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Benchmarking global supply chains: the power of the ‘ethical audit’ regime

GENEVIEVE LEBARON AND JANE LISTER*

Abstract. This article critically investigates the growing power and effectiveness of the ‘ethical’ compliance audit regime. Over the last decade, audits have evolved from a tool for companies to track internal organisational performance into a transnational governing mechanism to measure and strengthen corporate accountability globally and shape corporate responsibility norms. Drawing on original interviews, we assess the effectiveness of supply chain benchmarks and audits in promoting environmental and social improvements in global retail supply chains. Two principal arguments emerge from our analysis. First, that audits can be best understood as a productive form of power, which codifies and legitimates retail corporations’ poor social and environmental records, and shapes state approaches to supply chain governance. Second, that growing public and government trust in audit metrics ends up concealing real problems in global supply chains. Retailers are, in fact, auditing only small portions of supply chains, omitting the portions of supply chains where labour and environmental abuse are most likely to take place. Furthermore, the audit regime tends to address labour and environmental issues very unevenly, since ‘people’ are more difficult to classify and verify through numbers than capital and product quality.

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Introduction

In June 2014, *The Guardian* ran a headline news story revealing the widespread use of ‘slavery’ and ‘human trafficking’ by employers in the Thai shrimp

* We are grateful to the Social Sciences and Humanities Research Council of Canada for research funding and to Peter Dauvergne for many inspiring conversations. Thanks as well to Helen Turton, Benjamin Richardson, Joel Quirk, André Broome, and the participants in the Benchmarking in Global Governance workshop held at University of Warwick in March 2014 for comments on an earlier draft of this article. All remaining shortcomings are our own.

industry.¹ *Guardian* journalists traced the slavery-produced shrimp into the freezers of some of the world's biggest retailers, including Walmart, Tesco, Costco, Aldi, and Morrison's. While the presence of severe labour exploitation in the shrimp industry isn't surprising given retailers' low-cost, high volume business model, what was surprising – and not reported – is that the shrimp had been 'ethically' certified. Indeed, in the wake of *The Guardian's* reports, one of Aldi's key suppliers defensively noted that the shrimp had been certified² by GlobalGAP, 'a non-governmental organization that sets voluntary standards for the certification of agricultural products around the globe'.³ Just as with the 2013 collapse of Bangladesh's Rana Plaza garment factory mere months after it successfully passed a compliance audit,⁴ the discovery of severe labour exploitation within a 'certified' supply chain raises crucial questions about the effectiveness and power of global supply chain benchmarks.

Over the last decade, the governance of global supply chains has become increasingly reliant on a 'benchmarking regime'⁵ comprised of company codes of supplier conduct, voluntary certifications and standards (for example, Rainforest Alliance Certification), standardised metrics (for example, Higg Index for 'ethical' apparel), and aggregated indexes for comparing corporate environmental and social performance (for example, the Global Reporting Initiative). Through programmes like the Ethical Trade Initiative and Sustainable Apparel Coalition, companies and civil society groups are developing transnational accountability tools like corporate social responsibility (CSR) certifications, which they claim will strengthen environmental and social performance within complex global supply chains. Audit inspections are a cornerstone of these programmes, purportedly allowing multinational retail companies like Walmart and Nike to detect and address problems like environmental degradation or forced labour abuses among their thousands of suppliers. The role and power of audits has grown significantly over the last decade, as audits have evolved from a tool that companies used to track internal organisational performance into a central mechanism of non-state efforts to measure and strengthen corporate accountability globally. Increasingly seen as a way to monitor and improve labour and environmental standards within production, reliance on the audit regime is deepening in the face of inadequate and declining state involvement in global corporate governance.

As we document in this article, over the last decade, global supply chain benchmarks have become increasingly prevalent and influential in shaping corporate responsibility norms, and particularly norms around labour and environmental practices within global production. Retailers claim that their audit-based CSR programmes have advanced both environmental (for example, reduced carbon and waste) and labour (for example, reduced overtime, higher wages) conditions. Yet, as a growing evidence base reveals, audits are ineffective tools for detecting, reporting, or

¹ Kate Hodal, Chris Kelly, Felicity Lawrence, Caz Stuart, Thibaut Remy, Irene Baque, Mary Carson, and Maggie O'Kane, 'Globalised Slavery: How Big Supermarkets are Selling Prawns in Supply Chain Fed by Slave Labour', *The Guardian*, available at: {<http://www.theguardian.com/global-development/video/2014/jun/10/slavery-supermarket-supply-trail-prawns-video>} accessed 10 July 2014.

² Intrafish, 'Shrimp were GlobalGAP Certified, Aldi Supplier Says in Wake of Slavery Reports', available at: {www.intrafish.com/news/article1392263.ece} accessed 10 July 2014.

³ GlobalGAP, 'About Us', available at: {http://www.globalgap.org/uk_en/} accessed 10 July 2014.

⁴ Stephanie Clifford and Steven Greenhouse, 'Fast and Flawed Inspections of Factories Abroad', *New York Times*, available at: {http://www.nytimes.com/2013/09/02/business/global/superficial-visits-and-trickery-undermine-foreign-factory-inspections.html?pagewanted=all&_r=0} accessed 10 July 2014.

⁵ André Broome and Joel Quirk, 'Governing the world at a distance: the practice of global benchmarking', *Review of International Studies*, 41:5 (2015), pp. 819–41.

correcting environmental and labour problems in supply chains. In fact, they may even be serving to worsen supplier practices as they shape a global business culture of 'check-box compliance' to a narrowing set of quantitative 'key performance measures'.⁶ Furthermore, eco and 'ethical' certification may be increasing consumer demand for products that can create further negative social repercussions to workers and communities that fall outside the audit scope.

Although the interdisciplinary literatures on private governance and CSR have analysed shortcomings in audit design and implementation, the global governance implications of growing state, business, and NGO reliance on audits have been widely overlooked. Scholars within management studies and global political economy scholarship, for instance, have investigated and debated whether and under what conditions audits improve environmental and labour practices within supply chains.⁷ These debates have evolved along highly technical lines of inquiry whereby audits and associated codes of conduct have tended to be approached as apolitical and neutral instruments. In common with large swathes of liberal scholarship on governance, the underlying assumption has been that due to inadequate state regulatory capacity in many countries in the 'developing world', private governance tools such as audits have emerged as efficient and effective strategies to promote change. Yet, this approach overlooks the role that governments and firms have played in strategically engineering the 'governance gaps' that audits and other forms of CSR have emerged to 'solve', as well as the political nature of private transnational governance more broadly.

This article investigates the deepening role and power of the audit regime, as part of the broader shift towards benchmarking as a form of supply chain governance (see also Tony Porter's article in this Special Issue).⁸ Conceptually, it highlights the need to investigate audits and other CSR instruments not as technical or neutral tools, but rather as highly politicised, productive forms of power. Power that is intertwined with the expansion of corporate control and profitability, as well as with 'leadership and expertise intended to sustain and enlarge capitalist market society and its associated

⁶ See Stephen Davy and Carol Richards, 'Supermarkets and private standards: Unintended consequences of the audit ritual', *Agriculture and Human Values*, 30:2 (2013), pp. 271–81; Hau Lee, Erica Plambeck, and Pamela Yatso, 'Incentivizing sustainability in your Chinese supply chain', *The European Business Review*, May/June (2012); Power, 'Evaluating the audit explosion', *Law & Policy*, 25:3 (2003), pp. 185–202; Richard Locke, *The Promise and Limits of Private Power: Promoting Labor Standards in the Global Economy* (Cambridge: Cambridge University Press, 2013); Ross Taplin, Yafang Zhao, and Alistair Brown, 'Failure of auditors: the lack of compliance for business combinations in China', *Regulation & Governance*, EarlyView DOI:10.1111/rego.12011. See also Ole Jacob Sending and Jon Harald Sande Lie, 'The limits of global authority: How the World Bank benchmarks economies in Ethiopia and Malawi', *Review of International Studies*, 41:4 (2015), pp. 993–1010.

