responding to grave flaws we can leave for chapters 2 and 3.

2.10 Conclusion

In this chapter I have argued that consumers will make systematic errors about the relative cleanliness of different goods and the consequences of consumption shifts

from dirty to clean goods or vice versa. This is just one kind of challenge to the idea that individual consumers have strong moral reasons to select goods on the basis of their appearances of cleanliness and dirtiness, even aided by information infrastructure. Some of the minor alterations to that idea lead to making supposed strong reasons to conscientiously consume rather rare, or to excuse consumers but shift our moral attention elsewhere.

I admit that I have not ruled out successful versions of something like the conscientious consumption thesis. Furthermore, it is likely that under some circumstances, conscientious consumption might be an apt individual response to grave flaws in global supply chains. As we note in the next two chapters, there have been examples of successful and effective conscientious consumption campaigns, such as boycotts against slave-grown sugar and against Nestle. I'm not prepared to deny that individuals had very strong moral reasons to buy East Indian sugar during the sugar boycott. However, I hope to have shown that the epistemic objection seriously challenges most versions of anything like a general reason to conscientiously consume in order to remedy grave flaws in global production networks. At the very least, future work on conscientious consumption should see responding to the epistemic objection as central to a successful theory.

This chapter has mainly looked at the issue of practicing conscientious consumption from the perspective of the individual consumer. But there is a way of

considering the practice as one that is undertaken by large numbers of people, and mobilized by particular actors. I take such a shift in Chapter 3, in order to bring to light different strengths and weaknesses of conscientious consumption practiced in the aggregate.

3 Strengths and weaknesses of political consumerism.

Increasingly the most effective way to be political is not to register one's demands and wants at the ballot box... but to do so at the supermarket, where a dollar spent or withheld can, cumulatively, lead to the desired end.... replacing rather than complementing conventional forms of political expression.

Noreena Hertz, "The Silent Takeover" (2002, pp.130-131)

The activists who are leading this movement... are young men and women in Hong Kong and Jakarta who wear Nikes and eat at McDonald's, and tell me they are too busy organizing factory workers to bother with Western lifestyle politics.

Naomi Klein "No Logo" (2010, p.287)

3.1 Introduction – a perspective shift.

In Chapter One we approached conscientious consumption in global supply chains using what I call a "bottom-up" approach. This draws on ethical theory, and takes the perspective of an individual consumer assessing the moral reasons that face her. In this chapter we shift perspective to what I call a "top-down" approach. This approach involves assessing what I call the political morality of conscientious consumption: the normative status of attempts to bring about societal change, in a world of disagreement about questions of ultimate value. Rather than zeroing in on the moral reasons facing an *individual*, we will assess attempts to generate large collections of acts of conscientious consumption. This is conscientious consumption as a social practice undertaken by large, unstructured collections of people, yet mobilized and encouraged

by various actors. This phenomenon of *en masse*, mobilized selection or avoidance of products in relation to their connection to grave flaws is sufficiently different that we give that kind of movement its own name: “political consumerism”, even if political consumerism can be made up of a large number of people practicing conscientious consumption. We will assess strengths and weaknesses of using political consumerism as a means to an end to address grave flaws.¹

The move to a top-down, political morality perspective seems an important step of the full normative theory about how consumers relate to grave flaws in global supply chains. To make an analogy, we might think it is unnecessary, perhaps unwise, to rest a normative theory of civil disobedience on the moral reasons each individual has to violate unjust laws. Likewise, we might think it is unwise to rest a normative theory about the practice of avoiding or selecting clean or dirty goods² on the basis of the moral

¹ The top-down approach with regard to global supply chains shares a similar perspective to the “third wave” or “disaggregated” approach to global justice which is an attempt to move beyond the statist/cosmopolitan distinction, to consider different principles of justice which might apply to different “domains of human action” (Valentini, 2011, p. 3) be it armed conflict, immigration, climate change, global democracy or trade, and that these principles can be arrived at without beginning from either an explicitly cosmopolitan or statist standpoint (de Bres, 2013; Wollner, 2013). As yet, there is little work specifically on global markets as a distinct domain of global justice. The most recent textbook on global justice (Tan, 2017) does not take up issues of political morality in globalised markets at all, beyond the discussion on distribution in general, and the forthcoming Oxford Handbook of Global Justice (Brooks, forthcoming) does not have a chapter on responses to grave flaws in global supply chains. Peter Singer’s book on global justice morally assesses the governance of the WTO in particular over global production networks, but does not embed this in a wider discussion of responding to grave flaws (Singer, 2016).

² Recall from Chapter 1 that “dirty” goods are those with very significant or numerous grave

reasons belonging to each individual consumer. In fact, a better analysis of the individual phenomenon might depend (at least in part) on the top-down view, a point I pick up below.

Before I do, note that one upshot of this shift in focus means is that there is a parallel shift in the typical kind of actors who the moral analysis applies to. My analysis shifts from directly considering moral reasons that apply to the individual consumer in the previous chapter to the *mobilizers* of political consumerism in this chapter.³ Who are mobilizers of political consumerism? Those who try to increase the incidence of political consumerism. The category will include NGOs and individual persons as well as potentially, firms that try to tap into the market of consumers concerned about the

flaws upstream, and “clean” goods those which have none.

³ This focus on mobilizers raises the question: would it also be fruitful to consider consumers as members of organized groups focused on using their *own* collective power to bring about change? Perhaps. Holly Lawford-Smith (2015) argues that consumers have obligations to selectively purchase to signal their willingness to create such consumer collectives. But the causes that seem most amenable for this kind of grass-roots collective-forming seem to rely on other kinds of group identity. For instance, we might easily imagine consumers in a given location banding together to plan how to support a farmers’ market, to buy local, or to advocate for increased vegetarian options. Jewish consumers of Mexican package tours apparently led grass-roots campaign to boycott Mexico in response to its stance on Israel/Palestine relations (Welles, 1976). However, I know of no grass-roots consumer collectives that focus on a grave flaw in global supply chains, or on cleaning the supply chain for a given product. I do not want to rule out the idea that focusing on consumers as members of organized groups might be a fruitful form of analysis, but it seems far more common that consumers are led by and encouraged by already existing mobilizers, rather than leading themselves.

cleanliness or dirtiness of goods.⁴ My arguments concern what moral standards apply to such mobilizers, not what state regulations or rules should be applied to them.

However, this chapter might also still speak to the role of governments, who, under some circumstances, might assess whether regulation of grave flaws in global supply chains are something they can effectively leave to consumers, or must take up themselves.⁵

On some understandings of how moral reasons translate from social practices to individuals partaking in those practices, top-down assessments of political consumerism might also affect our view of the moral reasons facing the individual consumer. Perhaps each individual consumer has strong moral reason to selectively consume in the manner that our theory of political consumerism suggests consumers in general should be mobilized to consume.

But it might not be that simple, since other reasons come into the picture at the individual level. As a trivial example, regardless of the normative status of political

⁴ That said, a mobilizer might encourage a friend to practice conscientious consumption not as a means to remedying any grave flaw, but because they believe it will be better for that friend to have “clean hands” regarding some grave flaw. Should such mobilizers be sensitive to considerations about the overall appropriateness of political consumerism? Perhaps they should be sensitive to the risks and costs of political consumerism (but not any negative assessment of the strengths) and temper their mobilization in light of these risks and costs.

⁵ Section 1502 of the Dodd Frank Act could be seen as the US government passing responsibility for the potential grave flaws in conflict mineral supply chains on to consumers, as it asks companies to disclose whether their supply chains are “DRC-Conflict Free” or not. The regulation is not currently being enforced (Enough Project, n.d).

consumerism, Bob might have an individual obligation to boycott Nike, since he promised to. More realistically, Sanjay, a political activist dedicated to remedying the worst forms of child labor might have a strong reason to try practice conscientious consumption with regards to avoiding child labor, even if he is convinced, perhaps through reading the previous chapter that it would not help if consumers like him did so. For instance, he might see he has a reason in order to be immune from what he believes are misguided criticisms that assume that political consumerism is the only remedy to child labor, or to learn more about the issue. To take another example, Tina might be dedicated to living a life she believes gives her clean hands from grave flaws in global supply chains regardless of whether this represents the best approach for consumers in general. All of these individuals might have good moral reasons to practice conscientious consumption that do not derive from an overall normative assessment of political consumerism. Nonetheless, for many people without special circumstances, it might be true that their reasons, individually, to practice conscientious consumption are at least in part dependent on the reasons generated by the appropriateness of campaigns of political consumerism.

3.2 Advocates for political consumerism.

With my new focus laid out, let us turn to the question of whether political consumerism is appropriate as a means of remedying grave flaws in global supply chains. It is not hard to find those who believe it definitely is. Philosopher Anders

Føllesdal argues for “political consumerism” that “considers the poor political quality of goods as cause for consumer action” (Føllesdal, 2004, p. 19). Despite some misgivings, which we will investigate in Chapter 4, philosopher Waheed Hussain claims consumers need to “step up” to fill in the responsibility deficit that plagues global supply chains” (Hussain, 2012b, p. 171). Christian Barry and Kate MacDonald are more circumspect, claiming that people can try “through the medium of the market” to “change the world for the better”: a method which “has its advantages” (Barry & Macdonald, 2018, p. 293).

It appears many Non-Governmental Organizations (NGOs) also support a duty of political consumption. A typical example comes from the Slave Free Chocolate coalition tells “Chocolate consumers have real power. Let’s use it together to help these children” (Slavefreechocolate.org, n.d.).

A common rhetorical move of advocates of political consumerism compares consumption to voting. As economist Noreena Hertz puts it:

“Increasingly the most effective way to be political is not to register one’s demands and wants at the ballot box... but to do so at the supermarket, where a dollar spent or withheld can, cumulatively, lead to the desired end ” (Hertz, 2002, pp. pp. 130-131)

The conscientious shopping guides we will investigate below also promote the voting analogy. Ethical Consumer proclaims that “money is a vote which you can use each time you go shopping” (Ethical Consumer, n.d-b). Likewise, the Good Shopping Guide states “We don’t have to feel powerless about the world’s problems. Our till

receipts can also be like voting slips – they can be used constructively by turning the notion of ‘money is power’ on its head.” (Good Shopping Guide, n.d).

3.2.1 Historical successes

Proponents of political consumerism might also point to its successes in remedying upstream grave flaws in the past, such as the boycott of slave-grown sugar that led eventually to Britain making the slave trade illegal in the early 19th century, (Hochschild, 2006) and a boycott of Nestle in the 1970s that led to the development of international law surrounding the marketing of breast-milk substitutes (Post, 1985). It is hard to deny that there are various apparent strengths to political consumerism as a means of addressing grave flaws in global supply chains. Before we assess those advantages in detail, we should consider what the contrast class is – what are we comparing political consumerism to, as a potential remedy?

3.3 Contrast class

While few see political consumerism as the only response to grave flaws in global supply chains, it is worth canvassing just how many alternative means there might be.

3.3.1 Downstream

Even if we assume that firms and their agents in global supply chains are fundamentally profit-seeking, and thus unconcerned with goals that do not impact their

bottom line,⁶ there are *downstream* agents apart from consumers who can incentivize firms to develop a reputation for avoiding grave flaws upstream.

3.3.1.1 Conscientious investors

To begin with, many of the major multi-national enterprises are publicly traded. This means conscientious investors, who only buy stock in companies that meet some threshold of decent behavior, can reward and punish firms to the extent that they enable or create any particular grave flaw. The overall power of many conscientious investors might be limited to some extent by most investment being pooled in large and secretive institutional investment schemes, and ethical investing might not have actual impact on targeted firms' access to capital or lack of it (depending how stock markets adjust to such behavior)⁷. Another role conscientious investors might play is by *engaging* the companies whose behavior they wish to change, using proxy votes for shareholder resolutions that aim to help remedy grave flaws. All told, an approach that emphasizes political consumerism without even acknowledging the actual or potential role of conscientious investors is missing a key element.

3.3.1.2 Conscientious job-seekers and job-leavers.

While conscientious investors are often mentioned in the same breath as conscientious consumers, an incentive on firms to remedy grave flaws which is rarely

⁶ An assumption I will not challenge here, but see Heath (2019) for a thoughtful critique.

⁷ See Vogel (2007) for a sober discussion of these issues.

emphasized (perhaps because it might appear somewhat of an elitist approach) is the actions of what I will call conscientious job-seekers, and conscientious job-leavers. These are individuals in demand in high-skill labor markets who select/avoid companies because of their good/poor behavior. Reducing employee turnover is a core concern of many major firms, and there is some evidence that some firms need to convince employees that they take ethical considerations into account in order to attract top talent.⁸ It's plausible that firms which can convince conscientious job-seekers that they are reducing upstream grave flaws in their supply chains could pay significantly less for the same talent as a firm that seemed to be creating or enabling such grave flaws. (Consider the willingness of talented young people to work in unpaid internships for NGOs that often have little more evidence of impact than evidence of good intentions).

3.3.2 Upstream

As well as actors downstream of the grave flaws, we should also think about the actors that will be directly influencing firms' actions upstream.

⁸ For instance, a large survey of millennial and Gen Z professionals by Deloitte was published in 2018. That the firm they work for "has an ethical reputation" comes near the middle of the list of what Gen Z professionals on average find "very important" in a job, below financial reward, but above, for example, diversity and inclusion (Deloitte, 2018) On the negative side, firms might have good incentive to not appear to be organizations that are making the world worse. There is some concern in the fossil fuel extraction industry that they won't be able to attract talented young professionals to replace the retiring generation of baby boomers. For instance, when Norwegian state-owned enterprise Statoil recently changed its name to "Equinor", the CEO cited the need to "arouse curiosity among young people so they see the other aspects of Statoil, including renewable energy" (Adomaitis, 2018).

3.3.2.1 Local communities

While (as we discussed in the Introduction), official regulators are often unlikely to provide strong incentives for firms to avoid the grave flaws, many firms, especially in extractive industries, need the acceptance of local people in order to conduct their business. Political scientist John Ruggie, (former UN Special Representative for Business and Human Rights) details an extreme case in which this “license” was “revoked”. In 2004, after causing a fatal mercury spill in Cajamarca, Peru, mining company Newmont “sought to expand its operation to a nearby mountain, Cerro Quilish, which is said to have spiritual significance for the indigenous population and supplies Cajamarca with water. In response, more than 10,000 people laid siege to the mine... Newmont gave in and halted the project” (Ruggie, 2013, p. 18). Episodes like this remind us that local people affected by the action of firms upstream are not primarily passive victims, they can be active and effective agents in preventing multi-national enterprises from worsening grave flaws like local pollution.

3.3.2.2 Upstream Workers

Another often overlooked type of agent who can influence upstream firms are the upstream workers (Seidman, 2007). While a prisoner’s dilemma structure might limit any one worker alone from demanding better working conditions, the ability to freely associate and bargain collectively might be instrumental in remedying the grave flaws within a domestic industry. Right now, most developing countries have *de jure*, but not

de facto protection for rights to unionize⁹ but if the ILO core labor standard of the right to unionize is recognized and properly implemented globally, workers in developing countries might be much more powerful players in shifting the practices of firms.

3.3.3 Developed country govts.

My project is predicated on the idea that in certain situations, upstream developing country governments can't or won't introduce strong regulation on their own. But this does not rule out governments of developed countries playing a role in bringing about stronger regulation of global supply chains. Developed country action can be divided into (i) action which attempts to enable or incentivize upstream domestic governments to overcome the structural issues we discussed in the Introduction to regulate firms, and (ii) action that aims to change the behavior of firms directly.

3.3.3.1 Qualified market access

To take one example of the first type, of incentivizing developing countries to improve their regulation of the upstream grave flaws, consider the concept of “qualified market access”. This approach offers a deal for developing countries – in return for developing countries passing and enforcing laws and tightening regulations to remedy grave flaws, developed countries will reduce their existing tariffs and other barriers to

⁹ As the International Labour Organisation puts it: “The recognition of the importance of these rights appears to have strengthened, but the problems of guaranteeing them in practice remain” (ILO 2008, p. x). For a specific and rather chilling account of suppression of rights to organize in Bangladesh specifically see (Human Rights Watch, 2015).

their lucrative markets. This already exists in bilateral trade agreements, and in a more systematic form in the EU's Generalized System of Preferences. It has the advantage of harnessing some of the protectionist impulses of domestic politics in developed countries to potentially provide real improvements in developing countries.

Christian Barry and Sanjay Reddy (2008) provide a more systematic and democratic vision than that sketched above, in which an independent body (the Agency for Trade and Labor Standards: ATLAS) interacts with both the ILO and WTO to set global standards that would unlock market access for developing countries. Unlike the current system, ATLAS would aim at transparent, democratic and fair decisions, rather than the status quo of *ad hoc* standards reached through bargaining processes. Also, ensuring a formal rules-based structure involving equal input from developing countries might improve impartiality of decisions about when a country has slipped far enough below agreed upon standards to be disqualified from having increased market access.

3.3.3.2 Other means of supporting developing countries

Qualified market access is not the only, or necessarily the best means of trying to incentivize countries upstream to improve their regulation – another is offering technical support in building a regulatory state, or reforming the opaque Investor State Dispute Settlement system, which might be creating a chilling effect preventing countries from enacting strong regulation at the risk of being sued by multi-nationals (Eberhardt &

Olivet, 2018; Slater, 2015). Once again, the point is that focusing on political consumerism without considering the strengths and weaknesses of other means to remedy the grave flaws is unwise.

3.3.3.3 Foreign direct liability

To take an example of developed country governments affecting the behavior of firms directly, consider what is called “foreign direct liability”. This refers to any case of a firm being held liable in one country (typically a developed country with a strong judiciary) for its activities in a host country that violate domestic or international law. In the case of the US, until recently, this included foreign firms being sued by foreign nationals under the Alien Tort Claims Statue. The US Supreme Court has recently effectively closed this loophole, but a small handful of other cases have come to trial or been settled out-of-court in countries where multinationals are headquartered. Most recently, one of Shell’s subsidiaries, operating in Nigeria, has been asked by the Hague District court to pay compensation for negligence in allowing a wellhead to be sabotaged, causing an oil spill. (Enneking, 2014)

I am not suggesting foreign direct liability litigation is currently common or directly effective—very many such cases are dismissed—but they might play a greater role in the future. The UN has recently affirmed that businesses must respect human rights norms wherever they operate (UN OHCHR, 2011), and building on this, foreign direct liability litigation could be more common and effective with monetary and logistic

support behind legal cases. It is worth noting that firms' responses to cases in which they are acquitted might also have a secondary effect on remedying grave flaws. It has been noted that companies subject to foreign direct liability court cases usually go on to develop human rights policies, regardless of the outcome of the case.

In each case of action by developed countries surveyed above, international cooperation and leadership will greatly advance the likelihood of these modes being effective. So perhaps a more effective role for concerned individuals in developed countries is to signal willingness for their country to cooperate or lead in such a way, whether this is in the form of official support for developing something like a universal scheme of qualified market access or domestic legislation that clearly allows firms to be held liable for actions they or their subsidiaries take overseas.

Having surveyed quickly the range of possibly other means of remedying grave flaws in global supply chains¹⁰, let us return to the strengths of political consumerism. I present a non-exhaustive list below.

3.4 Strengths of political consumerism.

3.4.1 Speed?

Developed country measures such as foreign direct liability and qualified market access avenues will take years or decades to become a comprehensive response to grave

¹⁰ A fuller analysis would go into these alternative means of remedying grave flaws in global supply chains in much more detail, and also assess the ability of global governance institutions, such as the WTO, ILO, the UN Global Compact, and the growing movement to apply international human rights law to business. I mean to provide only a sketch of the relative contrast class here.

flaws, whereas consumer behavior can be mobilized very rapidly (Barry & Macdonald, 2018). For instance, a Greenpeace campaign encouraging consumers to pressure Lego to drop its relationship with Shell because of arctic drilling achieved its objective within a few months (Vaughn, 2014).

3.4.2 Flexibility

Relatedly, political consumerism is relatively more flexible than most of the approaches especially those by developed countries. Consumer campaigns are not constrained by international legal norms, such as World Trade Organisation rules prohibiting qualified market access functioning as “disguised protectionism” and so potentially can react to a wider range of grave flaws.

3.4.3 Gateway to other forms of political action?

There is a possibility that political consumerism can foster increased engagement among the individual consumers with more orthodox means of seeking political and social change. That is, it can be complementary, rather than a substitute for the kinds of political action I suggested developed country citizens could take above. Call this the “gateway” idea. Margaret Wills and Juliet Schor, for instance claim that: “political consumption... raises awareness, deepens interest and commitment, and encourages various forms of [political] involvement” (2012, p. 180). If being a gateway to other forms of political action truly is an advantage of political consumerism, it makes the “wide scope” strength below much more important.

3.4.4 Wide base

Especially if it is a gateway to political activism to remedy upstream grave flaws, political consumerism has one powerful advantage over other *downstream* remedial means is that political consumerism can engage a larger base of concerned individuals. While few people have the opportunity to conscientiously reject an employment offer from, say FILA, on the grounds of its actions enabling upstream grave flaws, many people have the opportunity to choose one sneaker brand over another regarding its relative cleanliness or dirtiness. The gateway idea suggests that these consumers might become more politically active, increasing the chances of more durable institutional change.

We will assess these strengths of political consumerism again in another way later in the chapter when we consider its potential effectiveness. We will also discuss the gateway idea below when we turn to displacement and see how the strength of flexibility can cut both ways and be seen as a weakness of political consumerism.

3.5 Risks of political consumerism.

While political consumerism has strengths, it also carries with it serious risks. Again, some of these weaknesses may apply to other remedial means above, but all of them seem to apply to political consumerism.

3.5.1 Harm to innocent third parties.

Consumers deliberately shunning firms or industries will sometimes lead to significant harmful effects to third parties who are innocent of wrongdoing related to the global flaw. Just as we might worry about harm to innocent individuals of sanctions against a country called by national governments, we might worry about workers of a boycott who have had little choice of who they work being harmed by boycotts, for instance. I will discuss this issue further in Chapter 4.

3.5.2 Blunt-tool effects

Another weakness is what I call the blunt-tool aspect of political consumerism, boycotts in particular (Garrett, 1986). A boycott is often initiated by a distinct, organized group, but carried out by a very loosely connected and anarchic aggregate of consumers. Therefore, once a boycott is initiated, it can be hard to effectively call off, even when companies have met all of the initiators demands.¹¹ As psychologist Monroe Friedman puts it, some conscientious consumers may come to see a firm's actions as "so deplorable that it deserves to be boycotted forever: a form of economic capital punishment for an egregious offense" (Friedman, 2001, p. 234). As Friedman points out,

¹¹ As one participant in the Nestle boycott noted: "In my mind, Nestle, a company run by butchers, should never be listed as "OK to buy from." Never. I have a long memory, and if I remember all the pain and misery Nestle has been responsible for (and still is) I would not be able to go into a shop and buy a product of theirs even though they ended their evil." in (Friedman, 2001, p. 235).

the risk of such permanent boycotts might not only increase, unnecessarily, the harm to innocents mentioned above but also reduce the effectiveness of political consumerism in general. If firms are doubtful that acquiescence with mobilizers' demands will typically bring the boycotters back to the fold, they are less likely to conform to the demands made by even well-planned and well-intentioned political consumerism campaigns in the future.

3.5.3 Opportunity cost in altruistic behavior.

An obvious cost of political consumerism is the aggregate extra monetary cost that selecting cleaner items entails, as well as the time taken to try to assess (highly imperfectly, as we saw earlier) which goods are cleaner and which are dirtier. We might plausibly assume that many of those who would devote personal resources to selective purchasing have a greater than average chance of using at least some of the time and monetary resources they spend for some kind of altruistic cause.¹² Thus we should not automatically think of would-be conscientious consumers as otherwise self-interested individuals, had they not been mobilized to selectively purchase on moral grounds. This means that the opportunity cost might fall not on just the conscientious consumers, it falls on those they would have helped in other ways, had they not diverted energy to conscientious consumption.

¹² Although if Heath and Potter (2004) are correct, much conscientious consumption could be a means of signaling one has elite status.

3.5.4 Moral self-licensing.

Political consumerism might not only have significant direct and opportunity costs, but also have a moral self-licensing effect, causing conscientious consumers to behave in ethically *worse* ways than they otherwise would have, regardless of whether they now have fewer resources. The moral self-licensing effect appears in studies about political consumerism in particular. In one experiment, consumers randomly assigned to buy goods from an online store with environmental credentials were more likely to lie and steal immediately afterwards than those assigned to buy from a conventional store (Mazar & Zhong, 2010). Perhaps even more concerning, participants in one study who were simply *given* an organic cotton towel as a reward were less likely to subsequently donate money to help refugees than those given a conventional towel (Engel & Szech, 2017). Of course, it is unclear to what extent these studies demonstrate a persistent moral self-licensing effect, but they might give advocates of political consumerism pause.¹³

The combination of the costs in time and money of political consumerism, and the potential moral licensing effect of political consumerism might be especially harmful to the levels of charitable giving coming from the sector of the community practicing political consumerism. This might be especially worrying if we consider that well-targeted charitable giving may be a highly effective way to remedy, or compensate for, many of the upstream grave flaws.

¹³ See note 11 in Chapter 1.

3.5.5 Displacing primary consumer duties.

Barring a comprehensive surveillance and police state, there are certain behaviors which consumers might be free to perform, but only a commitment to moral norms might prevent them. These include orthodox consumer ethics, such as respecting an honor system of payment in roadside stalls in rural areas, obeying laws about copying IP. But there are also some things only consumers can do to improve sustainability, including using a product in an environmentally appropriate way (Schwartz 2010), observing biosecurity norms about transporting goods they own between different bioregions in one jurisdiction, and taking care to dispose of goods at the end of those goods' lifecycle.¹⁴ If consumers must also take on the roles political consumerism assigns to them, consumers' attention to the responsibilities attached to their role as consumer will be split wider, and possibly diluted.

3.5.6 Displacing vital citizen action?

Earlier in this chapter we considered the relationship between political consumerism and other means of citizens becoming engaged in attempts to remedy the grave flaws in global supply chains. This is a difficult matter. On one hand, one might

¹⁴ We can hope that post-consumer reclamation of resources becomes more widespread and sophisticated, and duties around the correct disposal of products even when this is inconvenient will multiply (McDonough & Braungart, 2010). To be clear, governments can mandate that companies buy back large or valuable items at the end of their lifecycle, meaning consumers will in those cases have strong incentives to return them to their manufacturer. But low-cost items will often not have a high enough value to rely on the self-interest of consumers alone for appropriate disposal.

expect a complementary effect – as consumers seek to choose cleaner products they become more aware of the extent of the grave flaws, the complexity of the situation, and possibly actions that their own state might take to remedy the grave flaws in a more systematic way. On the other hand, one might expect a substitution effect, a political version of moral licensing. Since consumers might feel they have “done their bit” for, say remedying deforestation by buying FSC certified deck furniture, they might be less motivated to (say) support attempts to prevent global deforestation on the agenda of their countries’ legislature or executive branches. It seems we need more data on this crucial issue.

Christian Barry and Kate MacDonald claim that “there is a great deal of evidence” that political consumerism campaigns and corporate accountability campaigns have evolved in complementary and mutually supportive ways.” (Barry & Macdonald, 2016, p. 102). But the evidence they cite only involves ad-hoc measures such as downstream Fair-Trade consumers also receiving, e.g. school visits from upstream producers or information about broader campaigns to “make Trade Fair”, rather than data as to the level of effective engagement that consumers take in such issues.

In contrast, Juliet Schor and Margaret Willis analyzed the results of two US nationwide surveys and found some correlation among American adults between rates of conscientious consumption and political engagement in general (Willis & Schor, 2012). But as Willis and Schor admit, their cross-sectional data could not show a causal

effect of conscientious consumption on political engagement. Furthermore, 4 out of 5 respondents in one of the surveys reported becoming politically active *before* practicing conscientious consumption.¹⁵ Finally, the surveys were not precise enough to show a strong connection between the domains in which conscientious consumption was practiced and the types of political engagement conscientious consumption correlated.

Given the paucity of good data on this issue, it is fair to consider it to be a significant risk. Increased levels of political consumerism might crowd out political engagement with these issues. Political consumerism has significant advantages over many kinds of more conventional political activism: unlike attending a rally, it can be practiced largely on one's own schedule, and unlike writing to a political representative, it can often be easily displayed publicly and thus double as conspicuous consumption or virtue signaling (Heath and Potter, 2004)

3.6 Argument from effectiveness

The risks identified above are speculative. They are under-studied areas where further research is needed to make a better assessment of the true strengths and

¹⁵ As Bartley et al (2015) point out, despite the correlations, political consumerism could still have a negative effect on political action in general: "It is possible that people who conscientiously consume also report substantial political engagements, as the existing evidence shows, but that consumer activities expand and political activities subsequently contract. In other words, the crowding-out effect could take hold as individuals progress through their lives or as larger historical changes shape the distribution of different forms of engagement." (ibid, p. 80)

weaknesses of political consumerism.¹⁶ But the existence of these risks, given the range of other, possibly more appropriate means of remedying upstream grave flaws, threatens to push the burden of proof towards those that advocate political consumerism as a typical response to grave flaws.

But a supporter of ethical consumerism could well respond. They might point out that the definition of grave flaws means that, accepting that there *are* grave flaws in global supply chains means some actors should be working to remedy them; the costs and risks of political consumerism may be something we have to accept. Further the other means discussed above are nascent and less powerful than if consumers would just “shop their values”. After all this argument goes, we wouldn’t need complicated and infeasible schemes of foreign direct liability or qualified market access if consumers were all prepared to pay just a little more for products produced in decent circumstances. A weaker version of this argument asserts that ethical consumerism is one powerful means among many that can supplement any effort to bring about change, and

Now the argument shifts to concern the relative *effectiveness* of ethical consumerism compared to the contrast class sketched above. I aim to show that the

¹⁶ A further issue I do not go into here is that the more political consumerism is seen as an appropriate remedy, the easier it is for businesses may successfully advocate that this is the *main* way in which global supply chains should be governed, reducing the perceived legitimacy of more robust top-down legislation or other political solutions.

effectiveness of ethical consumerism varies greatly among different industry structures and kinds of flaws.

3.6.1 Effective vs Successful

First a distinction from sociologist Monroe Friedman. (Friedman, 2001, 2004).

Political consumerism can be *successful* if it changes the behavior of the firms targeted in the direction the mobilizers of political consumerism intend. But this will only sometimes result in the political consumerism being *effective* – actually reducing the grave flaw it was meant to address. If political consumerism is misguided or if deeper structural issues are at play, the flaw may remain or get worse, even if the targeted firms change their behavior.

3.7 Return to the epistemic challenge

One reason to think that ethical consumerism will be less effective than other means of remedying grave flaws in global supply chains is the aggregate effect of the epistemic challenges facing individual consumers. In Chapter 2 we discussed the epistemic situation facing individual consumers. These worries generalize to count against consumers taken as a group as well.¹⁷ Consumers as an aggregated group will

¹⁷ Perhaps, a proponent of ethical consumerism might argue, some “wisdom of the crowds” effect might make consumers as a group much better at avoiding the two kinds of epistemic mistakes we discussed in Chapter 1. But the theoretical results behind the wisdom of the crowds literature (e.g. (Hong & Page, 2004)) apply, in the case of problem-solving, to groups of problem-solvers applying diverse heuristics to particular kinds of difficult problems with multiple local optima, and consensus about relative success conditions, and clear feedback about whether attempts meet those conditions (Page, 2008). This does not describe the problem of remedying grave flaws very

make mistakes about the relative cleanliness of different goods and mistakes about the consequences of widespread purchasing of cleaner goods. I would argue that, of the different actors we reviewed above which can potentially provide remedies to grave flaws in global supply chains, consumers are in the worst epistemic position, for two reasons. The first is that they are, by definition, epistemically more removed from the grave flaws than other potential actors. Conscientious job-seekers and especially conscientious job-leavers, as well as conscientious investors in downstream firms are at least one step closer in the supply chain to the flaws in question. Upstream workers and local communities have direct knowledge of the very flaws in question. Developed country governments may also be somewhat removed, but at least have institutional

well. The case of the “wisdom of the crowds” in prediction seems even further removed the task of remedying grave flaws in global supply chains since the predictions the collective wisdom models are based on are easily quantified predictions (such as the weight of a steer or the location of a submarine) (Hong & Page, 2012). Equally likely as a wisdom-of-the-crowds effect might be a “madness of the crowds” effect when consumers are asked to take remedies to grave flaws in global supply chains into their own hands. Mobilizers have to “dumb down” their suggestions to reach a wide base of consumers (as seems to happen in the case of grave flaws in the apparel industry), or make mistakes due to lack of expertise or lack of access to the facts of the case (as in the Brent Spar case we discuss below in this chapter.) They might also intentionally set off what Cass Sunstein and Timur Kuran call “availability cascades” that utilize the availability heuristic to manipulate consumers into anchoring on to the worst cases of grave flaws and publicly expressing beliefs and preferences about ethical consumerism that they do not hold privately. (Kuran and Sunstein, 1998; Heath & Potter, 2004). Even if remedying grave flaws in global supply chains *is* the kind of problem that benefits from the wisdom of the crowds, there is an argument that ethical consumers might be a less diverse, and thus less effective group than the range of actors I have surveyed in the contrast class presented above. In that case, including ethical consumers in the solution might be wise, but not if it comes, as it sometimes does, at the exclusion of perspectives of local communities, workers collectives, firms, conscientious job-seekers/leavers and investors, policy-makers and so on.

resources in the form of ministries of foreign affairs or departments of state that can assess the wisdom of any case for intervention.

The second reason which suggests consumers are in the worst epistemic position is the downside of the wide base mentioned above as a potential strength. Because consumers are connected to so many supply chains, the range of issues for them to know about span huge numbers industries, sectors, global regions, and grave flaws. By contrast, some investors and most employees are involved in far more limited spheres, which would allow a degree of specialization and division of epistemic labor. For conscientious job-seekers, job-leavers and investors there often will be just one or a few domains in the vast world of global supply chains they independently have special incentives to learn about. This incentive to specialize suggests they will have fewer epistemic handicaps than consumers do.

3.7.1 Supply-chain structure

To understand how effective ethical consumerism might be, relative to the other possible means of remedying grave flaws in supply chains, we need to consider the structure of the supply chain in question.

3.7.2 Producer-driven supply chains

Recall the distinction in the introduction between producer-driven supply chains (tightly controlled by powerful producers, their subsidiaries and affiliates) and buyer-driven supply chains (loose production networks in unstable relationships with large

“merchandisers”). Take producer-driven supply chains as an example. The example of oil companies seems tailor made for successful political consumerism since it is essentially the same company at both ends of the supply chain, it only takes a watchdog organization to inform the consumers, as has happened several times in Shell’s history, perhaps most notably when customers across Europe protested its plan to dispose the aged Brent Spar oil rig in the North Sea (Vogel, 2007). (As I discuss in Chapter 4, while the Brent Spar case was a successful boycott, it was not effective. Greenpeace had mobilized many consumers but inflated the risk of pollution by orders of magnitude. The disposal on land of spent oil rigs became a norm, and now wildlife ecologists lament the lost opportunity to create artificial reefs (Jørgensen, 2012).)

But oil companies are unusually vulnerable in that they are both producer-driven and consumer-facing. If one found out about some poor behavior by, for example, Rio Tinto, one would not be able to effectively boycott them, since their products extend into so many consumer goods.¹⁸ When firms are not consumer-facing, the best that consumers can manage are “secondary” boycotts, avoiding firms that do business with the flawed firm in question. Secondary boycotts are illegal in some jurisdictions

¹⁸ Anticapitalist author Naomi Klein recognizes this constraint in her groundbreaking No Logo (Klein, 2010, p. ch. 18)

(Friedman, 2001) and even if legal, will have their effectiveness diluted to the extent that reaching all the flawed firm's customers will be extremely difficult.¹⁹

In contrast, almost all the other approaches we canvassed can function whether or not the business is consumer-facing. In many cases, such as upstream worker action and withdrawing the social license to operate, those affected also have a significant epistemic advantage, as well as perhaps the correct standpoint to decide what is a true upstream grave flaw and what is merely a troubling consequence of overall inequality between countries. Producer-driven supply chains, with large multi-national firms dominating most of the length of the supply chains, will also be the kinds of supply chains in which the foreign direct liability measures we discussed will have some of the strongest grip.