⁷ Gary Gereffi, 'Can Global Brands Create Just Supply Chains?', *Boston Review*, available at: {<http://www.bostonreview.net/forum/can-global-brands-create-just-supply-chains/host-countries-can-act>} accessed 10 July 2013; Richard Locke, *The Promise and Limits of Private Power*; Michael Power, *The Audit Society: Rituals of Verification* (Oxford: Oxford University Press, 1997); Power, 'Evaluating the audit explosion', pp. 185–202; Michael Toffel, Jodi L. Short, and Melissa Ouellet, *Reinforcing Regulatory Regimes: How States, Civil Society, and Codes of Conduct Promote Adherence to Global Labor Standards*, Harvard Business School Technology and Operations Management Unit Working Paper 13-045, available at: {http://www.hks.harvard.edu/m-rcbg/CSRI/publications/workingpaper_65_toffel_short_ouellet.pdf} accessed 3 April 2014.

⁸ As distinct from Tony Porter who examines the incremental capabilities of benchmarking as a potentially effective 'accelerator' or information 'relay' management mechanism in improving business practice within collaborative governance networks, we focus on the broader more fundamental procedural and normative global regulatory limits of benchmarking (as the tenet of the audit regime) in blocking more transformative social and environmental change. See Tony Porter, 'Global benchmarking networks: the cases of disaster risk reduction and supply chains', *Review of International Studies*, 41:5 (2015), pp. 865–86.

principles of governance'.⁹ We argue that far from helping firms, governments, and consumers to 'monitor' and address social and environmental problems, the audit regime is serving to stabilise, legitimise, and conceal endemic problems within supply chains. More specifically, we argue that many audit systems are designed to be ineffective at detecting and communicating the environmental and labour abuses fundamentally associated with the global retail business model, and that powerful business interests leverage for their own gains highly strategic control over *how* and *when* audits are conducted, and *what* is evaluated. In developing this argument, we synthesise across recent large-scale studies of audit ineffectiveness, as well as draw on original interviews with ethical auditors, retail buyers, consumer goods suppliers, NGO representatives, and CSR managers and experts from the United Kingdom (UK), the United States (US), and China, as well as factory visits in and around the Pearl River Delta region of China.¹⁰

The article unfolds in four parts. In the first section, we document the rise of the audit regime and argue that it can be best understood as a structural and productive form of power¹¹ that codifies and legitimates retail corporations' poor social and environmental records and shapes state approaches to supply chain governance. In the second section, we argue that growing public and government trust in the metrics generated by audits ends up concealing real problems in global supply chains. Retailers are, in fact, auditing only small portions of supply chains, and tend to omit the portions of supply chains where labour and environmental abuse are most likely to take place. In section three, we assess variation in audit effectiveness regarding environmental and labour practices. We argue that the audit regime tends to address labour and environmental issues unevenly, since 'people' are more difficult to classify and verify through numbers than capital and product quality. We conclude by considering how, as NGO involvement is expanding political traction of social and environmental benchmarks verified through audits, the audit regime ultimately disguises a normative, market-based policy agenda in seemingly objective tools and metrics.

Audits as a productive form of power

Corporate use of compliance audits as internal tools to examine and measure organisational non-financial performance stretches back to the 1980s and 1990s, as

⁹ Stephen Gill (ed.), *Global Crises and the Crisis of Global Leadership* (Cambridge: Cambridge University Press, 2012), p. 1.

¹⁰ Secondary data collection for this article involved a desk-based review of the audit industry, with a focus on audit programmes, protocols and retail companies' codes of conduct for suppliers. Primary data collection involved semi-structured elite interviews. A total of 23 in-person interviews and 2 telephone interviews were conducted in China, North America, and the United Kingdom with retail buyers, auditors, consumer goods suppliers, factory managers, NGO representatives, trade unionists, and CSR managers and experts. A site visit to Guangdong province, China, took place in April 2012 and interviews and factory visits were conducted at and around the China Import and Export Fair ('The Canton Fair'). The UK interviews were conducted in March 2013, in and around London. The North American interviews were conducted in Vancouver (Canada) and Seattle (US) between May 2012 and July 2013. The interview and factory visit data presented here is intended to be illustrative, rather than comprehensive.

¹¹ We are indebted to Michael Barnett and Raymond Duvall's conception of productive power as 'the constitution of all social subjects with various social powers through systems of knowledge and discursive practices of broad and general social scope'. See Michael Barnett and Raymond Duvall, 'Power in international politics', *International Organization*, 59 (Winter 2005), pp. 55–7. We are indebted to neo-Gramscian global political economy scholarship for our conception of the structural power of business and audits. See, for example, Stephen Gill (ed.), *Power and Resistance in the New World Order* (New York: Palgrave, 2003); Stephen Gill (ed.), *Gramsci, Historical Materialism, and International Relations* (Cambridge: Cambridge University Press, 1993).

governments outsourced and encouraged industry self-regulation.¹² But the adoption of audits as a global corporate regulatory mechanism is much more recent. Alongside other benchmarking tools, the rise of audits has taken place in the context of a ‘decentering’ of regulation and enforcement of labour and environmental standards away from states.¹³ These processes have occurred as part of broader transformations in the global economy, including the rise of neoliberal forms of globalisation.¹⁴ As has been widely documented in the global governance literature, such transformations have entailed dramatic changes in approaches to economic and corporate regulation as states have redefined their relationships with market actors and especially with transnational corporations. As governments have conferred ‘privileged rights and citizenship and representation on corporate capital’,¹⁵ and opened the door to the heightened involvement of private actors in economic governance processes, corporations have increasingly set and enforced their own standards and rules. Today, in the context of the privatisation and marketisation of governance, an increasingly ‘significant degree of global order is provided by individual firms that agree to cooperate, either formally or informally, in establishing an international framework for their economic activity’.¹⁶

As transnational corporations have become increasingly entrusted to govern themselves, and report on their efforts to government and the public,¹⁷ there has been a persistent decline of state-based monitoring of production processes in many countries. For instance, as the International Labour Organisation has documented, there has been a steep downturn in the number of labour inspections conducted in countries in both the global North and South, and in some instances, the outright elimination of the labour inspectorate.¹⁸ Similarly, scholars in global environmental

¹² David Osborne and Ted Gaebler, *Reinventing Government: How the Entrepreneurial Spirit is Transforming the Public Sector* (New York: Plume, 1993); Power, *The Audit Society*.

¹³ cf. Julia Black, ‘Decentering regulation: Understanding the role of regulation and self regulation in a “post regulatory” world’, *Current Legal Problems*, 54 (2001), pp. 103–46; See, for example, Tim Büthe and Walter Mattli, *The New Global Rulers: The Privatization of Regulation in the World Economy* (Princeton: Princeton University Press, 2011); Claire Cutler, ‘Private transnational governance and the crisis of global leadership’, in Stephen Gill (ed.), *Global Crises and the Crisis of Global Leadership* (Cambridge: Cambridge University Press, 2012), pp. 56–70.

¹⁴ For an overview of neoliberal globalisation’s discursive and material characteristics, see Jamie Peck, *Constructions of Neoliberal Reason* (Oxford: Oxford University Press, 2012).

¹⁵ Stephen Gill, ‘Globalisation, market civilisation, and disciplinary neoliberalism’, *Millennium Journal of International Studies*, 24:3 (1995), pp. 413. See also Claire Cutler, Virginia Haufler, and Tony Porter, *Private Authority and International Affairs* (Albany: State University of New York Press, 1999). See also James Harrison and Sharifah Sekalala, ‘Benchmarking human rights at the United Nations: Self-reporting by states and corporations’, *Review of International Studies*, 41:5 (2015), pp. 925–45.