So political consumerism might be an effective remedial means in producer-driven supply chains *if* the producer firms have consumer-facing products. Still, even in those cases, other means may also be just as successful, and will often be much better targeted due to their epistemic advantages.²⁰

¹⁹ Another famous successful and somewhat effective boycott in the global domain targeted a large buyer rather than a producer—Nestle—but the flaw in question was not its highly dispersed upstream chain, but its downstream marketing activity. Once again, the industry structure allowed the boycott to be successful (and possibly effective).

²⁰ A further restriction might be in the type of product. Consumers might be less sensitive to grave flaws in the supply chains of products they passively benefit from, such as tires, as opposed to products they physically consume, such as food items. I thank Daniel Vermeer for raising this issue.

3.7.3 Buyer-driven supply chains

But what about buyer-driven supply chains? Because these are the kinds of supply chains involved in apparel and electronics, two prominent areas where labor standards are often mentioned (remember the vignettes *Laptops* and *Clothing* from the introduction) they reward careful study.

Since the mid-90s, when the public began to hold downstream apparel merchandisers to account for the working conditions in their supplier factories, many such firms started to develop codes of conduct that they required their suppliers to meet (Paine, 2002). Of course it would be unwise to simply take merchandisers at their word on the degree to which their suppliers follow these codes, so a host of organizations have been developed, claiming to be able to monitor the extent to which firms meet these codes of conduct. These include business-driven bodies like Worldwide Responsible Accredited Production (WRAP) and the Business Social Compliance Initiative to NGO-led initiatives such as the Workers' Rights Consortium and the Fair Wear Foundation. Finally, "Multi-Stakeholder Initiatives" such as the Fair Labor Association and Social Accountability International attempt to involve firms, NGOs, and sometimes local governments and workers in assessing the existence and potential remedies for grave flaws (Bartley et al., 2015; Esbenshade, 2012).

It is not clear, however, that such attempts have been able to significantly alter the industry. Anecdotally, the spate of tragic factory fires like that in *Clothing* or the

Rana Plaza collapse in the last few years might give us pause. Measuring the effect of the movement to promote labor standards through these private channels is a complex empirical undertaking. But again here, there are signs for pessimism. Richard Locke, a political scientist who has done perhaps the most rigorous empirical work on this topic measured the compliance of all of Nike's individual suppliers with Nike's Code of Conduct, from 2001 and 2005. Over this time, Nike (driven by concerns for its brand image and sales) to improve the labor conditions in its supplier factories, in cooperation with the Fair Labor Association. Using Nike's own data, Locke found that over the period, more than half the factories experienced no change on their compliance with Nike's code of conduct, and 36% had their rating declined (Locke, 2013, ch.3). Locke found similar patterns of stasis or decline among the suppliers of an un-named (for confidentiality reasons) apparel company and Hewlett Packard, both held up by multi-stakeholder initiatives and other labor NGOs as industry leaders in cleaning up their supply chains (Locke, 2013, ch. 2) Locke's conclusion is far from sanguine:

After more than a decade of concerted efforts by global brands and labor rights NGOs alike, private compliance programs appear unable to deliver on their promise of enforcing labor standards in today's new centers of global production" (Locke 2013, p. 196)

A group of authors led by Tim Bartley, a sociologist who has studied attempts to lift labor standards in the apparel industry since the 90s, agrees:

"There is no doubt that anti-sweatshop activists succeeded in getting the attention of companies and consumers. But the rule-making projects that

emerged have largely failed to alter the logic of the industry or offer meaningful alternatives to consumers.” (Bartley et al., 2015, p. 176)

3.7.3.1 What challenges face auditors assessing firms in buyer-driven supply chains?

One might wonder why it is apparently so hard for things to change, in an industry where the key players, lead firms such as Nike, have had, since the mid-1990s, significant incentives to plausibly claim their supply chains are free of the worst grave flaws.

3.7.3.1.1 Problems of ephemerality

Remember some of the features of global buyer-driven supply chains. For one, supply chains are tangled in terms of the buyers they supply to. Typically, out of many production lines in a factory, only one is devoted towards producing for a particular merchandizer (Locke, 2013). Add to this the ephemerality of the relationships between upstream and downstream producers in these dispersed-contract supply chains. Merchandisers contract suppliers, typically “for only part of the year – one or two ,seasons – with no guarantee that orders will be repeated in the future” (Locke, 2013, 44)

The ephemeral and tangled nature of these supply chains mean that, regardless of any consumer preference for cleaner goods, filtered through from the downstream end of the supply chain, suppliers are often very reticent to respond to such demands. Richard Locke again: “it is not at all clear that global buyers have the ability or leverage (let alone the credibility) to pressure these suppliers to raise wages, reduce working

hours, or even invest in costly improvements to their production systems in order to improve working conditions” (ibid).

A plausible explanation is that this is because even if cleaner goods are worth more to the consumer, the lack of trust between suppliers and merchandisers prevents suppliers from taking advantage of this. Suppliers are unlikely to see merchandisers’ demand for better working conditions in its upstream supply chain as a business opportunity because each supplier is likely to be producing for a number of different buyers, each with different tradeoffs between price and labor standards. Further, since market fluctuations or other external shocks might lead to a merchandiser terminating a contract right after a supplier makes costly adjustments to its practices or even physical equipment, trying to specialize production to meet a merchandiser’s ethical standards is a significant risk. Thus, in many circumstances, it is wiser strategy for suppliers to try to deceive merchandisers about whatever changes the merchandisers have asked to see. As Bartley et al put it: “Practitioners have long recognized the cat-and-mouse game that even honest and dedicated auditors get trapped in: auditors chase the elusive “real” data, managers offer suspicious or partial records” (Bartley et al., 2015, p. 165)

Where the audits rely on the cooperation of workers, here too collective action problems arise. Most directly, workers may be fear recriminations from management if they speak out about working conditions. And collective action problems compound the issue. While it might be better for workers collectively if firms, and consumers have

good information about the conditions of employment (to reward good employer behavior and disincentivize bad) individual workforces at a factory might be reluctant to act as “informants” on their own employers, since they are concerned the factories will be dropped by the merchandiser, and thus they will be out of a job (and maybe out of wages already earned, if these have been kept in arrears by the employer, which is common).

Joshua Brown, an auditor of apparel supply chains relates an episode that emphasizes this point:

The worst part of the day for [the workers], it seemed, was seeing me arrive. ‘I don’t want to tell you anything because you’ll close my factory and ruin any chances I have at having a better life one day’ one tells me (quoted in (Powell, 2014, p. 158))

3.7.3.1.2 Heterogeneous grave flaws

We should note that some iterations of the game of cat-and-mouse are easier to play than others. This is because some grave flaws are more “auditable” than others. Whereas some concerns, such as whether there are sufficient fire exits, or whether there are high residues of hazardous materials in the workplace can be effectively checked by auditors. Even then, if suppliers have heard that auditors are arriving, they can game the system, for instance, by telling workers to replace the safety guards that workers have voluntarily removed from the sewing machines to enable them to complete more piece-work (Locke, 2013). Systematically harder flaws to measure might be those associated with pay and hours: unfairly docked wages, forced overtime etc. Auditors can check the suppliers’ records, but suppliers routinely keep two versions: an “official” record which

they show auditors, and an “unofficial” one that records the actual work practices (Bartley et al., 2015, p. ch.5). Most difficult are those aspects for which auditors must rely on worker self-reports: the incidence of physical and verbal abuse, and violations of rights of freedom of association and collective bargaining (Human Rights Watch, 2015; Seidman, 2007) For the reasons given above, workers may understandably be very reluctant to give good information to those who seek it. I present these elements in Table 1 below.

That said, even in the more tangible types of assessment such as building safety the auditors can sometimes fail to do a complete job, if they are too concerned with giving factories and merchandisers easy answers. To take a dramatic example, note that the business-led ethical auditing group BCSI had given the green light to factories in the tragic Rana Plaza collapse, partly because they did not have the expertise to test structural integrity of buildings at all (Bartley et al., 2015). In 2012, conditions in the Ali Garment factory (from *Clothing* in the Introduction) had been judged acceptable by multi-stakeholder initiative Social Accountability International. A few weeks later before it burnt down, killing 250 people who were trapped inside due to locked fire exits (Bartley et al., 2015). Due to the aforementioned difficulty in assessing workers true experiences, downstream pressure from conscientious consumers, investors, and job-seekers and -leavers appears relatively powerless at bringing about the enabling rights of freedom of association and of collective bargaining, which is worrying, because we

suggested above that remedying these flaws could mean progress on remedying many of the others.

Table 1: Different flaws and their ability to be audited

Type of flaw	Example	Way it is audited	Difficulty of measurement
<i>Those concerning permanent, physical hazards</i>	Numbers of fire exits, positions of generators, building integrity, hazardous chemicals on worksites	Inspection of physical factory	Easier
<i>Those concerning business practices</i>	Below-minimum wages, unfairly docked wages, overtime policies	Worker interviews, company records	Medium
<i>Worker experience</i>	Physical and verbal abuse Sexual harassment Violation of rights to organize	Worker interviews	Harder

3.7.3.1.3 Volatility

A final aspect to the business environment that hampers downstream pressure is the way in which volatility in the quantities of goods ordered from suppliers (due in turn to rapid cycles of fashion) means that production is often being done by subcontractors. No matter how carefully a merchandiser screens its standing supply chain, if those suppliers subcontract out work to meet massive orders (as is routine) grave flaws can easily intrude into the supply chain. For example, despite the Gap's commitment to avoiding grave flaws in its supply chain, journalists found not merely

child labor, but bonded child labor in its supply chain. This however, was in a factory that had no direct contract with the Gap, but had been subcontracted. (Esbenshade, 2012).

3.8 Conclusion

We have discussed that of the two distinctions, producer-driven and buyer driven supply chains, and consumer-facing and non-consumer-facing, political consumerism might only really be effective in the particular case of consumer-facing, producer driven supply chains (see Table 2, below). This suggestive result requires more empirical scrutiny, but I know of no good studies outside the lab that have explicitly tested these.

But even that is not the end of the story. Let's briefly turn back to the contrast class: the other forms of action by those in or close to the supply chain (conscientious job-seekers/leavers, conscientious investors, upstream workers, local communities) as well as by other governments (qualified market access and foreign direct liability). Of course, the concerns raised in this section about the structural difficulties in remedying upstream flaws in buyer-driven supply chains apply just as much to other downstream remedial agents such as conscientious investors, or conscientious job-seekers and job-leavers. But the concerns about the fractured systems of monitoring and weak trust between merchandisers and their suppliers do not carry over directly to some remedial means such as qualified market access or upstream worker action.

Table 2: Supply chain structure and effectiveness of political consumerism.

	Producer-driven		Buyer-driven	
	<i>Examples</i>	<i>Likely effectiveness of political consumerism</i>	<i>Examples</i>	<i>Likely effectiveness of political consumerism</i>
Consumer-facing	oil companies, car companies.	HIGH	e.g. famous apparel and electronics firm	MEDIUM - LOW (see table 1)
Business-to-business	e.g. steel companies,	LOW	buyer-driven chains with intermediaries (e.g. Cargill)	LOW

Turning back to producer-driven supply chains. I have argued that consumers can respond somewhat effectively to information about the lead firms in this domain. Still, other methods, such as foreign direct responsibility also seems to be effective in this domain. Foreign direct liability has the benefit of involving the fact-finding aspects of a developed country's judicial branch. Furthermore, foreign direct liability has the potential to be just as effective on non-consumer facing industries, whereas political consumerism is severely limited to, well, consumer goods.

Turning to buyer-driven supply chains, the techniques of qualified market access, since they are focused on improving the effective regulation in developing

countries across the board, seem better suited to cope with the volatile, often un-auditable aspects of dispersed supply chains. It obviously will not be easy for developing countries to raise labor standards, but by protecting the right to organize through, for example prosecuting the intimidation of labor organizers, it can allow for workers voices to more effectively manage those grave flaws that are most important to them. It also has the added benefit of affecting grave flaws in industries that do not have a strong export-orientation.

Even if it is likely to be not particularly effective in many circumstances, one might think, at least when the costs to the conscientious consumers are low, we should encourage mobilizers to in turn encourage consumers to try to make a difference. But to reach such a verdict, one would need to consider all the costs of mobilizing political consumerism, including the risks of moral self-licensing, the opportunity costs (especially given the incidence of altruists among those mobilized) the harm to innocents, and the blunt tool worry. Besides the costs we have canvassed, there is one more kind of risk, which deserves its own chapter – that political consumerism may threaten liberal democratic values. It is to that risk we turn next.

4 Boycotting the boycott: Must political consumerism meet special moral standards?

Compelling arguments may be presented to support boycotts as righteous crusades for justice or to condemn boycotts as damnable conspiracies.

Dennis Garrett, "Consumer boycotts: Are targets always the bad guys?" (1986, p. 20)

4.1 Introduction

In the last chapter we discussed strengths and weaknesses of political consumerism as a means of remedying grave flaws in global supply chains. The potential strengths and risks we discussed were best seen as advantages and disadvantages of conscientious consumption that should be weighed in *strategic* decisions made by the mobilizers of political consumerism. In this chapter I will explore four worries, all centered on the idea that political consumerism as a procedure might, regardless of its level of success or effectiveness at remedying grave flaws, threaten important liberal or democratic values, or violate deontological constraints.

Hussain (2012a) asks us to note that most theorists routinely accept moral constraints on the range of regular political actions people can perform even in the aim of reforming society in the direction of justice. Thus, we have norms against bribing public officials, spreading misinformation and slander, violent vigilantism, stirring up mobs, and bullying dissenting voices. He goes on to argue that aggregated acts of political consumerism are also political in that they can reform societies (a company

targeted by a boycott may change its production process, go out of business, relocate, or whatever, affecting customers, workers, investors as well as potentially the wider social milieu). So we might also support moral constraints on political consumerism. We need not immediately talk of the concerns as leading to *constraints*. But at the very least, it's important to consider these as another set of weighty values that might be threatened by political consumerism.

For instance, one might hold that political consumerism as a procedure to remedy grave flaws leads to an undue and unfortunate politicization of the marketplace. One might also argue that action of consumers in developed country markets overrides the preferences of workers in developing countries or violates self determination in an important way. One might be concerned that political consumerism undermines good-quality deliberation about policies. Finally one might hold that political consumerism harms innocent parties.

4.2 Four worries about political consumerism as a procedure.

4.2.1 Harm to innocents

As mentioned in the previous chapter, political consumerism can function as a blunt tool, that ends up affecting the interests of innocent third parties unnecessarily. This can happen in many ways. Firms might be targeted for political consumerism when the firms themselves are unconnected with the grave flaw in question, or when they have a justification for being connected with the grave flaw. Even when firms are

justified targets of political consumerism, a protracted boycott campaign might harm employees or investors in who are arguably innocent of any wrongdoing by a firms' management.

Gail Seidman puts it starkly "consumer campaigns carry... risks for workers. Wealthy consumers lose nothing if a company goes bankrupt, but workers risk losing their jobs" (Seidman, 2007, p. 83). The concern for workers seems important. But it is not completely clear that even consumers themselves risk nothing in joining a political consumerism campaign. Unsuccessful and ineffective boycotts cost consumers time, money and mental resources for no real gain (Garrett, 1986). Less obviously, those who advocate for political consumerism often deliberately try to "tarnish" some product: to reduce the level of enjoyment that all consumers get from a given product by associating the product with the bad behavior of the firm(s) behind it (Elliot & Freeman, 2004).¹ Consumers whose enjoyment of the product is affected by such "tarnishing" campaigns but cannot (or will not) substitute the product in question might suffer a decrease to their wellbeing through not being able to enjoy the tarnished product with a clear conscience. While this might seem to be a small cost to weigh against the benefit of remedying a grave flaw if, as I have argued in the previous chapter, political

¹ Often mobilizers deliberately try to instill a sense of disgust in the would-be consumers, particularly for food items. For example, a notorious Greenpeace ad likens eating a Kit-Kat to eating an orangutan finger due to the links between Nestle, palm oil, and deforestation in Indonesia. For a fascinating look at the connections between ostracism and disgust, see (Kumar, 2017).

consumerism is often poorly aimed and ineffective, the more certain cost of tarnishing consumer experience might be a significant downside after all.

4.2.2 Bypassing deliberation.

A potential risk of political consumerism is that it bypasses processes of democratic deliberation. That is, it might cause social change without the matter being decided through public discussion of reasons for or against. As Hussain put it, in these cases “an important issue of public concern will have been decided through a bargaining process rather than a process of deliberation” (Hussain, 2012a, p. 121).

This substitution of bargaining for deliberation should at least spark concern among those who believe that public deliberation ought to play an important role in politics (Cohen, 1989). The concern about bypassing deliberation concerns the quality of decision-making that might occur in cases of “successful” (in Monroe Friedman’s sense from Chapter 3) political consumerism.

Perhaps one of the most obvious cases of this lies in an instance of what was supposedly a grave flaw being committed by a multi-national enterprise not in the Global South, but in the North Sea: the Brent Spar case mentioned in Chapter 3. In 1995, Shell announced, after extensive studies, its plans to sink a decommissioned oil storage rig, sending it to the bottom of the North Sea. Greenpeace vehemently opposed this plan, and called for a boycott of Shell. The resulting boycott was successful and

effective,² and Shell resorted to the costlier option of land disposal. Greenpeace later apologized for misrepresenting the scale of the toxic risk that sinking the Brent Spar posed by a factor of 50, but by then land disposal of North Sea rigs was made the norm by OSPAR, the treaty body governing the North Sea. Not only is land disposal a costlier option with questionable environmental effects, it rules out the development of an environmentally beneficial practice of turning old rigs into reefs.³

Similar complaints could be made about the decision of the US government to effectively leave the importance of removing conflict minerals from supply chains to consumers by simply requiring companies to state on their websites whether the supply chain of their products have been certified DRC-Conflict Free, and letting consumers decide how important this feature was.

Of course both of these cases highlight concerns about the epistemic credentials of those mobilizing and performing political consumerism, but the threat to procedural values would remain even if it was relatively clear that the mobilizers in the Brent Spar and conflict minerals cases had a better grasp of the flaw and its remedy. One might also think that there is intrinsic value in public deliberation about the sorts of business

² In Chapter 2, I introduced the distinction between successfulness (large numbers of people purchasing in the intended way) and effectiveness (the desired result of the mobilizers is brought about)

³ See (Vogel, 2007) and for the reef-creation option (Jørgensen, 2012).

practices that should be supported or avoided, and political consumerism can undermine or bypass such deliberation.

4.2.3 Threat to managed politicization

Political consumerism also potentially threatens another liberal-democratic procedural value – that which Hussain calls “managed politicization”: the separation of political concerns from other domains. Managed politicization typically allows people with dissenting political opinions to co-exist in society without continually facing each other in conflict. One of the best examples comes from a domestic US case.

Fundamentalist Christian activist group, the “American Family Association” urged its followers to boycott Ford until Ford ceased “funding the gay agenda”. During the AFA boycott, Ford was being pressured by both followers of the AFA, and by the gay community, who were pushing Ford to remain firm against the AFAs demands (AFA, 2006; Hussain, 2012a). Suddenly, because of this situation, people who formerly could “interact as Ford customers, employees, retailers, suppliers” regardless of their opinion on gay rights, were now separated by this issue, and one more valuable non-politicized space had become politicized (Hussain, 2012a, p. 124).⁴

⁴ Conscientious consumption is surely not the only, or the main cause of the polarization that leads to a breakdown in civility. Hussain sometimes suggests the market is the only place that is (at best) not yet politicized. I disagree. Regardless of how politicized market interactions become, the wilderness remains a non-political space in which all people can interact. Hassoun goes further and suggests that, where boycotts overlap for very different reasons, it can *decrease* polarization: “The fact that my parents refuse to buy anything from China [because of Tea-Party style economic nationalism], while I try to purchase sweatshop-free clothing, does not make us

Is this likely to occur with global supply chains? I think so. Each consumer's approach to selective purchasing with regard to goods from global supply chains might turn on their view of a variety of contentious political and socioeconomic issues. For instance, conscientious consumers who see free market capitalism as on balance a force for good for developing countries might tend to select among a narrow range of orthodox products, some of which might be produced by familiar brands, while many of those that see free-market capitalism as fundamentally undermining the welfare of the global poor might be more likely to respond to mobilization by eschewing the products of global supply chains completely. Even among those who aim to continue supporting large firms with global supply chains, differences about the relative importance of, for instance labor or environmental concerns could be made obvious with the purchase of a fair-trade or an organic product, if two available products have one but not the other. Hussain's argument is that we should hope that some parts of our everyday life together should be protected from having our opposing stances on such issues as the relative importance of labor versus environmental concerns, or the ultimate desirability of global capitalism, matter at all.

any more likely to argue about our underlying political disagreements... I feel some solidarity with them when we both boycott Walmart to promote positive change (though we have different thoughts about why doing so is a good idea)." (Hassoun, 2019, p. 44) I take it this kind of situation Hassoun discusses is rare.

One might wonder whether the position that political consumerism threatens *both* managed politicization and proper deliberation of controversial issues is inconsistent. After all, one might say, the worry about lack of deliberation of controversial issues assumes that, because an issue is being decided by what folk buy, they will not discuss the politics of it, and the worry about managed politicization assumes that folk will start discussing the politics of what they buy!

However, I think one can consistently be concerned about both potential aspects of political consumerism. To begin with, there are some products, such as the brand of car one drives, or heavily branded apparel one wears, which are highly visible, where the concern about managed politicization might be more of an issue. On the other hand, with products such as which company's coolant is in one's car, and the maker of one's underwear, where the choices are more private, the worry about bypassing deliberation looms larger. Further, even in those cases in which a person's consumption choices (conscientious or otherwise) does spark discussion, one might worry that the deliberation will be of poor quality, since other concerns (such as the appropriateness of political consumerism as a remedial means in general) will be clouding the issue in question (such as where an oil rig should be disposed of, or how developed countries can work towards peace in the DRC).

4.2.4 Threat to economic self-determination

Relatedly, one might wonder whether political consumerism as a response to grave flaws might undermine the hard-won ideals of economic self-determination of peoples that has been the norm (and international law) since the end of formal colonialism. By economic self-determination I broadly mean the ability of political communities to choose their own paths of economic development, making their own trade-offs about the worth of different values that might be threatened or promoted by market values. The idea that (predominantly) wealthy consumers in developed countries could choose to use their power wisely to improve the lives of vulnerable people in the Global South has disturbing parallels to the paternalistic “White Man’s Burden” attitudes from the days of colonialism. Benjamin Powell puts it rather starkly: “Calls from First World activists to improve [Third World] working conditions are really attempts to impose the preferences of First World activists at the expense of the preferences of the very workers they are supposedly trying to help.” (Powell, 2014, p. 110). Powell’s assessment might be too strong, since for one thing, the preferences of some the “First World activists” are altruistic, and this might lead us to reconsider whether they are truly being “imposed” and for another if both sets of preferences actually align, they will not be “at the expense of” the most vulnerable in the “Third World”. Still, the use of political consumerism to try to influence the domestic concerns in another state give rise to the worry that the grave flaws that are most salient to the

concerns and world of developed countries that are managed, and less often the most pressing needs of those in developing countries (Seidman 2007). Hussain considers a case where UK consumers “try to enforce certain labor standards in the Philippines by pressuring multinationals that sell goods in the United Kingdom to comply with these standards in their Filipino factories.” The problem with this approach, Hussain holds, is that it “would fail to show adequate respect for Filipinos’ views about labor safety and for their processes of democratic change.” (Hussain, 2012a, p. 142). This is a prime example of what I call the threat to economic self-determination of peoples that political consumerism poses. One way to describe this worry using the vocabulary we have developed is that the problem is not with political consumerism that attempts to remedy authentic grave flaws, but rather that consumers and mobilizers are likely to see grave flaws where there are only internal political issues to be decided domestically.

I have raised four worries above: the way in which political consumerism can threaten ideals of avoiding adversely affecting innocents, economic self-determination of peoples, managed politicization, and public deliberation. In what follows I investigate two main streams in the literature on potential constraints on political consumerism: the positive change account of such constraints and the proto-legislative account of these constraints, and present what I take are serious objections to both of them. Finally, I offer a distinction between mobilizers and followers of political consumerism in order to

strengthen and rehabilitate the proto-legislative account to enable it to go some way to meeting the objections.

4.3 Positive change accounts

One response to the problematic cases of political consumerism is to just rule them to be wrong if, and to the extent, they bring about a worse state of affairs. For instance, philosopher Nicole Hassoun holds that, under non-ideal circumstances (such as those we currently live under) political consumerism is justified only if it does not violate basic rights, and “promotes positive change” (Hassoun, 2019).

Hassoun gives some examples. Even if we violate procedural values such as self-determination or fair deliberation, sometimes it is simply clear which products we should avoid, and thus we must be justified in avoiding them. Even though international deliberation cannot seem to get countries to agree on what is an apt definition for the kinds of child labor that should be outlawed it is clear that: “we cannot purchase... clothing from 5-year-olds, when better options exist, even if people deliberate and conclude that we can”(ibid., p. 43) She presents Fair Trade as another example of a purchase that promotes positive change because the FairTrade Movement “benefit(s) poor farmers and sometimes larger communities” Tomhave and Vopat try to generalize the view. They suggest that, at least where a company’s practices are at issue, “An act of boycotting is justified if and only if the boycott produces on balance, more

good than harm” (Tomhave & Vopat, 2018, p. 125). To their credit, they suggest we take a wide view of whose benefits and costs should be measured.

To determine whether the boycott is justified it is necessary to consider all the stakeholders that may be affected. It is not enough that those [culpable individuals] in authority may be penalized; it must also be the case that greater harm isn’t caused to the most vulnerable, for example, workers or the wider community” (Tomhave & Vopat, 2018, p. 129).

I think the positive change account is relatively straightforward. When questions arise as to whether a particular act or campaign of political consumerism is justified, we should ask whether the act is likely to improve the world. I now turn to a major objection to this view.

4.4 Epistemic difficulties

The main objection I want to raise against the positive change account is that, especially given the epistemic issues discussed in the previous two chapters, it is not action-guiding. It gives no further direction regarding which actual boycotts or buycotts might be wise, and which unwise. Overall if positive change accounts are realistic about the epistemic difficulties for determining whether a given political consumerism campaign will produce positive change, they do not provide an answer to our central questions, but rather a retreat to skepticism. If the permissibility of involving oneself in a conscientious campaign is judged on the actual results, and the actual results are practically impossible to determine ex ante, then the permissibility is practically impossible to determine ex ante.

Perhaps this is the right answer, and there is really nothing more for the normative theorist to say than “it depends on the particular consequences”. But I think we can say more than that. Let us turn to another attempt – what I will, following Hussain (2012a), call the “proto-legislative account”.

4.5 The proto-legislative account

Under the proto-legislative approach, the standards that guide political consumerism incorporate the standards of democratic procedures in domestic legislatures as far as is feasible. Because political consumerism should be consistent with the procedural values which ought to be central to liberal-democratic societies, it should be held to similar standards to those which govern our political process. Thus, according to Hussain, justified forms of political consumerism should meet three kinds of standard, each with two parts.

1. *Substantive* standards in aims: political consumerism should (a) aim towards “a reasonable conception of the common good” and (b) not threaten basic liberties,

2. *Democratic* standards in its *process*: Political consumerism should (a) be “appropriately representative and deliberative” and (b) avoid targeting an issue that “the formal democratic process” has “already addressed”

3. *Democratic standards in its aims*: Political consumerism should (a) “generate standards and arguments that can be the basis of future legislation’ and (b) “aim to raise awareness of the issue and (if necessary) to put it on the formal legislative agenda”.⁵

While details of Hussain’s criteria could be debated, as we will below, the central idea of the proto-legislative account, that political consumerism should take a specific form that respects broadly liberal-democratic values, has some broader support

Work by the Irish Congress of Trade Unions (2010) support a similar standard of democratic deliberation to Hussain, primarily because this will lessen the pernicious effects of boycotts. The ICTU holds that “the most effective solution” to unethical business practices is “social dialogue involving local trade unions and workers and their international federations” (Irish Congress of Trade Unions, 2010, p. 15). Especially concerned with the way boycotts can harm the apparently innocent employees of a firm with questionable practices, the ICTU claim that decisions to call a boycott, for instance “should involve dialogue with the workers involved and their unions and with the companies themselves. Every avenue of constructive social dialogue should be explored before proceeding with boycotts” (ibid).⁶

⁵ Quotes are from Hussain (2012, p.126). The grouping of the six criteria into three is mine.

⁶ See also (Elliot & Freeman, 2004).

In general, I think that the ICTU's emphasis on the instrumental benefits of seeking political consumerism deliberately and carefully as a last resort apply to other forms of harm to innocents apart from just the potential harm to workers affected. The idea that democratic processes have distinct epistemic benefits is a controversial one, but the narrower ask, that some of the decision-making around political consumerism should be representative, deliberative and complement rather than try to overturn legislative efforts will very plausibly reduce the collateral damage associated with political consumerism campaigns. It allows those affected by political consumerism campaigns to have a voice and raise arguments that may be otherwise passed over by mobilizing individuals and NGOs zealous to achieve what they see as positive change. All told, I suggest that the proto-legislative approach that Hussain and the ICTU call for is not just valuable because it protects procedural values, but also for its potential to improve the outcomes of political consumerism in the way that the positive change account demands.⁷

In the following section we will consider one key objection to the proto-legislative argument.⁸

⁷ This trust in formal over informal decision-making must of course be tempered by the recognition that in many times and places, dovetailing with traditional forms of government might be impossible or unwise, if those governments are deeply unjust.

⁸ For an account that argues that the proto-legislative account is confused about the locus of evaluation, and can be strengthened by shifting evaluation from the act of conscientious consumption to the agent, see (Caulfield, in preparation).

4.6 The asymmetry objection

Proto-legislative accounts face a serious concern.⁹ Requiring consumption in the market generally to respect liberal-democratic procedural values would render virtually all acts of consumption impermissible, since very rarely do acts of consumption meet the proto-legislative criteria.¹⁰ I do not seek a democratic public mandate before I select a particular milkshake or a book, or even house or car among those that are offered on a legitimate market. Further, our regular (i.e. non-conscientious) acts of consumption are just as capable of bringing about social change as political consumerism proper. For instance, a decline in pet rock sales and an uptick in hula hoop sales will probably end up distributing benefits from those employed in the pet rock industry to those employed in the hula hoop industry, in a way that may be quite disruptive, even harmful to those in the pet rock industry. Still, despite such disruptive changes I take it that my choosing on a whim to buy a hula hoop rather than a pet rock is a permissible act, even if it contributes to an economic movement that shapes our social world. But if proto-legislative accounts cannot identify the morally relevant difference between political consumerism and regular consumption, they must conclude that regular consumption faces the same constraints as political consumerism does.

⁹ It is unclear whether positive change accounts face the following objection as well. Much will probably depend on the details in the way they are framed.

¹⁰ I thank Wayne Norman for helping me understand the strength of this concern.

4.6.1 Double effect?

One might think that proto-legislative theorists could make use of differences in intention and the doctrine of double effect here. They might claim that the acts of conscientious consumption that political consumerism is built on involves an intention of bringing about social change whereas regular consumption lacks such an intention. But this would be unwise, and not merely for the usual worries about how to analyze intention or its moral relevance (Anscombe, 1957; McIntyre, 2019). Many conscientious consumers (just like the hula hoop buyers above) might lack the intention of bringing about social change. They might be motivated by any number of ethical motivations that are not intentions to bring about or contribute to social change. That is to say, they might be simply intending to keep their own hands clean, or expressing their political beliefs or identity. They might also be intending to obey an authority (such as Greenpeace, PETA, or the AFA, or their church) or intending to impress their peers. They might not be intending anything at all, simply following a habit or a crowd.

4.6.2 The insulating role of the market?

Hussain argues that in the case of regular consumption, the proto-legislative requirements are relaxed due to the special “internal” role that regular consumption plays in the justification for markets (2012a, p.137). The argument goes something like this: markets are justified as a social institution (despite their inherent conflict with

procedural norms of democracy) at least in part because of their efficiency in allocation.¹¹

Markets theoretically provide Pareto optimal¹² outcomes even despite evolving and varied preferences, and even “reasonably well-managed...markets” can “generate profound improvements in people’s lives, improvements that meet the very high threshold necessary to justify certain departures from procedural ideals” (2012, 136).¹³

Since “no other plausible method of social coordination could perform this complex task

¹¹ As proved by the First and Second Welfare Theorems of neo-classical economics.

¹² A Pareto optimal allocation is just that from which no pareto improvements can be made. Hussain defines a Pareto improvement as “an increase in one person’s preference-satisfaction that does not lower anyone else’s preference-satisfaction.” (2012, 136 n. 30).

¹³ One criticism might be that Hussain’s argument for the insulating role of the market, inasmuch as it assumes that markets as an institution are justified by their contribution to efficiency, rests on a faulty assumption. There are several other justifications for markets that do not create a relevant difference between standard and conscientious consumption. The efficiency they promote in allocation is only one of several justifications. Some hold that markets are justified because they are simply the conglomeration of “capitalist acts between consenting adults” (Nozick, 1974, p. 163). That is to say, markets result from individuals exercising a basic liberty – the liberty to exchange goods and services. A second justification for markets is that they provide a training-ground for valuable civil virtues (McCloskey, 2010). A third is that they simply tend to increase overall welfare, but through incentivizing innovation, hard work and entrepreneurship. A fourth is that they limit the dangerous concentration of state power, allowing individuals the liberty to choose whom they associate with and work for (Buchanan, 1985, p. ch.3). None of these four justifications for markets grant standard consumption in the privileged place that Hussain gives it. The libertarian, consequentialist and training ground justifications (if they are sound) carry through to purchases (*ceteris paribus*) regardless of whether individuals are maximizing self-centered preference-satisfaction or not. Micheletti (2003) even suggests that conscientious consumption is a good way to express and develop civic virtues such as judgement, autonomy and solidarity. If it is not allocative efficiency, but one or more of these alternative justifications that legitimize the market as an institution, Hussain’s argument for differential treatment – that it is only standard consumption and not conscientious consumption which inherits the legitimacy of the market – falters.

as effectively”, Hussain concludes that markets themselves are democratically justified (2012, 136).¹⁴ An essential part of this market architecture, Hussain claims, is that consumers seek to compare only two features of products: price and quality.¹⁵ To the extent that we choose based on elements other than how well some product satisfies my own preferences and its cost, we subvert the very feature of markets that justifies them. To bring this down to the level of individual decisions, imagine I refrain from purchasing a ticket to a classic movie I love, because I altruistically want some strangers who haven’t seen it to have more opportunity to do so. In this case, one could argue, regardless of the short-term benefit to others, I have not played my appropriate role in the market. This is because I have failed to transmute my preferences into the signal that, among other things, tells the theatre how many people would enjoy the movie. For instance, the theatre is now slightly less likely than it might have been to schedule an extra screening, or to order this movie again, (both courses of action which myself and the other viewers would prefer).

¹⁴ We might echo the idea that democracy is the worst of all political systems except for all the others we have tried, with the observation that markets are the worst of all allocation systems except for all the others we have tried.