¹⁶ Cutler, Haufler, and Porter, *Private Authority and International Affairs*, pp. 3–4.

¹⁷ The recent wave of audit-based approaches to ‘modern slavery’ and forced labour – developed by multi-stakeholder coalitions of NGOs and retail and brand corporations – are illustrative. In 2012, California passed the ‘Transparency in Supply Chains’ (TISC) Act, which requires large companies to report on what they are doing to verify their global supply chains against forced labour, trafficking, and slavery. The TISC Act institutionalises audit-based approaches to dealing with severe labour exploitation, requiring companies to report on their voluntary efforts to detect and address severe exploitation, rather than mandating specific standards or benchmarks and requiring companies to demonstrate compliance. Similarly, in the United Kingdom, the draft Modern Slavery Bill currently before Parliament deepens the ‘light-touch’ approach to business regulation in that country, and includes only a cursory treatment of supply chains. In a recent press release entitled, ‘Government Asks Retailers to Lead the Way on Transparent Supply Chains’, the government announces plans to work with retailers on a ‘best practices’ report, centered around ‘ethical audit programmes, outlining some of the main certification schemes and collaborative initiatives’. See UK Department for Business, Innovation & Skills, ‘Government Asks Retailers to Lead the Way on Transparent Supply Chains’, available at: {<https://www.gov.uk/government/news/government-asks-retailers-to-lead-the-way-on-transparent-supply-chains>} accessed 4 August 2014.

¹⁸ Renato Bignami, Giuseppe Casale, and Mario Fasani, *Labour Inspection and Employment Relationship* (Geneva: International Labour Organization, 2013).

politics have documented persistent declines in state-based environmental compliance efforts.¹⁹ Within this context, as we analyse in the remainder of this section, audits have emerged as a key tool of corporate supply chain governance. We argue that although the corporate, NGO, and state motivations for institutionalising the audit regime vary, the adoption of audits nevertheless reflects an alignment of these actors' interests and ideologies in market-based global governance. We argue further that in codifying and legitimating corporations' poor environmental and labour records, the audit regime is playing a productive role in shaping public and policymakers' perceptions of corporate practices, as well as corporate power globally.

Adopting audits

The shift towards self-regulation of corporations has intersected with the growing willingness of certain advocacy organisations to work alongside transnational corporations towards environmental and social goals.²⁰ The reasons for the proliferation and deepening of partnerships between non-governmental organisations (NGOs) and firms are complex. For some organisations, frustration with decades of slow progress and failure to achieve significant 'scale' in the outcomes of their social and environmental advocacy efforts has prompted them to shift their strategies towards market-based approaches. For others, in states like Canada and the US, growing amounts of government funding for NGO activities has come to depend on corporate involvement, making corporate collaboration as a necessity for continued operation. In short, although NGOs' interests in partnering towards initiatives – and supply chain benchmarking more broadly – vary across organisation cause, size, region, at a general level it is clear that many organisations have either chosen or been forced by governments to join forces with corporations, and have come to engage in activities that legitimate rather than challenge highly unequal and unsustainable patterns of global production. These shifting relationships between states, civil society, and corporations have been driven by broad socioeconomic changes that are, as Peter Dauvergne and Genevieve LeBaron describe, 'reconfiguring power and resistance globally, as firms engage social forces through corporate social responsibility, as governments cut social services and devolve authority to companies, as consumerism spreads, and as states suppress public dissent'.²¹

In the context of these reconfigurations, large numbers of NGOs are now attempting to modify corporate practices through 'private governance' initiatives that depend heavily on audits.²² Projecting a positive image to the public of taking direct action to come up with solutions with the biggest companies contributing to the

¹⁹ For an overview, see Peter Newell, *Globalization and the Environment: Capitalism, Ecology, and Power* (Cambridge, UK: Polity, 2012).

²⁰ Peter Dauvergne and Jane Lister, *Eco-Business: A Big-Brand Take-over of Sustainability* (Cambridge, MA: The MIT Press, 2013); Peter Dauvergne and Genevieve LeBaron, *Protest Inc.: the Corporatization of Activism* (Cambridge: Polity, 2014); Peter Newell, 'Managing multinationals: the governance of investment for the environment', *Journal of International Development*, 13:7 (2001), pp. 907–19; Philipp Pattberg, 'The institutionalization of private governance: How business and nonprofit organizations agree on transnational rules', *Governance*, 18:4 (2005), pp. 589–610.

²¹ Dauvergne and LeBaron, *Protest Inc.*, p. 2.

²² As Robert Falkner explains, "'private governance' emerges at the global level where the interactions among private actors or between private actors on the one hand and civil society and state actors on the other, give rise to institutionalization arrangements that structure and direct actors' behavior in an issue-specific area.' See Robert Falkner, 'Private environmental governance and International Relations: Exploring the links', *Global Environmental Politics*, 3:2 (2003), p. 72.

biggest problems, in the past five years, NGOs have increasingly partnered with firms to develop or implement voluntary CSR programmes: Greenpeace has worked with Coca Cola to reduce greenhouse gas emissions; Conservation International has worked with Walmart to track and mitigate illegal sourcing for its jewellery products; Oxfam has partnered with Unilever to integrate smallholder farmers ‘fairly’ into transnational supply chains. Explaining why they are working so closely with Walmart, the head of Conservation International explains, ‘Given the millions of items carried by its thousands of stores, possibilities virtually are endless for the company to create extraordinary impact.’²³

Many NGO-business programmes rely on benchmarking practices, including audit inspections – rather than state labour inspectors or environmental agencies, or codified legal agreements – to test and ensure compliance and effectiveness to certifications (for example, Forest Stewardship Council), standards (for example, Fairtrade), and retailers’ own sustainability commitments (for example, Sainsbury’s 20 by 20 Sustainability Plan).²⁴

Simply put, compliance auditing involves independently verifying supplier performance to corporate codes of conduct, often through the use of ‘independent’ but for-profit firms like SGS or UL, hired by the brand buyer. As NGOs have embraced private governance as a means to ‘scale up’ and strengthen corporate accountability – and thus, broadly improve labour conditions and preserve the environment – they have also adopted audits as a global corporate regulatory mechanism.

The standards and certification schemes proliferating among multi-stakeholder coalitions are audit-based. For instance, the Extractive Industries Transparency Initiative coalition – which brings executives from Chevron and Shell together with NGOs like Global Witness, Oxfam, and Transparency International – has developed the EITI standard validated by audit firm Deloitte, among others.²⁵ Similarly, through the Fair Labor Association (FLA), organisations like the Global Fairness Initiative, Maquila Solidarity Network, and Human Rights First²⁶ have worked with big brand partners including Nestlé, Nike, Adidas, Apple, and H&M to develop the FLA Workplace Code of Conduct.²⁷ Adherence to the FLA’s Code is enforced through independent social audit firms, including Verité and Impactt.²⁸

Some NGOs have also come to use supply chain benchmarks to ‘raise awareness’ about their causes. They also now depend on the metrics generated through these programmes for outreach and fundraising efforts, which further explains NGO interest and support for the audit regime. The Greenpeace campaign to reduce the

²³ Peter Seligmann, ‘Conservation international’s CEO: Why Walmart gives me hope’, *GreenBiz* (9 May 2014), available at: {<http://www.greenbiz.com/blog/2014/05/09/retail-giant-walmart-asks-suppliers-shrink-environmental-impact>} accessed 8 April 2015.

²⁴ Given corporate, NGO, and state involvement in the audit regime, within André Broome and Joel Quirk’s typology of global benchmarking practices (this Special Issue), audits can be situated at the cusp of type III (private market governance) and type IV (transnational advocacy). They can involve both profit-based and civil society organisations as monitoring agents, but seek to actuate transnational market governance.

²⁵ Extractive Industries Transparency Initiative, ‘EITI Validators’, available at: {<http://eiti.org/validation/validators>} accessed 4 August 2014.

²⁶ Fair Labor Organization, ‘FLA Accredited Monitoring Organizations’, available at: {<http://www.fair-labor.org/transparency/fla-accredited-monitoring-organizations>} accessed 4 August 2014.

²⁷ Nestle, ‘Annual Report 2011’, available at: {<http://static.globalreporting.org/report-pdfs/2012/537fc4b7fef52936fc433f1f6a77a496.pdf>} accessed 4 April 2014.

²⁸ Fair Labor Organization, ‘FLA Accredited Monitoring Organizations’, available at: {<http://www.fair-labor.org/transparency/fla-accredited-monitoring-organizations>} accessed 4 August 2014.

environmental impact of electronics for example, is centered on producing a widely distributed *Guide to Greener Electronics* – a ranking of the ‘environmental leadership efforts’ of brand electronics companies based on a score out of 10 on 12 criteria within 3 (shifting) categories of environmental impact (energy, products, operations). Greenpeace conducts their benchmark evaluation using the public reports and information that the brand companies produce. This has led to criticism (particularly from lower ranked companies such as Apple) that the campaign evaluates companies for what they say rather than what they do. However, despite concerns about its accuracy or effectiveness, their metrics-based report has given Greenpeace much media attention and a positive impression with the general public (with the reporting of specific company performance figures), that Greenpeace is ‘cracking the whip’ to monitor and hold corporations to account.²⁹ Meanwhile, the exercise of metrics production has distracted attention by all sides away from the major underlying environmental issue – planned obsolescence in electronics product design.

Given growing NGO buy-in, it is perhaps not surprising that at the global level, too, benchmark audit-based initiatives are accelerating. The United Nations Global Compact is premised upon the use of audit-based initiatives to ‘promote transparency and disclosure as a means of driving performance’.³⁰ Functioning as a ‘learning network’, the Global Compact encourages ‘desirable behavior in corporations through dialogue with different stakeholders and sharing of information’.³¹ The associated Global Reporting Initiative (GRI) has developed and disseminates ‘Sustainability Reporting Guidelines’, which companies can implement among their suppliers, as well as assurance criteria for external audit verification to determine whether the environmental, social, and governance (ESG) data have been reported accurately.³² Financial institutions and states increasingly rely on these as proxy indicators of corporate responsibility (particularly in offshore operations).³³

Reflective of broader trends in the privatisation of global corporate governance, states have helped to institutionalise voluntary, CSR-based forms of corporate governance. Some of the environmental and social standards that retailers achieve through audits – such as ISO 14000 – have actually been adopted by states and international organisations as official standards, thus gaining ‘in strength and legitimacy’. As Robert Falkner describes, ‘governments are expected to incorporate them into their procurement and international bodies such as the WTO have recognized the voluntary ISO standards as international standards under the WTO system and as being consistent with the Technical Barriers to Trade Agreement’.³⁴ Certain states have also facilitated partnerships and coalitions, as the United States did with the Climate Action Partnership (USCAP). This coalition brings

²⁹ See ‘Greenpeace Electronics Guide Cracks the Whip’, BlueChannel 24, available at: {<http://www.bluechannel24.com/?p=7749>} accessed 8 April 2015.

³⁰ United Nations Global Compact, ‘Analyzing Progress’, available at: {http://www.unglobalcompact.org/COP/analyzing_progress.html} accessed 5 November 2013.

³¹ Susanne Soederberg, ‘Taming corporations or buttressing market-led development? A critical assessment of the global compact’, *Globalizations*, 4:4 (2007), p. 503. Significantly, like other global transparency programmes that encourage and facilitate corporate voluntary reporting, the Global Compact allows companies to set their own measures and report on progress towards these, rather than setting universal benchmarks. Performance comparisons between companies are therefore difficult.

³² Global Reporting Initiative, ‘The External Assurance of Sustainability Reporting’ (2013), available at: {<https://www.globalreporting.org/resource/library/GRI-Assurance.pdf>} accessed 8 April 2015.

³³ David Vogel, ‘The private regulation of global corporate conduct: Achievements and limitations’, *Business & Society*, 49:1 (2010), pp. 68–87.

³⁴ Falkner, ‘Private environmental governance’, p. 77.

environmental organisations such as the Environmental Defense Fund, The Nature Conservancy, and the World Resources Institute, together with Shell, NRG Energy, as well as PepsiCo, DuPont, The Dow Chemical Company, Rio Tinto, and General Electric.³⁵ As networks and institutions become shaped around audit-based accountability systems, the prevalence of ‘ethical audits’ can be expected to increase not diminish.

The power of audits in transnational corporate governance

The growing adoption of audits and associated benchmarking regimes as a corporate governance mechanism is primarily an effort to mediate the labour and environmental risks inherent in the retail-driven, low-cost, high volume, model of distant global production that currently reigns in the global economy. As big brand firms and retailers have grown rapidly in recent years – with Walmart’s total global sales nearing \$500 billion – they have pioneered a business model in which they coordinate the production of goods through loose and arm’s length relationships with tens of thousands of independent suppliers, but don’t actually produce goods themselves. The acceleration of ever-more complex forms of subcontracting has meant that global retail supply chains are increasingly long and complex with many ‘tiers’ of outsourced production.³⁶ Walmart, for instance, now sources from over 100,000 global suppliers, who source from a diffuse and elaborate global production network.³⁷ Simply put, the retail model of global production has developed to maximise lead firms’ flexibility and continuously reduce costs and liability associated with production. As retailers have grown in size and market power, they have exerted downward pressure on contract length, turnaround times, and margins in many industries, ‘squeezing’ their suppliers. This business model and power dynamics introduce endemic labour and environmental risk into global supply chains, as supplier firms struggle to fulfill orders on time and at a low-cost, creating incentives to cut corners.³⁸

Retailers and big brands initially introduced auditing as an internal tool to monitor and manage risks within their global operations, examining and measuring organisational non-financial performance, as well as key suppliers. But as NGO and journalist exposés of rampant child and ‘sweatshop’ labour and environmental malpractice in overseas production sites yielded calls for greater corporate transparency and accountability beginning in the late 1990s and throughout the early 2000s, brands began to adopt audits not as an heuristic device, but as tools to mediate and resolve the tensions and contradictions inherent in outsourced, low-cost, quick turnaround production. In the wake of persistent non-compliance issues, brands began hiring independent (but often for-profit) audit firms to monitor supplier factories, such as Apple most recently did with its Tier 1 supplier Foxconn in the wake of a wave of worker suicides and reports of forced overtime.³⁹ Given the need to

³⁵ United States Climate Action Partnership, available at: {<http://www.us-cap.org/>} accessed 4 August 2014.

³⁶ William Milberg and Deborah Winkler, *Outsourcing Economics: Global Value Chains in Capitalist Development* (Cambridge: Cambridge University Press, 2013); see also: Layna Mosley, *Labor Rights and Multinational Production* (New York: Cambridge University Press, 2011).

³⁷ Walmart, ‘Walmart Announces Sustainable Product Index’, available at: {<http://news.walmart.com/news-archive/2009/07/16/walmart-announces-sustainable-product-index>} accessed 4 August 2014.

³⁸ See, for example, Milberg and Winkler, *Outsourcing Economics*.