¹⁵ Hussain states: “price-quality preferences of consumers are an essential component in the vast social opportunity for Pareto improving transfers that I mentioned: it is the correspondence between these consumer preferences and the preferences of workers and investors that creates the opportunity.” (2012a, p. 137)

Overall, it is this role of what Hussain calls “price-quality consumption” in driving efficiency that gives it special status that even political consumerism cannot match. Price-quality consumption alone is released from the proto-legislative requirements.

4.6.3 The problem with the “insulating role” argument

Hussain’s argument why regular consumption doesn’t have to meet the same criteria as he sets for political consumerism falters, as it leads to a serious dilemma. Regular consumption is characterized in terms of consumers choosing according to strict pre-existing preferences for low prices and high quality. But dividing preferences between those that try to track price and quality and those that do not seems may leave very little of our consumption as fitting into the category of regular consumption. To illustrate this, consider paradigm cases of consumption. We often see path dependency and network effects (which drives people to either the Apple and Android systems) (Norman, 2011). Just as often, customers buy products not because they reasonably expect the product will fulfill certain pre-existing preferences, but because they choose brands that they think reflect an image of who they are, or more often, who they want to be. As Al Ries argues, successful brands work by simply associating their brands with single positive words. “Volvo owns ‘safety’. BMW owns ‘driving’. Mercedes-Benz owns ‘prestige’.” (Ries, 2014). Some go further: Patrick Hanlon describes brands as “belief systems” with their own creation stories, creeds, icons, rituals, lexicon, non-believers

and mobilizers (Hanlon, 2014, p. 328). All told, very often purchases track not the product's quality, but the brand's quality, which fits far less neatly into the paradigm of markets as efficient allocation devices. At other times, so-called "regular" purchases are made on frivolous impulses, or as a result of any number of marketing manipulations. As Jerry Seinfeld put it, tongue only partly in cheek: "In advertising, everything is the way you wish it was. I don't care that it won't actually be like when I actually get the product being advertised because, in between seeing the commercial and owning the thing, I'm happy, and that's all I want...we know the product is going to stink. We know that. Because we live in the world, and we know that everything stinks" (Seinfeld, 2014).

Here Hussain faces a dilemma. Either the wide variety of a-rational consumption instances described above count as cases of regular consumption, (and inherit the justification of the market as an allocative system) or they are do not. If they do not, this seems to lead back to the radical consequence that proto-legislative requirements face us whenever we purchase on a whim, from transient, irrational desires created by advertising, or in seeking to shape our identity by associating with a brand. On the other hand, if such purchases *are* regular and *do* inherit the justification of the market the proto-legislative view is still in trouble. It is now unclear why very many acts of political consumerism do not also count as regular consumption, for they will often be just as in line with our pre-existing preferences (if not more so) than the oft-chaotic purchases that Hussain counts as "regular" (Devinney, Auger, & Eckhardt, 2010).

Let us take stock. Many cases of political consumerism, even aimed at appropriate ends, such as many of those discussed in this chapter, seem intuitively morally suspect, which would lead us to favor some constraints on political consumerism as a means. Simply requiring political consumerism to promote positive change is an unworkable solution if it is intended to guide actors in the messy epistemic situation most consumers find themselves in. The proto-legislative approach, which takes seriously the difficulty of the epistemic problem and honors procedural values of liberal democratic society, has its own difficulties. In particular, it struggles to solve the asymmetry problem. Advocates of the proto-legislative approach need to convince us that they have a criterion strong enough to pick out many instances of political consumerism (in order to apply the proto-legislative requirement) while not being so strong that all of our purchases must meet the proto-legislative requirements.

4.7 Mobilizers and followers

In the next section I suggest a way of picking out what might be morally wrong about these cases in a way that avoids the asymmetry problem, and generates my own positive, moderate view of the moral constraints on political consumerism.

Remember the observation first introduced in Chapter 3, that discussing political consumerism rather than conscientious consumption naturally draws attention to the *mobilizers* of political consumerism, often NGOs and particularly zealous individuals, but also firms trying to target conscientious market segments, rather than those *followers*

who respond to the calls to purchase selectively. Scholars who discuss the potential threat to liberal-democratic values tend to equivocate about the mobilizer/follower distinction. Hussain refers as we have been, quite generally to the practice of political consumerism¹⁶ rather than acts by any specific type of actor. At times, Hussain's examples seem to apply mainly to individual consumers. For instance, the kind of ethical consumerism Hussain claims he is concerned about is when "*the consumer* uses her purchases to try and change the way that other people behave" (Hussain, 2012a). At other times Hussain seems to be referring to those who mobilize political consumerism – primarily NGOs or outspoken individuals trying to encourage others to selectively purchase. For instance, in another, hypothetical case, where environmentalist consumers band together to prevent a nuclear power development, he claims that "*the process of social coordination* in this case would be objectionable." (2012a, p. 120 [italics mine]). In what follows I argue that worries about the threats to liberal-democratic values apply *only* to actors that are intending to inspire other consumers to act a certain way, rather than individual consumers choosing to purchase products.

I present a strategy for trying to show that this distinction between mobilizing political consumerism and following political consumerism is morally relevant, and thus the insulation argument above releases followers, and only followers, from the constraints of the proto-legislative account. It begins from the idea that when groups or

¹⁶ In Hussain's parlance, this is "social change ethical consumerism"

individuals try to alter the behavior of consumers in the market by using persuasive tactics, this itself is not a market transaction.¹⁷ It follows that, even if we assume that market behavior is insulated to some extent from orthodox ethical concerns, mobilizing actions cannot inherit the protection from close political scrutiny that market transactions typically enjoy. Mobilizing political consumerism may use a number of methods, such as: appealing to group solidarity “if you’re with us, avoid product X”; tarnishing the bad product, by associating it directly with the problem that is being targeted “Do you really want to buy product X, which contributes to child labor?”; or polishing the good product – associating it with the solution to the problem “Product Y contributes to happy, healthy workers”. In the case of a boycott, the mobilizer might suggest that the product should not be traded on the market at all (Satz, 2010). But none of these are buying or selling a product in a competitive market, activities that we hold to different moral standard because they are part of an overall adversarial system that is justified by its tendency to bring about efficient allocations (Heath 2014, Norman forthcoming). (Neither are they simply providing neutral information aiming at the truth, as a journalist or academic might). Because only followers and not mobilizers would be sheltered by the insulating role of the justification for the market, something

¹⁷ Of course, one could hold that even those conducting persuasive activities are producers of a sort and those being persuaded are consumers, but this is to apply the idea of a market to the phenomena, not to say that the activities take place in a market setting.

like Hussain's proto-legislative constraints should apply only to mobilizers, but not followers of political consumerism.¹⁸

4.8 Issues facing my moderate view

4.8.1 Consistency with views about advertising?

There is a question of consistency with regard to how we view mobilizers of all types of consumption, however. If agents advocating for political consumerism face proto-legislative standards, does consistency require that we treat seriously moral constraints facing actors when they try to persuade people to buy products for their *non-moral* qualities? This concern deserves further attention, but even if it carries, note that such a conclusion would not be fatal for my theory. We already accept certain moral and legal constraints on commercial speech and advertising, and there are promising arguments that *all* persuasive advertising runs counter to liberal values of autonomy

¹⁸This account is currently incomplete because (a) it does not clearly lay out what kinds of activities are inside markets and which are outside and (b) it relies on a tentative distinction between just providing information (for which the proto-legislative standards seem far too strong) and persuasion. Many conscientious consumption mobilizers may be somewhat cryptic about what they are doing. Groups such as Greenpeace do not use the word "boycott", but they do obviously try to stir up strong feelings to drive action for instance, in an advertisement, likening eating a Kit-Kat chocolate bar to eating an orangutan finger, due to concerns about the links between Nestle, palm oil, deforestation. The call to practice conscientious consumption is usually implicit. As Ethical Consumer points out "Greenpeace, who in the 1980s and 1990s was renowned for its boycott calls, achieves possibly more with its new generation of rankings and 'negative publicity' stunts without the word boycott ever leaving its lips. Because of this, the reason that most concerted corporate campaigns no longer appear in our Boycott News section but in other sections on the web, is rather more to do with semantics than a fundamental change in campaign strategy"(Ethical Consumer, n.d-c)

(Crisp, 1987). Furthermore, from a strictly economic point of view, much advertising that is not purely informational is a dead-weight loss in the economy (Heath, 2018). So even if my view meant that the proto-legislative account applied to all kinds of persuasive advertising, including private individuals promoting goods to other people, this need not be clearly problematic.

4.8.2 Overly ideal view of politics?

When we are discussing political consumerism mobilizers, I have gone along with Hussain in saying that a campaign of political consumerism should aim at publicly defensible ideals of the common good, model (and not replace) the democratic process in its operation, and work to support the application of the formal democratic process as a long-term solution. One might wonder: is this is far too idealistic a requirement?

Notice that the norms may appear to apply uneasily to actual paradigms of morally admirable political consumerism campaigns in history. In particular, the requirement for representative deliberation in a political consumerism campaign may be asking far too much. Boycotts such as the anti-slavery sugar boycott (Hochschild, 2006), the Swadeshi movement, the Tunis tram boycott, and the Montgomery bus boycott (Williams, 2013) seem to have been guided by decision-making structures which did not seek to be fully representative of all points of view. Of course, in many of these cases we are willing to overlook these elements, *because* the power structures they fought at the time were themselves deeply unrepresentative. But very many other current

conscientious campaigns are propelled by the same sense that the democratic process is failing. Political consumerism to avoid palm oil or conflict minerals, child or sweatshop labor all stems from an idea that the democratic process either is non-existent, or deeply flawed in the relevant country, or marred by powerful systemic pressures such as an international race to the bottom in labor and environmental standards. Even with regard to domestic issues, we might think, if the matter is urgent or legislative change itself far off (as might be the case with regard to animal agriculture) that mobilizers can eschew democratic and representative forms in favor of getting results.

Further, in our world, some values that political consumerism might threaten (such as self-determination and managed politicization) are more ideal than reality. Take self-determination. Advocates of political consumerism might argue that, if it is not conscientious consumers in developed countries that shape the economic lives of the global poor in developing countries, the alternative is not self-determination, but domination by local elites and faceless multi-nationals! If groups of consumers can use their power in the marketplace to have some way to push back against corporations' and elites shaping of the socio-economic world, why should they face special moral constraints? This is not to complain that the proto-legislative approach is ideal theory. It is to say that the proto-legislative account can be especially vulnerable as theory because it is judging techniques that belong to essentially non-ideal politics.

On the other hand, faced with the examples of political consumerism campaigns that seem poorly justified, we might want theoretical tools beyond those from Chapter 3 in order to separate the “damnable conspiracies” from the “righteous crusades for justice” (Garrett, 1986, p. 20). We need some theoretical resources with which to criticize them beyond decrying them as merely poor strategy. The best approach is probably to retain the proto-legislative account, but be aware that they are ideals, rather than firm constraints which all campaigns must meet to be justified. Hussain’s position appears overly rigid on this. At many points he refers to the proto-legislative approach as what makes political consumerism “permissible”, a “restriction” that is only relaxed when the campaign targets production in countries where “minimum standards [of justice]” are not met” (2012, 142) I suggest that given the very real political power of firms, and the flaws in democratic processes in every country, the proto-legislative approach is best seen as outlining ideals that mobilizers of political consumerism should aim at.

I have also said nothing about what we should say about the action of followers when political consumerism mobilizers fall well short of the ideals of the proto-legislative account. If we accept the argument about the insulating role of the market, it would make little sense to say in these cases, consumers should change their purchases to ignore what the mobilizers recommend. This approach essentially ignores the distinction between mobilizers and followers, and thus falls foul of the asymmetry objection. Consumers are obviously free to purchase items for any bad reason, including

a poorly led political consumerism campaign. However, mere individuals can be mobilizers, and recognizing that a conscientious campaign one is following fails to meet achievable democratic standards, given the context, does have ramifications for individuals. It suggests that whatever political consumerism one is doing belongs in the realm of private preferences, rather than a market-based form of democratic politics, and one should practice reserve rather than the kinds of outreach that one might be tempted to perform to mobilize others to join one.

4.9 Conclusion

What moral standards should political consumerism meet? Despite work from both positive change and proto-legislative theorists suggesting a definite answer to this question, I suggest that the question is ill-formed. The moral landscape looks far different when we distinguish followers of political consumerism campaigns from mobilizers that try to influence others by introducing ideals that are not directly traded on the market. Mobilizers, and only mobilizers, should aim towards where it is feasible, to approximate the standards that the proto-legislative account lays out. We might not want to boycott the boycott, but those of us who are leading it should examine our conduct closely.

5 Don't sweat it? Which flaws are grave in global apparel supply chains?

The misery of being exploited by capitalists is nothing compared to the misery of not being exploited at all.

Joan Robinson, "Economic philosophy" (1962, p. 46)

They're turning kids into slaves/Just to make cheaper sneakers/But what's the real cost?/'Cause the sneakers don't seem that much cheaper/Why are we still paying so much for sneakers/When you got them made by little slave kids?/What are your overheads? Flight of the Conchords "Think about it" (2008)

Until now we have been treating "grave flaw" as a placeholder, with a few examples to illustrate the kinds of phenomena it might apply to. In this chapter I want to explore more carefully what kinds of flaws might be *grave* flaws. Remember by "grave flaw" I mean those elements in global supply chains that affect people in ways that are bad enough to generate strong reasons for individuals, NGOs, governments and firms in developed countries to try to search for, and if possible enact, an appropriate and direct remedy for. In some senses then, our analysis is broadening, as we consider, as Chapter 3 suggested we might, all kinds of downstream agents, including not just the actions of consumers but also conscientious investors, job-seekers and job-leavers, and downstream firms and their agents, as well as, of course mobilizers. But to avoid our investigation becoming too unwieldy, I limit discussion to one domain in particular: labor conditions in apparel supply chains. This will also allow us to engage directly with

the literature within business and applied ethics on global “sweatshops”: where “sweatshops” are a loosely defined category for supplier factories with working conditions that fall well below typical legal standards in the developed world.

5.1 The minimalist position: coercion is the only grave flaw.

Let us begin with what I see as the most minimal or conservative defensible positions on which grave flaws are grave. Economist Benjamin Powell puts it simply: “Sweatshops that coerce their workers with the threat of violence or use the local government to do it for them are the one type of sweatshop I condemn and will not defend. That is slave labor and has no place in a moral society.” (Powell, 2014, p. 3)

Call the view that direct physical coercion and outright fraud are the only genuine grave flaws “the minimalist position”. Proponents include not only Powell, but also philosopher Matt Zwolinski (2007) and business ethics scholar Ian Maitland (1997). The minimalist position rests on the perspective of sweatshop workers as individuals seeking the best available option of a bad set. Sweatshop work, minimalists point out, is probably better than the life of a “trash picker” sifting rubbish heaps to gain a few cents worth of valuable resources (Powell, 2014). Further sweatshops, the minimalists argue, typically cannot improve working conditions such as improving safety (or even reducing physical and sexual abuse at the workplace!) without balancing the cost of

such changes by paying workers less, which the workers typically would not prefer.¹

Minimalists hold that, barring those cases of force or fraud in which workers actually did not choose the conditions under which they labor, those of us in affluent countries should avoid condemning what might seem to us to be deplorable employment conditions.²

Putting aside their negative argument that no other flaws are genuinely grave, and some of the more hyperbolic claims, the core positive part of the minimalist view is uncontroversial. It is hard to deny that physically coerced labor and outright deception about working conditions and non-payment of wages are clear wrongs that demand remedy. However, other scholars hold that there is a lot else that is deeply wrong with sweatshops – they present much longer list of grave flaws in apparel supply chains, which we will discuss below.³

¹ Minimalists point out that their position does not require there to be no way suppliers can improve labor standards or even wages without improving efficiency (say through employer morale, or increased nourishment). Rather, the minimalists draw on Hayek (1945) to argue that such valuable win-win amendments to supplier practices are best found not discovered through moral pressure on suppliers (via merchandisers) but through the “discovery procedure” of markets.

² Perhaps the most striking aspect of the minimalist approach is that it seems to have no moral grounds to count even brazen violations of domestic laws such as minimum wage or health and safety laws as a grave flaw calling for remedy, a consequence that the minimalists accept (Powell, 2014; Powell & Zwolinski, 2012; Maitland, 1997). We will discuss that anarchic aspect of the approach later in this chapter.

³ Of course, there is a sense in which everyone in the debate sees sweatshop labor itself as a flaw, in that they see a world with sweatshop conditions as worse than one where people in

5.1.1 Is *most* sweatshop labor coerced?

One type of response retains the stark categories of the minimalists – forced coercion on the one hand, and freely chosen employment conditions on the other. However, they hold that many more cases of sweatshop employment than those few the minimalists actually decry are actually coerced, even if the workers do not appear to have guns pointed at their head or canes aimed at their back.

For instance, Iris Marion Young asserts that many workers endure “violations” of their labor rights “because they desperately need those earnings... a measure of the *coercive* pressures of their circumstances rather than of their consent.” (I. Young, 2010, p. 128 [italics mine]). Richard Miller makes a similar remark, suggesting that sweatshop workers’ apparent consent to employment conditions “is *not fully voluntary*, since it is *forced on them* by their circumstances” (R. Miller, 2010, p. 65 [italics mine]). However, neither author develops their account along these lines, and instead they follow some of the other paths we discuss below to try to show that sweatshop labor contain grave flaws. One worry about their suggestion is that, to judge employment relations such as those in sweatshops coercive because they are the choices often made by people in

developing countries have very good jobs. The debate about whether sweatshop labor is a grave flaw is essentially whether it is a wrong that should be directly remedied by encouraging more “ethical” business practices, or at the other extreme, whether an appropriate response to the existence of poor jobs in sweatshops is celebrating increasing numbers of sweatshops since countries that use an export-focused economic strategy can develop to a point that sweatshop labor becomes *economically* unviable due to the better options that workers will have.

desperate economic circumstances, our conception of coercion becomes too broad to be useful. If we allow the concepts of “coerced” or “involuntary” to apply to cases where one is simply pushed in an undesirable direction due to the dire circumstances one is in, this dilutes the force of the concept when it applies to the very different situation of being compelled, by the threat of force, to follow *another’s will* (see (Buchanan, 1985, p. 88)). I suggest that, until it is given a more thorough treatment by its proponents, the suggestion that most sweatshop labor is coerced “by the circumstances” should be set aside. For the rest of this chapter I will be discussing what grave flaws might remain in sweatshop employment relationships *despite* their voluntary nature.