³⁹ See, for example, Stanley James and Adam Satariano, ‘Apple Opens Suppliers’ Doors to Labor Group After Foxconn Worker Suicides’ (13 January 2014), available at: {<http://www.bloomberg.com/news/2012-01-13/apple-opens-suppliers-doors-to-labor-group-after-foxconn-worker-suicides.html>} accessed 1

govern global corporate practices in a world lacking global regulation, and in the face of declining state-based corporate monitoring, the auditing regime has stepped into the lurch, with experts and the organisations driving adoption (as described above) claiming that it promotes supply chain transparency, accountability, and improvements.

The difficulty, however, is that audits are an inadequate mechanism for ensuring global corporate accountability. While, as we document, this dynamic relates to weaknesses in the audit regime's design and functioning, it is important to note here that audit ineffectiveness is also rooted in and reflects the tensions and limits of benchmarking as a form of supply chain governance 'at a distance'. As critical scholars of the audit regime such as Dara O'Rourke and Richard Locke argue⁴⁰ and as our interviewees confirm, auditing produces standardised metrics, measurements, and rankings that create the appearance of independent supply chain monitoring; yet, the information produced through and derived from audits is partial, highly political, and fundamentally shaped by the retail audit client.

As one auditor described, most audit firms have no investigative powers, so have limited capacity to verify that the information presented to them is accurate: 'you have no powers of search so you cannot open a locked drawer, you cannot check to see how much tax is being paid or has actually been paid, you can look at a record that says something but you wouldn't be able to go and find out whether it's actually true'.⁴¹ As another auditor argued, the audit regime is not actually designed to drive improvements in supplier practices: 'an audit is a diagnostic tool; it doesn't fix things. It doesn't matter how many times we audit a factory, it doesn't mean they're going to improve'.⁴² The former Director of CSR for a major US outdoor gear retail company emphasised the limits very clearly: 'Within the social compliance world, it is now standard operating understanding that audits don't work to achieve change within organizations. That's widely discussed from folks at the Gap to Patagonia to you name it. In the NGO community, many social activists would also say that the results indicate that audits don't work in terms of actually effecting real change on the ground'.⁴³

Indeed, as a number of recent studies have documented and as companies have acknowledged, the capacity of the audit regime to detect, report, and correct non-compliance is limited.⁴⁴ Yet, in spite of mounting evidence of its ineffectiveness, the audit regime is extending and gaining legitimacy as a global regulatory mechanism, as

September 2014; Susan Adams, 'Apple's New Foxconn Embarrassment', *Forbes* (9 December 2012), available at: {<http://www.forbes.com/sites/susanadams/2012/09/12/apples-new-foxconn-embarrassment/>} accessed 1 September 2014.

⁴⁰ Dara O'Rourke, 'Monitoring the monitors: a critique of corporate third-party Labour monitoring', in Rhys Jenkins, Ruth Pearson, and Gill Seyfang (eds), *Corporate Responsibility and Labour Rights: Codes of Conduct in the Global Economy* (London: Earthscan, 2002), pp. 196–207; Locke, *The Promise and Limits of Private Power*.

⁴¹ Personal communication with auditor, London, 6 March 2013.

⁴² Personal communication with audit firm Director of Sustainability, London, 13 March 2013.

⁴³ Personal communication with a former Director of CSR, US retail company, 12 July 2013, Seattle.

⁴⁴ Richard Locke at MIT's 4-year analysis of Nike's audit programme (2001–5) found that workplace conditions in almost 80 per cent of suppliers remained the same or worsened over time. Nike states in their 2012 Sustainable Business Report, '... we have learned that monitoring does not bring about sustainable change. Often, it only reinforces a pattern of hiding problems.' Similarly, HP concludes in their 2013 CSR report, 'although audits can be an excellent measurement tool, they only provide a snapshot of performance and do not lead to lasting performance improvements on their own'. See also Jean Allain, Andrew Crane, Genevieve LeBaron, and Laya Behbahani, *Forced Labour's Business Models and Supply Chains* (York: Joseph Rowntree Foundation, 2013).

NGOs and governments endorse and delegate authority to audit mechanisms as part of the broader consensus around the effectiveness and efficiency of market-based approaches to global governance. Through increasingly sophisticated metrics, and the inclusion of key expert communities, the audit regime is creating the appearance of global supply chain governance and ‘continuous improvement’ when it in fact serves to legitimate business as usual. As one of our informants explained, ‘there is a whole industry of ethical auditors out there now who will find nothing if you pay them to go and find nothing’.⁴⁵ In another informant’s words, many auditors ‘are not trying to find things out, they are trying to prove that something is not there’.⁴⁶

As auditors are bound by rigid confidentiality clauses, their retail clients exercise full discretion over what audit information is ultimately reported. Information is typically shared with the supplier firm but is rarely made available to governments or the public. This means that issues like forced labour, human trafficking, or pollution are not reported to regulators or consumers, and are rarely resolved. Auditors typically offer expert advice to aid the audited factory in preparing an action plan to address the non-compliance findings.⁴⁷ However, the auditor has no influence over the company’s eventual business decisions and there is no external accountability for the action plans. The audit information that is publicly circulated is typically in the form of general metrics and aggregated analysis that effectively provide neutralised accounts of corporate practices to governments, investors, and consumers. These reports produced by retailers, experts, and multi-stakeholder coalitions consequently serve to codify and legitimate rather than expose and challenge endemic, poor environmental and social problems that lie at the heart of the retail business model.

The independent power of the audit regime

Before turning to explore the inadequacies of the audit regime in greater institutional detail, it is important to note that although insiders recognise the audit system is grossly inadequate, the knowledge generated through the audit system plays a productive role in shaping public and policymakers’ perceptions of corporate practices. Corporations are increasingly aware of this, and are investing in devising, producing, and publicising new metrics not only as legitimisation techniques to prevent more stringent restrictions on their activities, but also as a tool for sales and competitive advantage.

Revealingly, in 2014, the global industry organisation Sustainable Brands – which features Nestlé, Mars, Coca Cola, Target, Unilever, and Disney as members – convened a conference on ‘New Metrics’. The conference promised to convene business leaders to ‘define the business metrics of the future ... [to] find new approaches to value risk and impact that lead to successful business results’. The ‘10 Reasons to Attend New Metrics 14’ advertised to potential attendees included the following: ‘There are growing opportunities to quantify brand value added through innovation for sustainability; Consumers are starting to bypass or boycott clearly unsustainable products and services; Leading methodologies for quantifying both environmental and social impacts are getting sophisticated; Your sustainability performance will be ranked by external stakeholders anyways, so it’s a good idea

⁴⁵ Personal communication with labour NGO representative, London, March 2013.

⁴⁶ Personal communication with auditor, London, 6 March 2013.

⁴⁷ Salo Coslovsky and Richard Locke, ‘Parallel paths to enforcement: Private compliance, public regulation, and labour standards in the Brazilian Sugar Sector’, *Politics & Society*, 41:4 (2013), pp. 497–526.

to lead; You could be influencing policy makers and politicians more effectively, armed with new impact assessments.⁴⁸ In short, this discourse reflects a growing recognition by corporations of the utility of supply chain benchmarks – not to change their business practice so much as to transform *understanding* of their practices, and in so doing, generate sales, influence regulatory outcomes, and capture greater business gains.