5.2 The orthodox ethics approach.

Much work that tries to go beyond the minimalist position does not assume that most or many cases of sweatshop labor is clearly coerced. Instead it draws on familiar ethical concepts for describing interpersonal and political interactions in many domains. This literature draws on concepts such as exploitation, unfair exchanges, disrespect, concern for the vulnerable, and violations of human rights to argue for recognizing a range of grave flaws in sweatshops. Together I refer to such attempts as the “orthodox ethical” approach, since it (i) relies on a relatively standard ethical and political toolbox, and (ii) issues in what might seem to be a more intuitive position than that of the minimalists.

5.2.1 Exploiting a person

A frequently heard claim among the orthodox ethical theorists is that exploiting persons in global apparel chains is both common and a grave flaw. Among global-justice theorists, Gillian Brock sees typical offers of employment in global supply chains as “exploitative transactions” because they “take unfair advantage of people, by taking advantage of their bargaining weaknesses” (Brock, 2014, p. 121). Brock cites Richard Miller who also refers to “exploitation” several times in his discussion of moral issues in global manufacturing. For Miller, the success of global production networks is predicated on consumers and firms “taking advantage of poor people in developing countries” (R. Miller, 2010, p. 63). Mathias Risse and Gabriel Wollner see the norm of avoiding exploitation as the central moral requirement in global trade (understood as a practice of transactions between countries, individuals and states). They recognize their theory “is only as plausible as the accompanying account of exploitation.” (Risse & Wollner, 2014, p. 213).

The view that sweatshops are deeply exploitative is expressed in a separate literature in business ethics. A typical statement can be found in work by Joshua Preiss, who claims: “(A)gents possess good reason to advocate for better wages and working conditions for sweatshop workers, and to prefer *less exploitative* or coercive relationships.” (Preiss, 2014, p. 56 [italics mine]). Likewise, Chris Meyers claims that many cases of outsourced employment are “exploitation” that multi-national retailers

have a duty to avoid taking part in (Meyers, 2004, p. 320). Jeremy Snyder maintains that “sweatshop labor... can be exploitative” when employers offer wages that do not meet the “basic needs” of employees, even if such wages are accepted. (Snyder, 2008, p. 404)⁴

However, while there is significant agreement among such scholars that firms exploit in global supply chains and that this is a grave flaw, the concept of exploitation of vulnerable developing country workers can be analyzed in several different ways. Here I think the “exploitation theorists” tend to refer to two quite different ways in which instances of sweatshop employment could be a grave flaw.⁵ Rather than try to unpack what exploitation *really means*, we can turn to the two of the major potential families of analyses and ask how well they apply directly to the case of sweatshop employment.

⁴ There are other, somewhat more nuanced views. Sollars and Englander (2018) provide a view that I will discuss in the section on a just wage below. Mayer (2007) keeps the concept of exploitation in play, but makes a strong distinction between structural and discretionary exploitation, which I will discuss in the section below.

⁵ I am not, and nor are the outsourcing-as-exploitation theorists cited above, directly considering exploitation as it is understood in the Marxian tradition. Within that tradition, capitalists *routinely* exploit all workers by commandeering the very value which the workers create. This is not the sense of exploitation that I wish to investigate here. Whatever else one may say about the Marxian account of exploitation, the labor theory of value, which underlies the Marxian account, is widely considered to be a misleading account of the source of economic value. It is also unclear the extent to which Marx was using exploitation as a moralized concept (Risse & Wollner, forthcoming). David Miller (1987) points out that *any* theory of exploitation that rests on an objective sense of value will be vastly oversensitive to mutually beneficial transactions because of the differences in preferences between those trading. These will be judged as one-way transfers of value when in fact, there is a mutual gain from trade.

5.2.1.1 Exploitation... as unfair exchange

One kind of view is that what is wrong about some of these voluntary employment relations the goods or services exchanged do not meet some standard of parity of value. These Fair-price views could, in theory focus on the *objective* value of what is exchanged (as Marx's labor theory of value tried to do). These kinds of approaches would have to hold that what the worker provides is objectively more valuable than what is paid. Much more popular today, are views that are compatible with the economic value of goods being subjectively determined. But fairness concerns can certainly arise within such a framework. A common overall approach is to focus on the division of the *cooperative surplus*: the difference between two parties' *reservation prices*. Each party's reservation price is the counterfactual price that party would have been willing to conduct the trade at. See Figure 1.

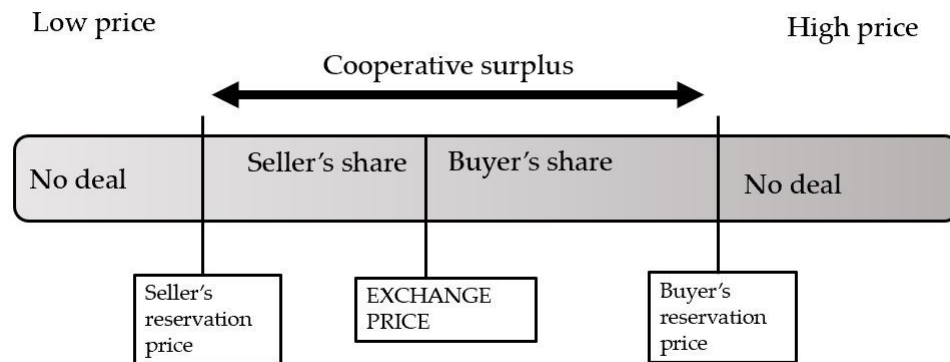


Figure 1: Dividing the cooperative surplus

The question remains, of course, which distribution of the cooperative surplus constitutes a fair distribution. An intuitive approach would require that buyers and sellers divide the cooperative surplus between them in a roughly equal manner, to avoid either party exploiting the other,⁶ but there may be others.

5.2.2.2 Exploitation ... as Disrespect

A rather different kind of analysis of exploitation in global supply chains sees the grave flaws in apparel supply chains as the disrespectful relationship between the employers and their employees. This in turn can be split into different versions.

Ruth Sample (2003) and Jeremy Snyder (2008) focus on the vulnerability and desperation of job-seekers and employees in sweatshop employment. They decry acts of employers benefitting from this vulnerability while (or perhaps because) they refuse to see the employee as a person in need. According to Sample and Snyder, such employment relations, even if voluntary, are supposedly as a grave form of disrespect. Sample states: "When a person interacts with another for the sake of further advantage in a way that degrades the other person in virtue of her vulnerability, exploitation has occurred" (Sample, 2003, p. 88).⁷ This degradation can be spelled out in familiar Kantian

⁶ Interestingly, if we take this approach strictly, some counterintuitive results hold. For instance, if I sold you an antidote for a lethal poison for 100,000, but this was far lower than your reserve price of 1 million dollars, I have not exploited you, rather, you have exploited me, since you have captured more of the cooperative surplus (Zwolinski, Wertheimer, & 2017).

⁷ One might wonder why we need the concept of exploitation, when another person being degraded is sufficiently worrying for this to be a salient category of wrongdoing on its own.

terms of using a person as a mere means. Sweatshop labor, Sample holds, fails to honor the value that “other human beings possess... in our effort to improve our own situation” (Sample, 2003, p. 57). Both Snyder and Sample hold that one way in which this disrespect or degradation can manifest is by ignoring the basic needs of a human being one is in a significant relationship with.⁸ Their theory is Kantian, but concerns about such abandoning of an obligation to ensure one’s workers are meeting some basic minimum standard of living, despite their willingness to work for a very low wage, need not have a Kantian foundation. They might be grounded by, for instance, a role- or relationship-based morality such as Confucianism or care ethics. For instance, some such view might hold that the ideal form of relationship between an employer and a worker ideally involves such a non-instrumental concern for the wellbeing of ones workers, and situations which fall short of this contain grave flaws.

Presumably the need to connect this to the concept of “exploitation” is to emphasize that these kinds of degradation is a subset of cases of degradation that are entered into voluntarily by both parties, but is nonetheless still wrong.

⁸ There are slight differences in their respective approaches. Sample takes a broad view that implies that merely benefitting from a person’s activity while “neglecting what is necessary for that person’s well-being or flourishing” constitutes exploitation (Sample, 2003, p. 57). Snyder specifies that the requirement to protect another’s basic needs arises in more specific circumstances, particularly the relationship of use: “When we enter into a relationship of use with a particular person who has [significant] deficits in her well-being, the general [imperfect] duty of beneficence... takes on a more specific [perfect] shape” (Snyder, 2008, p. 396).

5.2.2.3 Human rights

Another way to spell out how sweatshop employment might constitute a grave flaw is if the terms of employment violate human rights, whether this constitutes “exploitation” or not. Iris Marion Young follows this approach: “There should be little doubt that [sweatshop] conditions violate basic human rights. Many international agreements and conventions prohibit violence and intimidation in the workplace and stipulate that workers should not labor under conditions that threaten their basic health and physical safety” (I. Young, 2010, p. 128). I will say something about human rights here, and then set the idea aside for the rest of the discussion. The claim that human rights are routinely violated in sweatshops is vague, and brings up very complex issues. To begin with, it is often unclear whether those making such claims are referring to moral human rights, legal human rights, or both moral and ideal legal rights, assuming that the one “mirrors” the other (Buchanan, 2013). There is also a tense debate about several other matters. First, whether the norms of universal human rights are incompatible with cultural outlooks that privilege harmonious relationships over individuals⁹. Second, whether *labor* rights (such as the right to organize and associate) are best understood as human rights, or whether this is too individualistic a framework

⁹ For instance, for an argument that human rights will be less of an ideal to work towards, and more of a fall-back mechanism for Confucian societies when virtues fail see (Chan, 1999). For an argument that the essentially litigious and adversarial nature of rights claiming means even human rights as a fall-back mechanism might be hard to square with Confucian values of proper relationships, see (Tiwald, 2012).

to understand labor rights which are essentially a protection for the whole class of workers (Savage, 2009)¹⁰. Third, if labor rights are human rights, to what extent are they voluntarily waivable by individuals, in the way that the minimalists argue is fully reasonable behavior by both parties to employment relations?

Turning to institutions, the legal understanding of human rights in the workplace is in flux since the recent development of the Guiding Principles on human rights and business which, for the first time, forges a compromise between industry and political activists, and introduces the concept (even in a “soft” non-enforceable sense) of obligations on businesses to respect human rights. This brings up a fourth issue. Legal human rights regimes typically accept that economic, social and cultural human rights such as those associated with work are subject to “progressive realization”: that what constitutes adequate state protection of these rights depends on the states “available resources”. This raises a key question: to what extent should firms also respect human rights to different degrees depending on the economic context in which they operate?¹¹

¹⁰ But see (Buchanan, 2013, ch. 7) for an argument that individual legal rights are often an excellent way to protect group rights.

¹¹ Young claims that “The meaning of [human rights to decent working conditions], moreover, ought to vary little with local culture or level of industrial development” because “exhaustion and the need to pee are cross-cultural experiences” and “The right to assemble and organize ought to be recognized everywhere”. (I. Young, 2011, p. 128). One possibility is that Young is right about the rights to organize but wrong about the extent to which it is permissible, even desirable, to tradeoff such unpleasant “cross-cultural experiences” such as exhaustion and

I must leave a deeper analysis of this issue for later work, but I can maintain that legal human rights might be a key tool in both identifying and remedying grave flaws in global supply chains. That said, the complexities suggest that it is formal institutions such as official human rights bodies, domestic and international institutions, including courts, rather than downstream remedial agents that are best placed to recognize the concepts of human rights violations by businesses in global supply chains. They are beginning to do so, and engaging with that process will involve a lot more technical concepts and discussions. So I put aside the potential grave flaw of human rights violations and discuss the potential grave flaws of unfairness and disrespect in the assessment that follows.

5.3 Assessing the orthodox ethics approach

We have seen suggestions that sweatshop labor contains extensive grave flaws because it typically is an instance of unfair bargaining or disrespect of workers through ignoring their vulnerability and needs, falling short of the responsibilities of the employer-role, and violating human rights. Are these suggestions plausible? My response to the orthodox-ethics approach (barring discussion of human rights) comes in three parts. The first part suggests that importing our notions of (e.g.) fairness, respect, or care from non-adversarial domains into the largely adversarial domain of business interactions will lead us astray. The second part lays out a method of identifying grave

needing to pee but being unable to, in exchange for pay.

flaws — the market-failures approach — which is more well-suited to apply to the domain of business specifically. The third part turns to the actual structure of apparel supply chains and gives reasons to believe that, even if one prefers the orthodox ethics approach, that approach and the market failures approach will largely converge on which upstream flaws in apparel supply chains are grave.

5.3.1 Exploitation of a person may look very different in adversarial and non-adversarial domains.

My point here draws on a suggestion we first saw in the previous Chapter. There we discussed the way the adversarial nature of market domains might “insulate” consumers from being overly concerned with the upstream flaws of their purchases. Here we draw on the adversarial nature of market domains to argue that it is not clear that the orthodox-ethics account of grave flaws should apply to exchanges in competitive markets. As Wollner and Risse point out, what is common to disrespect and fair-exchange analyses is that they involve a party taking advantage of another’s weakness (Risse & Wollner, forthcoming). But many writers note that in clearly adversarial domains, such as competitive sports, taking advantage of (an opponent’s) weakness even when it is not mutually beneficial is very rarely going to be unfair or exploitative in the pejorative sense. As Zwolinski and Wertheimer put it “we do not condemn a chess player for exploiting a weakness in his opponent’s defense” (Zwolinski & Wertheimer,

2017).¹² Robert Mayer uses a similar example: “If I exploit Blue’s carelessness in a game of chess and take her queen, I have gained at Blue’s expense but my gain is not unfair. I inflicted a loss, but such inflictions are permitted by the rules of the game. There are contexts, then, in which I may exploit the weaknesses of others without the taint of unfairness. Games and athletic competitions are the best examples.” (Mayer, 2007, p. 606)¹³

It seems plausible that we should take a different standard of what disrespect or unfair bargains mean when applied to interactions in competitive markets (such as markets for unskilled labor in developing countries) than to everyday interaction among friends, families and team-members. This is because market interactions, and the marketplace is a domain of “staged competition” (Heath, 2014), which is “deliberately adversarial” (Norman, 2011, p. 51). Thus it is like sports, most judicial systems, and politics, where baldly self-interested behavior within the formal or informal rules is often permitted or even encouraged (assuming that the rules of the enterprise are minimally just or appropriate).

¹² Goodin, on the other hand, claims that it might be rightly considered exploitation for an athlete to dominate an inferior in a game of skill (Goodin, 1985). But this could just mean that it is unfair for the athlete to agree to play the game. Once the game has begun, it is not exploitative for the athlete to show their superiority, in fact it may be required.

¹³ As economist Frank Knight suggests, the lack of pejorative exploitation when a stronger competitor capitalizes on vulnerability in sports could point to the more general point about equality being a poor ideal for adversarial settings: “In a competitive game it is absurd to speak of equality as an ideal” (Knight, 1923, p. 53).

5.3.1.1 Rejoinder: Vertical relationships in markets are cooperative.

A potential objection to this way of seeing sweatshop labor is that while we might admit that relationships among business *competitors* are adversarial, the “vertical” aspects of markets—between a firm and its customers, and a firm and its suppliers or employees—are not significantly adversarial after all. It is no accident, this objection goes, that the gains from market interaction are known as a “*cooperative surplus*”. Each party gains from working together, so transactions between buyer and seller are fundamentally cooperative. Thus relations between buyers and sellers of labor (rather than among buyers, and among sellers) should be guided more the moral principles and ideals that govern in-group relationships than by adversarial principles (Brandenburger, 1998).¹⁴

5.3.1.1.1 My reply

It is plausible that the ideal background for adversarial domains such as business and sport is fundamentally cooperative. But competitive elements still are central to even vertical relationships. Take bargaining and negotiation, for instance, which is a feature of many vertical interactions. It is widely acknowledged that some standard moral norms are relaxed in bargaining. While parties might (depending on their bargaining style and the potential for future interactions) genuinely seek win-win solutions from bargaining, it is equally common and permissible for agents to try to get

¹⁴ I thank Sungwoo Um for alerting me to this possibility.

the best deal for themselves, with a favorable outcome for the other being of purely instrumental value. Indeed, recognizing and capitalizing on the leverage one has over one's "opponent" in bargaining is a core feature of practicing that activity. For instance, it does not seem contrary to the spirit of the buyer-seller relationship for the buyer to take advantage of a glut in the market to ask for a lower price. Other sides to the buyer-seller relationship also exhibit a similarly thin sense of cooperation. In some circumstances (as when one eats before one pays in a restaurant) one or both of the parties rely on trust to smooth the transition between payment and the delivery of goods or services. But again, in many cultures there is nothing wrong with those restaurants that require payment first, or when a buyer asks for a receipt of payment, or a seller requires payment before delivery. The bonds of trust are not taken for granted as they might be in more purely cooperative arrangements.

Even more starkly, some kinds of *deception* are considered totally acceptable in bargaining in vertical relationships, specifically deception about how much one really values the object of trade in question. A bargainer who reveals his or her bottom line immediately and without any attempt to mislead or deceive is not a good model of a bargainer (Shell, 2006).

The cooperation in vertical relationships is real, in the sense that the parties "work together" to produce a "cooperative surplus". But to equate the relations between buyer and seller with more standard cooperative relationships, such as those which hold

between friends, family members, comrades and so on, is to mistake two senses of the word “ cooperation”.

You may find this kind of insulation given to market interactions from conventional norms of concern for vulnerability, disrespect or fair exchange unconvincing, and hold to the idea that violation of these norms in sweatshop employment typically constitutes a grave flaw. I have a further, practically-based argument which I spell out below. I believe the practical argument shows that, even if the orthodox concerns about protecting the vulnerable or preventing deeply unfair exchanges are appropriate norms in this context, the situations in which they are able to be remedied will mirror the very situations the market-failures approach picks out as grave flaws. But before we examine that argument from practicality, let us consider what a set of norms deliberately crafted for the adversarial domain of the market might say about sweatshop labor more generally.