Corporate interest in generating new metrics is grounded in a business desire to control performance information so as to shape reputational perceptions and expectations of company value. Metrics enable industry to strategically present normative, partial, and fragmented information about their practices in a way that is viewed as scientific and objective and hence, trustworthy and reliable. As legal scholar Galit Sarfaty explains, ‘the use of quantitative indicators can be fraught with problems, which are often overlooked due to the authoritative quality of numbers’.⁴⁹

These insights point to the need to understand the audit regime as a productive form of power, which is ‘changing understandings, meanings, norms, customs, and social identities that make possible, limit, and are drawn on for action’.⁵⁰ The audit regime is not only bolstering corporate power and influence, but the generated knowledge and associated metrics are also increasing corporations’ ‘public and private authority in the international realm by enabling indirect forms of power that operate through abstract knowledge practice’.⁵¹ Ultimately, although the audit-based data reported by retailers obscures more than it reveals about environmental and social problems within supply chains, the sheer volume of information and metrics produced through audits, and the scientific authority constructed through the involvement of ‘independent’ experts, ‘represent and reify particular normative standards by rendering ideas about appropriate modes of conduct into observable data’.⁵² In the context of neoliberal globalisation, these discursive trends are paralleled by and serve to deepen the power and profitability of firms.

Compliance audits and the concealment of ethical problems

Despite their ineffectiveness, compliance audits continue to gain legitimacy as a mechanism of global corporate accountability due to their perceived neutrality as anchored in supposedly objective metrics. However, as this section shows, audits are far from impartial. Rather, the problems with audit effectiveness in this respect manifest around the politicisation of audit design and scope by powerful business interests. This includes highly strategic corporate control over both *how* audits are conducted as well as *what* they are evaluating. Given the evidence presented in this section, we argue that audits are serving to reinforce and legitimise rather than challenge the inequities in power relations within global value chains that are at the root of continually occurring environmental and labour problems. While compliance auditing has increased over the past decade, it has done little to transform corporate practices or improve overall environmental conditions. Focused on limited, incremental adjustments to operations, the compliance audit regime is ultimately

⁴⁸ Personal communication with Sustainable Brands, 2 September 2014.

⁴⁹ Galit Sarfaty, ‘Regulating through numbers: a case of corporate sustainability reporting’, *Virginia Journal of International Law*, 53 (2011), pp. 580–1.

⁵⁰ See Barnett and Duvall, ‘Power in international politics’, p. 56.

⁵¹ André Broome and Joel Quirk, ‘Governing the world at a distance’.

⁵² *Ibid.*

allowing companies to stave off efforts to impose more stringent public regulation and truly accountable restrictions on production.

Procedural politics of audit design

Every multinational brand retail company has their own, unique 'ethical compliance' audit programme to manage their business risks and increase their control over their suppliers. Although many retailers share the same suppliers and source products from the same offshore factories, their audit processes vary. The main procedural differences include: the timing of the audit, the auditors selected, and the communication of results. Decisions around each of these factors are highly strategic as they play a significant role in determining the audit findings which companies then shape and communicate for reputation management and legitimacy (social license) to operate and grow.

Strategic scheduling

Decisions on audit scheduling have significant bearing on audit results. The time of year, frequency of audits, and whether it is an announced or surprise audit will affect what is revealed or not. An audit conducted during peak production cycle before Christmas, for example is much more likely to uncover 'non-conformance incidents' such as illegal workers and unacceptable working conditions than during slower off-peak periods. A more frequent audit than one every few years is also much more likely to uncover problems and yield greater understanding to trace and address the source of the factory conditions. And finally, whether the audit is a 'surprise' versus scheduled in advance will influence the extent to which the factory can potentially obfuscate problems (for example, falsify records, shift labour, move production to a shadow company, etc.). Scheduling elements are not standardised across company audits. Rather, companies 'play' with varying these audit design elements depending on their interests to expose a more or less accurate picture of supplier factory conditions.

Controlled audit delegation

The independence and expertise of the audit team also bears on the results of the audit and companies select their auditors for strategic reasons depending on what they want or do not want to find out about their suppliers. This includes varying whether the auditors are internal to the company or constitute an independent third party; and whether they are local experts or professionally designated auditors brought in from outside.

Because of the proliferation of voluntary compliance standards and certification schemes over the past two decades, there are now many accredited audit firms to select from. They conduct audits to company codes as well as a wide range of social and environmental certification standards. In agriculture alone, there are 'more than 300 accredited certification bodies around the world providing inspection and certification services to organic farmers and producers' (50 per cent do other audits as well).⁵³ The large professional accounting firms such as PwC, Deloitte, KPMG, and Ernst & Young also all have accredited groups that conduct sustainability audits.

⁵³ International Organic Accreditation Service (IOAS), 'Certification Body Database', available at: {http://www.ioas.org/certification_body/} accessed 4 August 2014.

For assessing compliance, companies choose whether to contract out to an independent auditor or whether to utilise internal audit teams. An internal team enables greater control over the audit process but may also compromise perceived objectivity, potentially threatening some of the reputational capital companies aim to gain from having an audit programme. A third party auditor is generally deemed more neutral and hence, legitimate. Yet, even with third party auditors, the audit process is not impartial. Walmart, for example, applies its own criteria for selecting a list of whom it deems ‘acceptable’ auditors from which their suppliers may only choose.

Politics also come into play in the development of audit protocols (that define the metrics and benchmarks for compliance). The interpretation of protocols is often heavily shaped by the auditor/client relationship. Whether a professional global accounting firm or local audit business, the auditor is never free of the potential for conflict of interest and bias from wanting to modify audit results in order to obtain payment and retain the business contract.⁵⁴ This may mean reporting ‘corrective action’ audit results in a more positive or negative light (that is, minor versus major non-conformance) depending on the interests of the client (for example, the retail buyer, the supplier, or the certification body). Certification auditors may, in particular be influenced towards leniency by the need to gain or maintain corporate participants in their programmes (to gain scale and legitimacy of their standards) rather than outright ‘disqualify’ companies that fail to meet the standards. The inconsistency of Forest Stewardship Council audits and continuing challenges to many of the certifications awarded provide a good example of the varying auditor expertise and the politics of auditor conflict of interest.⁵⁵

Constructed transparency

Although lauded as a means to improve corporate transparency and accountability, as mentioned, audit results reports are in fact private information – held confidentially between the client and auditor. Findings that are communicated publically are strategically aggregated so as to conceal the location, type and size of the factory, as well as the scope and criteria of the audits and precise description of the non-compliance problem encountered. Even the names of suppliers are typically withheld. Nike consolidates factory audit data into a single ‘sourcing and manufacturing sustainability index’ to measure the extent to which a contracted factory is ‘lean, green, equitable and empowered’.⁵⁶ Many companies provide audit results as percentages of high, medium, or low compliance by geographic region with comparisons in percentage totals between years. The factories audited, however, differ from year to year so the numbers reported do not actually convey any sort of useful or consistent information as to whether conditions at certain factories are improving or worsening and if so, in what way. The reported audit metrics are carefully shaped to give the illusion of progress.

⁵⁴ See the recent study of 44,383 social audits in 47 countries by Michael Toffel and colleagues at the Harvard Business School that finds ‘evidence suggesting that violations recorded in audits might indeed be influenced by financial conflicts of interest and by auditor competence’. (Michael Toffel, Jodi Short, and Melissa Ouellet, ‘Codes in context: How states, markets, and civil society shape adherence to global labor standards’, *Regulation & Governance*, doi:10.1111/rego.12076 (2015), p. 16.

⁵⁵ Jane Lister, *Corporate Social Responsibility and the State* (Vancouver: UBC Press, 2011).

⁵⁶ Nike, ‘Sustainable Business Report’ (2013), available at: {http://www.nikeresponsibility.com/report/files/report/NIKE_SUSTAINABLE_BUSINESS_REPORT__FY10-11_FINAL.pdf} accessed 3 April 2014.

Material limits in audit scope

It is not just the discretion companies wield with *how* compliance audits are conducted that conceal problems but also perhaps even more significantly, the accepted power companies have to shape *what* the auditors evaluate.

Facilities focus

The scope of compliance audits is not standardised. Some consist of a minimal offsite desk review of documentation and records; others a telephone interview with management; and others (most frequently), an onsite factory investigation. The greater the number of days onsite and the larger the number of interviews with management, employees and outside stakeholders (for example, community members, subcontractors, local government), the greater the costs and the more comprehensive the audit findings. Companies closely control the scope of the audit based on their resources and the extent that they want to know the problems going on.

Increasingly, retailers are designing their audit focus around a risk scale. HP's, for example, ranks suppliers and factories by country risk, length of business relationship, and previous audit findings. While this may give the impression that the company is addressing its biggest problems, it hides that poor supplier practices may still persist – having simply been shifted around as suppliers focus their attention only to those areas under audit scrutiny while ignoring other areas in a constantly moving game of 'cat-and-mouse' obfuscation driven by the audit programme.

Accountability beyond the factory gates

Audits focus on the immediate factory environment, operations and employees while omitting large parts of the supply chain beyond the factory gates where the most egregious conditions often occur. Although many retailers and brand firms portray audits as 'comprehensive', they in fact only cover a small percentage of top-tier suppliers. Apple, for example, claimed in 2012 to be 'going deeper into the supply chain than any other company we know of', and 'reporting at a level of detail unparalleled in our industry'. And yet, Apple was only auditing a portion of its top Tier 1 suppliers and ignoring subcontract facilities. With one of the industry's longest established supply chain social and environmental responsibility (SER) audit programmes (implemented in 2001), HP openly admits in its 2013 CSR report, the gaps of its programme in evaluating 2nd and 3rd tier suppliers as well as 'non-production' call centres and labour agencies.

Because the path of social audits is typically built around a product supply chain rather than a 'labour supply chain', audits tend to exclude some of the most vulnerable workers within the supply chains.⁵⁷ While audits tend to look only at workers on the books, the most exploited workers tend to be employed through complex labour-subcontracting arrangements, and are several steps removed from producers' core workforces. As one of our informants described, 'there could always

⁵⁷ A labour supply chain 'consists of the sequence of employment relationships that a worker goes through in order to be deployed in a productive capacity'. See Allain, Crane, LeBaron, and Behbahani, *Forced Labour's Business Models*.

be another group of people⁵⁸ who are not on the books. Our interviewees also explained that factory owners commonly rid their production facilities of agency or exploited workers during audits. In addition, because audits are ‘snapshots’ of labour practices on any given day, they do not encompass illegal practices that might have taken place prior to employment but nevertheless shape employment conditions. This is well illustrated by the major issue of debt bondage. As Apple describes in its 2012 annual report, labour recruiters within their supply chains often charge enormous recruitment fees, which workers then become indebted to pay back, and those debts are used to maximise exploitation and immobility during work. To its credit, Apple claims to have refunded \$17 million in recruitment fees since 2008 alone,⁵⁹ but most companies have been far less responsive – their audit programmes overlook the issue.

These gaps in the audit mechanism are significant not just because of the large portions of the supply chain that are not measured (and thus, hardly ‘managed’), but also because they illustrate how the pathway of most audits is structured in such a way as to conceal, rather than bring to light, some of the worst abuses in the supply chain.

Uneven measurement of labour and environmental problems

Audits conceal problems by the narrow range of company operations investigated but also by their uneven treatment of labour and environmental issue areas. Whereas ‘people’ (for example, employee wellbeing, worker conditions) are hard to quantify, environmental concerns translate more easily into business efficiency and financial gains. The case for competitive advantage in ‘corporate greening’ is well documented. Therefore, management systems and metrics to evaluate and benchmark environmental performance are more comprehensive than for labour⁶⁰ with the significant consequence of greater investment in environmental programmes at the growing cost of social welfare.

Environmental concerns are more closely considered a strategic investment issue with direct bearing on operational efficiency, access to capital (risk management) and the bottomline.⁶¹ Using less materials and energy and cutting back on waste saves money and drives sales. General Electric, for example, set a 5-year \$25 billion revenue target when it launched its Ecomagination clean technology environmental programme in 2005 and has since (according to the company’s 2011 progress report) realised over ‘140 [environmental] products and solutions and \$105 billion in revenue’. Social concerns on the other hand are addressed by a narrow set of traditional business metrics including total employee wage, benefits, and overtime expenditures that are too generalised to reveal the problems of actual working conditions and employee treatment essential to ensuring a healthy, safe, and stable workplace. Whereas companies increasingly consider environmental programmes an investment in greater efficiency, social programmes are treated as a business cost. Rather than weighing and measuring the anticipated rate of return of social programmes, companies generally accept that any returns are ‘intangible’ and adopt

⁵⁸ Personal communication with auditor, London, March 2013.

⁵⁹ See Apple, ‘Supplier Responsibility: Empowering Workers’, available at: {<http://www.apple.com/supplier-responsibility/labor-and-human-rights/>} accessed 1 September 2014.

⁶⁰ Ketty Kortelainen, ‘Global supply chains and social requirements: Case studies of labour conditions auditing in the People’s Republic of China’, *Business Strategy and the Environment*, 17 (2008), p. 433.

⁶¹ Michael Porter and Claas Van der Linde, ‘Green and competitive: Ending the stalemate’, *Harvard Business Review*, 75:5 (1995), pp. 120–51.

them on the basis that it is simply a 'necessary cost of doing (staying in) business'. The concealment of labour issues is further reinforced by how the audit pathway is built around the product supply chain and not the labour supply chain.⁶² As a consequence, audits miss many of the growing labour problems such as factory owners increasingly 'handing off' their labour responsibilities by bringing in more and more temporary contracted workers for which they are not liable.

Company efforts reveal the uneven treatment of social and environmental concerns. Walmart, for instance, has pursued ambitious corporate environmental programs in recent years but not social compliance standards or social certifications. Consequently, they are winning awards for developing leading 'business solutions' with respect to climate change and renewable energy while at the same time representing a lightning rod for unfair labour practices (for example, forcing overtime, paying below minimum wage, and refusing employee requests to unionise). Nestlé also highlights the shortcomings of an audit-based compliance programme based on a bifurcated environmental and social approach. After proudly announcing the Fairtrade certification of its Kit Kat bar, Greenpeace launched a campaign against the product, calling it out for destroying Indonesian Orangutan habitat and rebranding it, 'ethical chocolate from environmentally destructive palm oil'. The highly successful campaign pointed the finger directly at Nestlé for trying to hide a damaging product behind its Fairtrade certification. In another, among a growing number of examples, the Lipton brand of tea have recently achieved the 'green' Rainforest Alliance Certification, in spite of the fact that there is widely reported child labour in its tea supply chain.⁶³ The bifurcation of environmental and social standards and audit programmes allows companies to work towards improvements in one sphere – typically the environmental sphere – while allowing problems to persist or even worsen in the other sphere.

Our site visit to Chun Wo Ho in 2012, also revealed firsthand how environmental concerns are treated differently than labour considerations due to the more tangible business value gains of environmental versus social programmes as embedded in certification and company audit programmes.⁶⁴ Chun Wo Ho is a medium-sized, family-owned and operated Chinese manufacturing company that makes accessories like trim and zippers for outdoor apparel and gear. Established in 1971, the company head office is in Hong Kong and its factories are located in and around nearby Shenzhen – China's fastest growing city and the home of Foxconn, one of Apple's biggest suppliers. Products produced include: lace and trimming, cordage, twine and string (drawcords), braid and webbing (including elasticised), and imitation leather and plastic belts. The company supplies its products to a growing customer base including major brands such as Nike, North Face, Converse, Mammot, and Disney who then sell to consumers worldwide through multinational retail stores such as Costco, Target, and Walmart. Chun Wo Ho's corporate tag line is four words: 'Reliable. Responsible. Integrity. Value.' The company has recognised the role of responsible, sustainable business practice for ensuring access to top tier North American and European markets and customers. While recognising the importance of

⁶² Allain, Crane, LeBaron and Behbahani, *Forced Labour's Business Models*.