5.3 Profiting from pernicious market failures without an excuse?

An influential, relatively new way to approach business ethics holds that the moral norms that apply to firms arise from the very principles that justify the use of markets as deliberately competitive (or “adversarial”) domains . Some will recognize this as the “market failures approach” to business ethics. As philosopher Joseph Heath puts it “the market failures approach takes its guidance... from the conditions that must

be satisfied in order for the market economy as a whole to achieve efficiency in the production and allocation of goods and services” (Heath, 2014, p. 90).¹⁵

By “conditions”, Heath is referring to the requirements (most importantly symmetric information, equal market power, and lack of negative externalities) that enable markets to, in theory, be Pareto-efficient systems—to allocate goods in such a way in which no-one can be made better off without someone being made worse off. Philosopher Wayne Norman argues plausibly that considerations from heterodox economics, such as cognitive biases that prevent actors seeking their preferences in appropriately rational ways, should be included along with the traditional sources of market failure. Generally though, the market-failures approach holds that market actors should not try to profit from circumstances which undercut the very moral justification for competitive markets to begin with. In slogan form: “the ethical firm does not seek to profit from market failures”.

Of course, much more needs to be said. One particularly important problem in this context arises from the non-ideal state of the world. This may cause difficulties because the Market Failures Approach looks too demanding: many firms, and sometimes whole industries (such as advertising or perhaps fossil fuel extraction) or

¹⁵ The approach is prefigured somewhat in the work of Alan Wertheimer (1999) on exploitation, whose “neoclassical” analysis of a fair price is the price that would be set in a hypothetical perfect market as the fair price of a good (even if it is not being traded in such a market). But the approach can be generalized well beyond the setting of fair prices.

market roles (such as middle-men) are wholly dependent upon the exploitation of market failures for their core business. Asking these firms to simply cease their business is infeasible because the changes it demands are so thoroughgoing that they call for a completely different world, not improvements at the margins. The second facet of the problem is the non-compliance angle. Return to the fossil fuel industry as an example. All firms in that industry have routinely (first unknowingly, later knowingly) taken advantage of the negative externalities associated with CO₂ emissions for decades. For any fossil fuel company to start unilaterally trying to pay the costs that their product inflicts on third parties would be economic suicide, and thus counterproductive: the scrupulous firm would be driven out of the market by less scrupulous firms. What can the market-failures approach say about this case without being either overly permissive (letting the firms off the hook) or overly restrictive (requiring each firm to unilaterally remedy the externality or exit the industry)? The question is important because this case of routine non-compliance with what might be justified regulations to prevent market failures appears to be the case in many situations in global supply chains.

Heath's answer builds on the distinction familiar in the law, between an excuse and a justification. When all firms, like all the fossil fuel companies, are profiting from pernicious market failures (in this case significant negative externalities), they have an excuse for their behavior, but no justification. Thus, certain conditions must hold for them to be able to plausibly make the excuse. For instance, the bad outcome one is trying

to prevent must be proportionate to excuse the wrong one has committed (one cannot excuse mass murder because the protagonist was threatened with some embarrassing secret being exposed). Further, the bad outcome must not have been easily avoidable; one cannot excuse tackling someone to the ground to avoid a basketball hitting them if a simple shout would have sufficed.

Following Heath, if firms turn to the excuse of competitive pressure in order to justify taking advantage of market failures, they must have taken reasonable steps to try to create self-regulation in the particular industry – or at the very least not tried to undermine nascent attempts at regulation. As Norman puts it:

If a corporate leader in the face of criticism throws up her arms and explains that they have done nothing wrong because they have obeyed all federal, state, and local laws, it is a compelling reply to highlight the resources they have devoted to ensuring that the laws would not be too stringent.... If firms concede there is a problem with X, but argue that the regulations are already too strict, or that more regulation would be too costly for all concerned, then there is an exceedingly strong case for them agreeing to take on the obligation, singularly or collectively, to find efficient and accountable ways to self-regulate (Norman, 2011, p. 54).

To return to our fossil fuel companies, it may be impossible for fossil fuel companies such as Exxon to claim that they were acting under duress and had no choice but to continue extracting and selling fossil fuels without compensating those suffering the effects of their pollution while at the same time they actively tried to disrupt the political institutions that might solve the market failure (Oreskes & Conway, 2011).

5.4 Application of the Market Failures Approach

Hopefully how the market-failures approach applies to particular cases of markets for low-skilled labor in developing countries is becoming clear. It would first assess the market failures (broadly construed) that may be at play in the industry. It would then consider where there are legitimate excuses (such as competitive pressures) that prevent the firm from ceasing to profit from those market failures. Finally, it would assess what a reasonable attempt at collaborating with other firms, or domestic government to solve those market failures might look like. I begin a very rough assessment of such an analysis below.

5.4.1 Sources of market failure in the market for low-skilled labor in global apparel supply chains.

5.4.1.1 Information Asymmetry

First, and rather obviously, employees are not perfectly informed. Rather there is probably an asymmetry in information. Employers in sweatshops are probably much more likely than job-seekers to know the true financial state of the firm, whether some chemical is a health hazard to workers or not, and potentially the tendencies of supervisors to abuse their power. Thus job-seekers might systematically discount the downsides of these hazards, when they are on the market for employment, due to this source of market failure.

Minimalists do acknowledge the importance of *informed* consent, and hold “outright fraud as morally forbidden to firms. Still Powell and Zwolinski hold that

standards of disclosure about workplace risks may be much lower in developing countries than in developed countries:

“There is... a gray area around failure to disclose information compared to outright misrepresentation of it. Here, it would depend on what local implicit contract custom is and this can vary considerably between countries. Things that we might expect to be disclosed in the United States might not be expected to be disclosed in poorer countries. For example, working with a chemical that causes cancer in 70-year-olds might be expected to be disclosed in the United States but not in a country where the life expectancy is only 50 years” (Powell & Zwolinski, 2012, p. 452)

Here it seems the minimalists that are being paternalistic. Why should the firm decide what the workers need to know? The workers might know, better than the firm, their chances of living past 70, and the risk profile they are willing to undergo in taking a job. Overall, the differing living standards between developing countries and developed countries are no reason to overlook quite vast information asymmetries between workers and firms and assume that the market for labor standards is operating efficiently.

Initially less obvious is the failure of quality information reaching consumers about the working conditions of producers of a particular product. For instance, many consumers probably would be willing to pay more for a garment that they *knew* was produced under good working conditions, allowing garment factories to raise both wages and working conditions simultaneously. However, that information, as we saw in Chapters 1 and 2, is exceedingly hard to transmit from factory floor to shop rack.

5.4.1.2 Transaction costs

Transaction costs and risks of switching jobs once on-the-job can compound any asymmetries in information that might lead to workers choosing a mix of wages and working conditions that they do not actually prefer. Sweatshops will often also provide dormitories for their workers, and wages are often significantly delayed, meaning that quitting an unsatisfactory job would often entail losing one's living quarters, back-pay as well as taking on the risk and uncertainty of not being able to find a job as good or better. Of course, it would also be overly paternalistic to argue that workers have no idea what they are getting themselves into until it is too late for them to quit. But those young people who travel to the city from the countryside for work however, (a sizeable proportion of sweatshop labor (see Bartley et al p. 150)) might be particularly naïve about working conditions.

5.4.1.3 Little opportunity for bargaining

A third point is that, as Elizabeth Anderson notes, employment is very often a generic, take-it-or leave-it offer (Anderson, 2017). Transaction costs balloon if each worker is to form her own working conditions, thus there is little room for bespoke employment contracts in manufacturing. Once an industry norm is in place, those with countervailing preferences from the norm (for more workplace safety, say) will probably find it difficult to find an employer willing to offer what they want.

5.4.1.4 Unequal market power

Fourth, without unions, the bargaining power of labor is very weak indeed. As Russell Hardin argues, while small numbers of employers can easily form cartels that act as virtual monopsonies, the very large numbers of workers face much more serious collective action problems:

“The two kinds of cases, involving small and large number collectives, differ enough strategically that they may finally differ legally. To stop cartelization of some small number, industries might require positively outlawing agreements and informal coordination since the relevant firms might each be able to reckon that its gains from cheating on an agreement would be outweighed by its probable losses from the failure of the agreement caused by its own cheating. To stop unionization, however, may require little more than refusing to enforce contractual agreements among workers. The general sense very early on that workers needed the union shop to protect their interests was probably well grounded.”
(Hardin, 1986, p. 55)

The collective action problem that Hardin identifies highlights the difference in market power between individual workers on the one hand, and employing firms on the other.

5.4.1.5 Cognitive biases

A final imperfection relates not to the classical conditions of perfect competition, but the idea that workers are rational self-interested agents (Norman, 2011). There may be cognitive biases that stop us from reporting or acting on preferences that we actually hold. Cognitive biases such as discounting the effects of small risks (of workplace accidents or hazards such as fires, say) might also be playing out in the market for pay

and conditions that lead workers to undervalue safer workplaces (Viscusi, Harrington, & Vernon, 2018).

That concludes my survey of prominent failures in the market for unskilled labor in global apparel supply chains.

5.4.2 Excuses

It is all very well to identify failures in the market for sweatshop labor. But almost every industry contains market failures, and very often firms cannot survive without exploiting them. Heath wisely concedes that competitive pressures to keep up or exceed the performance of one's competitors constitutes an excuse (albeit not a justification) for systematic exploitation of market failures (Heath, 2018).

Using Heath's suggestion of making use of the excuse/justification distinction, we might turn to the competitive pressures that might be preventing firms from offering better working conditions in sweatshops. The exact nature of the excuse may differ, according to the *type* of firm in question: whether they are merchandisers or suppliers.

5.4.2.1 Suppliers' excuses

Garment factories in developing countries typically operate with very tight profit margins: There is evidence that overall, the prices that merchandisers offer per-piece has fallen, in some cases as much as half (Locke 2013). While improving labor standards might not always lead to higher costs for suppliers in the long-run, the risks associated with even short-term rises in costs or disruption in productivity due to altered work

conditions are often serious enough to be an excuse for suppliers not to try for workplace reform.

5.4.2.2 Merchandisers' excuses

Couldn't large merchandisers just offer better prices for garments made in better conditions? Many large merchandisers appear to have more room to maneuver. Given that labor costs are already a small fraction of the final cost of one of their products, its likely they could raise the price they pay per piece in exchange for suppliers granting their employees better conditions. However, as we discussed in Chapter 3, there is a significant deficit of the trust needed to generate such an agreement, or, more to the point, to have parties stick to such an agreement. Merchandisers tend to suspect that suppliers will game the system, making only superficial changes to their work conditions, and suppliers suspect merchandisers will be disloyal after the suppliers make costly changes to their production systems to remedy some of the market failures in the market for low-skill labor in developing countries.

Both merchandisers and suppliers seem to have excuses for profiting from these market failures. But, if we follow Heath, these are not necessarily justifications. This suggests that, for instance, if there are acceptable institutions, existing or nascent, that have a reasonable chance at remedying the worst market failures, firms have a duty to contribute to, or at least not to undermine such institutions. Finally we get to the analysis of the grave flaws in global supply chains which the market failures approach

suggests: the deliberate undermining of or non-cooperation with reasonable attempts to remedy pernicious market failures. In the next section we examine the current state of such attempts to regulate the market for sweatshop labor.

5.4.3 Self-regulation

The model of industry self-regulation has a long and difficult history. It has been attempted many times since the 1990s in the apparel industry, with at least seven different major independent initiatives trying to set standards across the industry (Esbenshade, 2012). But, as described in Chapter 3, these initiatives have had only limited success. The demands on monitors on the ground to gauge many different types of flaws often proves too difficult, and disputes about the levels of standards to be met has caused more than one initiative to fracture apart.

A more promising model would focus on just one type of flaw on the ground, in one particular country (in order to fit with local needs and complement government efforts). This describes the Bangladesh Accord on Building Safety. The Accord is formed between brand-name buyers and global and domestic trade unions, with the facilitation of the International Labor Organization. It covers 1600 factories that employ together 2.5 million workers, the majority of Bangladesh's over 4 million garment workers (Anner, 2018). The Accord requires the global merchandisers and the local factories to share the costs of upgrading their building safety standards, and requires factories to maintain

standing safety committees with anonymous complaint channels for workers to report safety hazards

The Penn State Center for Global Workers' Rights reports that despite the "hyper-competitive structure" of global apparel manufacturing networks, the Accord has led to significant changes which may have saved the lives of many workers. For instance, the Accord has temporarily evacuated 50 factories due to unsafe conditions, and terminated the accreditation of 96 factories that did not meet the Accord's standards. Engineers working for the Accord have identified in total 131, 953 building safety issues, of which 97, 235 have now been corrected (Anner, 2018, p. 10). The debate now is whether the Bangladesh government can and should take control of the Accord.¹⁶

Assuming the Accord is a relatively effective means of overcoming the systemic market failure of poor building safety, the market failures approach to business ethics would rule that firms should contribute to, or at least conform to it. Specifically, in buyer-driven supply chains merchandisers might well have a duty to join it. Where such agreements do not exist already, the market failures approach suggests that firms should cooperate to create them, and at least have a duty to not obstruct it or game the system.

¹⁶ The Accord has been renewed until 2021, with the Bangladesh government eager to take control, while merchandisers and trade unions are wary that the Bangladesh government can take over the management of the regulatory program. (Paul & Quadir, 2019)

Thus the grave flaw is not the existence of disturbing working conditions per se, but the failure of some merchandisers to join the Accord.

But given the great difficulty we saw in Chapter 3, of monitoring many flaws in the same way that building safety can be monitored, the importance of the right to organize emerges as a potential key that may help remedy other grave flaws and market failures. This suggests that another potential type of cooperative self-regulation that merchandisers could undertake is jointly committing to not withdraw their business from countries that choose to enact firmer regulation protecting unions, or countries that more strongly enforce the right-to-organize laws on their books¹⁷. In this case the grave flaw that other downstream actors might respond to is the lack of appropriate protections for the rights to organize.

5.4.4 Respecting domestic and international law

Of course, the nascent institutions that firms should be responding to will, in very many cases simply be domestic and international laws. While the market failures approach usually is pitched as a way to explain why firms have duties or obligations to go beyond what is required for compliance with the law, in the less rule-governed spaces of global business, it also usefully explains why firms have strong moral reasons to obey unenforced laws that nonetheless represent reasonable attempts to remedy market failures. Thus a third kind of grave flaw downstream agents might respond to is

¹⁷ Perhaps with a caveat that annuls the agreement if relative per-piece costs rise above a certain threshold.

firms breaking such domestic and international laws. It should be noted that many of the same issues of mistrust and difficulty of measurement that arise when merchandisers try to monitor their suppliers' compliance with codes of conduct arise if merchandisers try to monitor their supplier's compliance with unenforced domestic or international laws. However, at the very least, we should see brazen or open disregard for laws as a grave flaw that calls for a response (shunning these parties, or supporting regulatory capacity in the host countries, say), by a range of downstream actors.¹⁸ I make two quick points about this. First, exactly how widespread this grave flaw is an empirical question that requires further investigation. Second, here we can see a convergence with the orthodox-ethical approach of seeing poor labor standards as human rights violations.

5.4.5 A practical consensus?

Thus far I have only provided an account that rests on one approach to business ethics, the market failures approach. Earlier in this chapter we brought up the orthodox

¹⁸ This might seem like a trivial claim, but it is not held by all parties to the debate. Some minimalists suggest that firms should be free to break domestic and international laws, as long as workers are willing to take up the offers that firms make (Maitland, 1997; Powell, 2014; Powell & Zwolinski, 2012). These minimalists' defense of brazen law-breaking overlooks the systematic market failures described above, and collective action problems preventing workers choosing what is collectively rational. They also seem to rely on a libertarian-skewed history of development, which sees only the aggregation of individual worker choice and never the role of labor unions and social movements in instigating many sensible labor standards in the earlier phases of industrialization.

ethics approach, which includes views that firms should not offer terms of employment that constitute disrespect of workers, or offer unfair bargains.

I mentioned that I would provide a practically-focused argument that the market failures approach and the orthodox ethics approach, at least in apparel supply chains, converge in terms of their recommendations. By focusing on nascent institutions to remedy the most pernicious market failures, an overlapping consensus beckons between the market failures approach and the orthodox ethical analyses. Of course, it is rather easy to see why the undermining of attempts to remedy market failures might be condemned by both the orthodox-ethics and market-failures approaches. The consensus I am referring to concerns the idea that the class of grave flaws in practicality is not much larger than the union of the sets of flaws the minimalist and market-failures approaches lay out.

Most applications of the orthodox ethics approach discuss the industry structure only very cursorily. For instance scholars often discuss the way that “firms” or their managers disrespect “their” workers, without clearly specifying whether they are discussing suppliers (who may have little choice regarding the working conditions they offer) or merchandisers (who do not run sweatshops, only buy from them in ephemeral and volatile relationships).

When we see the very different roles that merchandisers and suppliers play, we start to see that simply stopping exploitative transactions is not something individual

firms can do, whether they are merchandisers or suppliers. Cooperation and trust building might be the only feasible way that employment relationships might become fairer or more respectful. Thus even orthodox ethical theorists should consider that practically speaking, it is non-cooperation with feasible and effective schemes of regulation, such as the Bangladesh Accord, or undermining countries attempts to build stronger trade unions that are what downstream agents in developed countries should be alert to remedying. Orthodox theorists should agree with market-failures theorists that firms undermining such activity are, for practical purposes, some of the most significant grave flaws in global apparel supply chains.

5.5 Low wages are not a grave flaw.

5.5.1 Low wages and the market failures approach

There is one type oft-decried aspect of global sweatshops—the very low wages paid to workers—that has unclear status. Would a Heathian market-failures approach agree that low wages, or more properly the undermining or ignoring of nascent regulatory approaches to remedy low wages, is a grave flaw? Probably not. Market failures might exert little downward pressure on wages in low-skill developing country labor markets. Joseph Heath provides a plausible estimate that elements such as violations of the right to organize depress wages only by “a few percentage points” and that by far the bulk of the wage differential between countries is determined by average

labor productivity within each country.(Heath, 2014, p. 196). The market is plausibly assigning something close to the correct price for low-skill labor in developing countries.

5.5.2 Low wages and orthodox ethical approaches

On reflection, however, the market failures approach is not the only one that might not see low wages as grave flaws. Orthodox ethical approaches might also decry the *attempts to remedy* low wages from downstream. Even if merchandisers could collectively raise the prices they pay for goods and in turn demand that suppliers increase wages to reduce exploitation, it is not clear that the overall effect would be positive. Increasing minimum wages are likely to involve significant risks of economic harm to some of the worst off, since there is some evidence that such policies tend to improve the welfare of those in stable employment, but hurt those in the most precarious positions such as the unemployed, through inflation and reduced low-wage employment (Sollars & Englander, 2018). Attempts within industries to cooperatively increase wages across the board might have similar effects. This is not to argue against minimum wage laws, but that, given the sensitive effects of such a move, it seems to be highly disrespectful to persons in developing countries for downstream agents or those in developed countries to take these controversial economic decisions into their own hands.

Merchandisers trying to ensure their suppliers pay significantly higher than market wages might constitute a form of disrespect in a different way. There might be a

distortionary effect of firms only in export-focused industry only increasing wages.

Consider a toy example with just four agents: A garment worker, *Melody*, in Bangladesh gets paid 20 taka an hour. However, *Melody* is increasing her level of musical skills to the point she would be able to work for a local school as a music tutor for 25 taka per hour.

Assume this would be an outcome close to the pareto-efficient frontier: The garment factory would prefer to hire another worker, *Toned deaf*, at 20 taka than to match the school's offer, while the school is unwilling to hire *Toned deaf* for anything more than 15 taka, and *Melody* would prefer to work for the school at 25 taka than the factory at 20.

Now consider what happens when the factory starts to pay 30 taka an hour (due to the factory's clients reading Snyder). Now the cash-strapped school can only offer less than the factory, *Melody* and the school both lose out on a mutually beneficial relationship, while the factory pays 10 taka more than it would and *Toned deaf* has to teach music and loses 5 taka.

I suggest that when we imagine suppliers in global production networks raising wages, it is easy to forget the indirect effects such as the price distortion of wages that have the effect of making other options that workers might have comparatively worse. It is open for someone to argue that in our example, the school should *also* raise its wages, but this seems much harder to argue for, even if it were feasible, and risks the orthodox ethical approach just collapsing into wishful thinking.

What's more, if we imagine multiplying the toy example above, so that many factories are paying more, this has the effect of an unofficial wage subsidy, albeit one implemented by firms responding to ethical concerns of downstream agents, rather than by the local government. As with any such subsidy, or minimum wage law, there is a significant risk of causing inflation cancelling out the gains, and even making meeting basic needs more challenging for those without jobs or in other sectors that do not receive the subsidy. This again would not seem to be an instance of treating the global poor with respect.¹⁹

¹⁹ Additionally, there is an argument that collective action problems mean that some labor standards such as trying to eliminate the worst forms of child labor and improve building safety, might be much more achievable goals for firms than trying to raise wages. Legal scholar Alan Hyde points out that, if we conceive of each country as a different player, the decision on whether to maintain strong labor standards can have the structure of a "stag hunt" or assurance game (Hyde, 2006). In Rousseau's stag hunt, each player has the choice of going after a good prize (a stag) or a mediocre prize (a hare). Hares can be caught individually, whereas stags require cooperation. So the best outcome, for us both individually and collectively is when we both cooperate and hunt stag. Unlike the prisoners' dilemma, in a stag hunt, if I am certain that you will cooperate, I have no reason to defect. According to Hyde, this is, sometimes, the international labor-standards game. Every country would be better off if all countries hunt stag by maintaining strong labor standards such as sensible health and safety policies and paid overtime. These labor standards represent the kind of qualitative development that countries want to foster, for a variety of reasons. Given these incentives. If we could reach such a situation of mutual cooperation between countries on labor standards, it is likely to be stable. But crucially, minimum wages lack this structure. It is at least conceivable that some countries will be objectively better off defecting from any nascent agreement to lift wages to a certain level, since minimum wages present a genuine comparative advantage that does not retard the countries' development, in a way that allowing firms to cultivate dangerous working conditions might. I raise this point to show that rational behavior by countries will support, rather than undermine some labor standards, but not others, even if sufficient trust, this time among countries not firms, exists that others will not defect. If firms are looking to get the most "bang for their buck" in self-regulation, choosing those standards that are part of a stag hunt rather than prisoners dilemmas are probably going to be wise. Raising wages may not be as easy as hunting stag.

5.5.3 Grave flaws in global apparel supply chains

I now present a quick summary of the flaws in global apparel supply chains that I believe both the market failures and the orthodox-ethics approach suggest are *grave*. That is, the significant flaws that downstream agents in developed countries should search for, and possibly enact, remedies for or other responses to:

1. Violations of individual rights: coercion, routine violations of contracts and serious deception about working conditions.
2. Clear violations of domestic or international law, including, where applicable, human rights law.
3. The deliberate undermining or withholding support from collaborative efforts to remedy the most serious market failures in the market for low-skill labor in the apparel industry in developing countries.

Allow me to say a little more about this list. We begin with the “obvious” category of flaws that all interlocutors agree on: coercion, routine violations of contracts and serious deception about working conditions are obvious wrongs that should not be tolerated. We denied, however, that that most sweatshop laborers are “coerced by their circumstance”, leaving the obvious category holding much fewer cases than many business ethicists and global justice scholars would like. The idea that we should use human rights as a barometer for grave flaws is promising but leaves a lot of details to be worked out, perhaps to be decided in the domain of international law, rather than international business ethics. This leaves two major approaches that go beyond the minimalist approach. One is the market-failures approach, which holds that further

grave flaws typically occur when suppliers and merchandisers refuse to cooperate in forming or complying with institutions that will remedy the most pernicious market failures in their industry. The other is the orthodox ethical approach, which presents a broader range of more familiar constraints. Such constraints often come with the label of “exploitation” but can be cashed out in two main groups: not taking advantage of worker’s vulnerability, or offering unfair bargains. I argued that, once the industry structure of the apparel industry, and the difficult, but different choices faced by merchandisers and suppliers is taken into account, the orthodox ethical approach should focus much more on remedying the worrying attempts to subvert or ignore the very kinds of nascent institutions that the market-failures approach calls for. I ended with an argument that the low wages of sweatshop labor should not be considered a grave flaw, due to the lack of genuine market failures leading to it and the disrespect that firms collectively or individually would show citizens of developed countries by raising wages well beyond market levels.

6 Conclusion

6.1 Summary

The previous chapter's analysis of potential grave flaws in global apparel chains gave a reminder of the complexity of global supply chains, an empirical point that I have stressed throughout this dissertation. Chapter 2 argued that this complexity creates serious epistemic challenges that count against the idea that individuals have strong moral reasons to selectively purchase as a response to grave flaws in global supply chains. That (along with other objections to individual reasons to practice conscientious consumption), means that NGOs and other mobilizers cannot simply currently claim they are trying to give consumers information to enable them to act on the moral reasons that face them. Rather, as Chapter 3 suggested, the same complex structures mean it will be rare for these mobilizers to find clear situations where concerted consumer pressure might be mobilized effectively and with few costs and risks. I highlighted further worries about threats to liberal-democratic values in Chapter 4, and difficulties in relying on orthodox ethical approaches or prima facie assessments of grave flaws in Chapter 5. Overall, I conclude that generalizations that political consumerism or its mobilization is by and large an appropriate response to grave flaws in global supply chains lack sound foundations in political morality.

Too often, political consumerism is tacitly assumed to be a remedy that (i) at worst, can do no harm, (ii) is grounded by reasons that apply to individuals and (iii) can

be mobilized with little regard to how dissenting voices are included. This is not to rule out political consumerism as a means to remedy grave flaws in global supply chains entirely. It has seemed to have been appropriate in the past, as in the case of the British boycott of slave-grown sugar. But along with instances of successful and effective mobilization of consumers, there are instances which are successful in changing companies' behavior, but ineffective in remedying grave flaws (like the Brent Spar case), those with mixed success and little to no effectiveness (like attempts to limit conflict in the DRC through shunning "conflict minerals" from certain regions, or the 19th century free-labor consumer movement in the US). There are also campaigns that are neither successful or effective, that remain small and local, that we never hear of but are sapping energy might otherwise have been directed towards bringing about more fundamental institutional changes, or to action in the market by other downstream agents. I take my work as showing that would-be mobilizers of political consumerism need to make a stronger case that both the grave flaw in question actually is a grave flaw, and that the potential benefits of political consumerism in this particular case are worth the risks and costs of raising it, and deliberative ideals have been respected to the degree appropriate. This work of specific justification, I have argued should pay attention to, among other factors, the structure of the supply chains in question (buyer driven, producer driven, or loosely structured markets), the auditability of the flaw, the state of nascent institutions

proposed to remedy the flaw, and the opportunity for dissenting voices, especially from among the proposed beneficiaries, to be heard.

6.2 An error theory: on intuitions from conscientious consumption regarding animals.

Part of the over-generalization of the appropriateness of political consumerism in global supply chains might come from a misplaced extrapolation from the case of perhaps the most widespread and persistent campaign of political consumerism: the vegetarian/vegan movement (which I will term vegetarianism for clarity). Just as consumers are downstream of moral flaws of deforestation and banditry in the cases like Paper and Gold, consumers are downstream of the killing or mistreatment of animals when they eat animal products. And mobilizers, in the vegetarian case have, with some success, drawn on the moral reasons that consumers arguably have to avoid animal products, in order to create a significant movement that presumably has reduced the amount of animals killed for their meat or held in poor conditions for their milk or eggs. But I would argue that vegetarianism is a very special case. First, the moral reasons facing the individual are different because one of the major epistemic barriers we saw from the case of most global supply chains is removed. Due to long-standing cultural, social and political norms of disclosing the ingredients of food, the information infrastructure facing consumers is much stronger in the case of animal products. You, as a consumer can be relatively confident whether animals were killed or held in captivity

in order to make a particular can of chili¹, whereas you cannot tell whether say, labor organizers were intimidated or blacklisted in making it. This means that individual moral reasons to selectively purchase can apply more easily in this case. More analysis would be needed, but it does seem more *prima facie* more appropriate for mobilizers to see themselves as encouraging consumers to act on moral reasons that apply to each of them individually. Further, some of the costs and risks that apply in the case of global supply chains do not apply to the vegetarian case. For instance, it is far less obvious that vegetarianism poses a threat to the self-determination of peoples in the way that we saw political consumerism in global supply chains might in Chapter 4. Auditing of the flaw of killing animals for their flesh, as mentioned above, is much easier than in most global supply chain cases. All told, we should definitely not see the normative judgments about political consumerism in global supply chains as a logical extension of those judgments that we may have already reached about vegetarianism. We should guard against importing whatever intuitions we might have about that long-standing practice to the very different case of grave flaws in global supply chains.

¹ Even this case has some tricky epistemic issues. Informational infrastructure in the case of the *treatment* of animals kept for milk or eggs is much weaker. It seems very difficult to standardize and monitor “humane treatment” of animals. Veganism appears to be a more consistent position than vegetarianism in this regard. Also, there are few measures of how many animals are killed incidentally in the production of plant-based products, although anecdotal evidence suggests that this might be quite high, for instance in the killing of mice in the harvest of wheat. Budolfson’s focus on the consumer’s reason to not purchase products with essential upstream harm gets around this (Budolfson, in preparation)

6.3 Moral relationships again.

In Chapter 2 we surveyed the wide variety of proposed morally significant relationships between consumers and whatever grave flaws there might be upstream in the supply chains. I stress that this dissertation has done nothing to argue against such claims.² In fact, several of these, such as the idea that consumers benefit from the grave flaws, or that there is an important scalar relationship of moral distance between a grave flaw and a consumer downstream, seem plausible. It is likely that at least some individual consumers have strong moral reasons to respond *in some way* to genuine grave flaws in global supply chains. Further, in an issue we have not explored in depth, but is the subject of a growing literature, other actors such as *countries* might have similar or different moral reasons as individuals do to respond to certain grave flaws. This might be grounded in by countries' interaction in a somewhat cooperative practice of trade (James, 2012), or given the history of developed countries benefitting unequally from trade (Risse & Wollner, forthcoming), or by, in particular instances, their obligations to respect aspects of international law such as popular sovereignty over resources (Wenar, 2016). Or it might simply be the product of some other, more

² We should note, however, that as Gillian Brock (2014) argues, even someone who totally abstains from global supply chains also might benefit from the grave flaws. For instance, a small-business-person might benefit from the extra disposable income that their customers have, when their customers buy cheap goods from flawed global supply chains.

cosmopolitan or bottom-up theory about the duties of states to vulnerable non-members.

In Chapter 5, I have tried to show both that *some* proposed grave flaws, such as low wages, either are not grave flaws, or if they are, they cannot be remedied effectively or justly by outside actors such as developed-countries NGOs or governments. But for grave flaws that remain—such as outright coerced or fraudulent employment relationships, or firms deliberately undermining nascent institutions in order to profit from market failures—what should the remedy be, if not, as I have argued above, political consumerism?

6.4 Further work

In Chapter 3, I presented other actors in the contrast class that might remedy grave flaws, including downstream agents such as conscientious job-seekers and leavers, and conscientious investors, or the development of institutional responses at the state level, or other ways to support more local groups such as local communities or workers upstream. In Chapter 3, I suggested that many of these alternative forms of remedy might be more far-reaching, resilient, and respectful of perspectives of developing countries than political consumerism. But these alternative forms of remedy deserve more thorough treatment.

Part of the paucity of good philosophical work on responses to grave flaws in global supply chains is surely due to the interdisciplinarity of the problems. As I have

tried to show, empirical features of global supply chains — such as whether they are driven by producers, buyers, or neither, the levels of trust between merchandisers and suppliers, the type of grave flaw in question — have important impacts for the appropriateness of political consumerism, as well as normative judgements about remedies and responses more generally. Hence, good normative work in this area will be interdisciplinary. It will likely draw on sociology, law, political science, history and economics. Research that does not draw on a range of more empirical disciplines is liable to see neat generalities and principles where there are actually deeply complex relationships and systems.

The large proportion of negative over positive conclusions in this dissertation is partly due to the ground-clearing work of trying to uncover such unwarranted generalities and theorizing within the philosophical debates about conscientious consumption in global supply chains. The work of carefully positing positive theses about appropriate responses to grave flaws in global supply chains will take a lot of empirical work and collaboration both between disciplines, and between academics, NGOs, lawyers and government officials. Much of this work will also be particularist with specific research projects concerning either specific industries (such as the electronics, apparel or mining industries) or specific potential grave flaws (such as the worst forms of child labor) or whole categories for understanding grave flaws (such as human rights violations in global supply chains). Practically-minded philosophers can

provide specialized assistance in these kinds of projects. Philosophers can refine concepts and test and sharpen the normative arguments often made by scholars from the more empirical disciplines (Herzog & Walton, 2014). Being tied to no specific disciplinary methodology or orthodoxy they are well placed to be a conduit or nexus for interdisciplinary work on the complex questions about the political morality of global supply chains.³

However, deep, essentially philosophical questions also arise in these projects. For instance, many of our analyses pointed towards the possibility that undermining worker's rights to organize was a grave flaw, and even if it is not, supporting stronger unions in developing countries might aid the remedy of other grave flaws. This brings us to the questions about workers' rights to organize. Is it best seen as being grounded in the right to freely associate with others, a solution to a collective action problem that would lead to inefficiency, or an important counterbalance to specific powers or advantages of capital? Importantly for our topic, is the supposed right of workers to organize universal across countries and cultures, or a piece of liberal western parochialism? Another issue concerns the possibility of states holding their own firms liable for misleading statements about their how buying their products can remedy grave flaws in global supply chains (Chiari, 2017). This turns on the issue of whether

³ (Barry & Reddy, 2008) stands out as one of the most fruitful works on qualified market access, for instance, arising from a collaboration between a philosopher and economist.

commercial speech should be subject to the same protections that political or everyday speech. A third issue pertains to the difference between types of grave flaw. An important distinction might be between issues of environmental degradation and those involving social interactions directly, such as labor conditions, which I have largely focused on here. Might developed country responses to grave flaws involving negative externalities such as pollution, be different from those that pertain to other types of market failure, like information asymmetry since externalities are by definition imposed on parties outside a given transaction, and so remedies to them are less vulnerable to charges of western paternalism? Does it matter whether those incurring the costs are currently alive or future people? A different kind of question concerns the use of precious natural resources. How strong is the value of self-determination of peoples in relation to this issue? Do countries have an overriding claim to determine what happens to their own natural resources, when many of those resources (such as forests or mangroves) are relied on by those outside the territory for their ecosystem services (such as flood prevention and fish nurseries)?

This work has also raised important questions about political consumerism and conscientious consumption. For instance, the empirical question from Chapter 3, about whether political consumerism typically helps or hinders activism to remedy grave flaws, seems pressing and under-researched. On the more normative side, one pressing question is to what *extent* should mobilizers of political consumerism obey deliberative

democratic norms? Do justifications for curtailing deliberation and compromise in other forms of dissent, such as protest, strike and civil disobedience apply to the case of political consumerism?

These questions above about political consumerism and grave flaws in global supply chains, and the particularist interdisciplinary project of identifying the most appropriate remedies for specific grave flaws in specific industries must await further work. I hope at least to have shown that easy answers that are often given about consumers' responsibility for grave flaws do not survive careful scrutiny, and to have suggested more systematic remedies for some of the grave flaws. Some goods might be bad, but shunning them, or encouraging others to shun them, is very often not the way forward, and might hurt those we are trying to help. Scholars and activists should work together to find more robust, more appropriate, more particular remedial solutions to grave flaws in global supply chains.

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Biography

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