⁶³ See, for example, Gethin Chamberlain, 'How Poverty Wages for Tea Pickers Fuel Indian's Trade in Child Slavery', *The Guardian*, available at: {<http://www.theguardian.com/world/2013/jul/20/poverty-tea-pickers-india-child-slavery>} accessed 20 July 2013.

⁶⁴ Jane Lister and Genevieve LeBaron, *Shopping for Sustainability at the Canton Fair: The Political Economy of Transnational Retail Governance in China*, Liu Institute for Global Issues Working Paper Series 12-001 (Vancouver: University of British Columbia, 2012).

both environmental and social sustainability, the company has put greater emphasis on and investment in its environmental programmes. As the company director, Jason Mak explained, ‘there are cost incentives for environmental reforms but no real cost incentive to increase health and safety or labor conditions more broadly’.⁶⁵

In June 2009, Chun Wo Ho signed onto the Swiss-based Bluesign environmental programme (the apparel industry’s sustainable production standard) to ‘provide performance products with a reduced environmental footprint’.⁶⁶ To meet the Bluesign commitment the company spent \$1 million on environmental improvements, specifically on new production equipment and process upgrades. Workplace safety improvements were also identified for future expenditure but at \$100,000. These comprised one-tenth the amount of the environmental systems. Efficiency gains and investment payback were not expected from social investments.

Chun Wo Ho made the decision to invest \$1 million in environmental improvements after calculating that, through cost-savings due to eco-efficiencies and increased sales from achieving Bluesign certification, they would be able to recover the investment and generate new profit within three years. But Bluesign would also yield an additional and longer-term source of cost savings: the replacement of human labour with machinery. In the short term, Mak explained, the cost of environmental improvements would be met by shedding and raising labour productivity.

Narrow and bifurcated audit metrics do not capture this interacting dynamic of environmental and social conditions – that is, how the supplier was looking to recover the cost of its brand buyer’s and consumers’ rising environmental expectations through changes to its workforce. This has global regulatory significance as this emerging business strategy is not unique to Chun Wo Ho. Because corporate environmental sustainability yields more measurable direct business value than social improvements, there is a growing tendency to privilege the former over the latter. Canton Fair vendors we interviewed consistently noted that environmental standards and certifications were more feasible and desirable than social ones. This was particularly the case given their retail customers’ tight turnaround times, fluctuating order sizes, and requirements for low-priced production, which they informed us they were meeting largely through increased overtime and agency workers (which tend to be lower paid and face severe restrictions on their ability to assert rights). As companies have linked their growth strategies to clean water and state-of-the-art eco-friendly technology, workers rights, conditions, and job security have at best, lagged, and at worst, been undermined.

A major 2012 study of CSR in the apparel industry clarifies this point.⁶⁷ Assessing management systems in four categories – Policies, Traceability & Transparency, Monitoring & Training, and Workers Rights – the study evaluated 300 apparel brands on their efforts to address child and forced labour in their supply chains. Firms currently championed for their corporate environmental initiatives – such as Walmart and Adidas – ranked among the lowest in social performance and efforts to address forced labour. In spite of its improvements around renewable energy, waste, and carbon, Walmart’s traceability, transparency, and workers’ rights records ranked

⁶⁵ Personal communication at Chun Wo Ho factory, Shenzhen, China, 27 April 2012.

⁶⁶ Bluesign, ‘About’, available at: {<http://www.bluesign.com>} accessed 4 August 2014.

⁶⁷ Haley Wrinkle, Elin Eriksson, and Adrienne Lee, *Apparel Industry Trends: From Farm to Factory*, available at: {<http://www.free2work.org/trends/apparel/Apparel-Industry-Trends-2012.pdf>} accessed 4 August 2014.

among the lowest in protecting against child and forced labour. In an illuminating paradox, Walmart now requires the seafood it sells to come from fisheries that are Marine Stewardship Council certified (or equivalent, or part of a credible fishery improvement project). Yet, the company is consistently accused of negligence around forced and bonded labour found within seafood harvest and packaging within its supply chain, such as in *The Guardian* investigation discussed earlier.⁶⁸ In a similar vein, Adidas is currently celebrated as an environmental sustainability leader, but its Monitoring & Training record is so insufficient that on 14 March 2013, Penn State University suspended its apparel contract with the company.⁶⁹

In summary, compliance audits purport to provide objective evidence and comprehensive 'data' through standardised metrics on the social and environmental conditions at supplier factories. However, as this section reveals audit information is politicised, partial, and largely held confidentially. Retailers aggregate supplier improvement metrics resulting in praise in some areas while egregious violations go unattended in others. Audits give the impression of transparency and accountability when, in fact, in many cases, they obscure and deflect attention from the most damaging corporate practices. As a global regulatory mechanism they are ultimately serving to legitimise the *status quo* – reinforcing rather than transforming the underlying problem of unbalanced capital accumulation through buyer-supplier supply chain power inequities.

The ineffectiveness of the audit regime as a mechanism of global corporate regulation is underpinned, as this section revealed, by how audits are designed and practiced. The audit regime, however, cannot be 'fixed' through institutional redesign. While companies can address certain weaknesses in their audit programmes to increase supplier compliance such as by adjusting penalties⁷⁰ and improving auditor skills,⁷¹ these efforts constitute only a 'tweaking' or 'tinkering' at the edges. They do not get at the much deeper systemic problems embedded in the power dynamics and as André Broome and Joel Quirk stress (in this Special Issue): the political agenda underlying the regime.

Conclusion

As part of a broader trend towards supply chain benchmarking, the audit regime ultimately disguises a normative, market-based governance agenda in seemingly objective systems of verification and associated metrics. Among insiders, the audit regime is widely accepted to be ineffective in addressing the environmental and social problems endemic to the transnational retail business model. Yet, in the face of deficient

⁶⁸ International Labour Rights Forum and Warehouse Workers United, 'The Walmart Effect: Child and Worker Rights Violations at Narong Seafood's Thailand Model Shrimp Processing Factory', available at: {<http://www.laborrights.org/publications/walmart-effect-child-and-worker-rights-violations-narong-seafood>} accessed 5 November 2013. See also Walmart, 'Making Seafood More Sustainable', available at: {http://www.walmartgreenroom.com/2013/03/making-seafood-more-sustainable-one-fishery-at-a-time/?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+walmartgreenroom%2FIIJQ+%28The+Green+Room%29} accessed 3 August 2013.

⁶⁹ Simon Van Zuylen-Wood, 'Penn State Cuts Off Adidas Over Sweatshop Complaint', available at: {<http://www.phillymag.com/news/2013/03/14/penn-state-2/>} accessed 4 August 2014.

⁷⁰ Erica Plambeck and Terry Taylor, 'Motivating Compliance with Labour and Environmental Standards', Working Paper No. 3176, Stanford Graduate School of Business (March 2015), available at: {<http://www.gsb.stanford.edu/faculty-research/working-papers/supplier-evasion-buyers-audit-implications-motivating-compliance>} accessed 10 April 2015.

⁷¹ Kortelainen, 'Global supply chains and social requirements', p. 441.

legally binding systems of supply chain governance, states are adopting the audit regime to create the illusion of transnational corporate monitoring where there is in fact very little. As NGOs have developed an interest in the reputational and financial benefits of supply chain benchmarking, they too have helped to codify and neutralise corporations' poor environmental and social records, and have deepened the credibility and legitimacy of auditing. Briefly put, while the drivers motivating industry, NGOs, and states to institutionalise the audit regime vary, their increasing participation reflects an alignment of these actors' interests and ideologies in market-based global governance. The growing adoption of audits as a tool of global corporate governance is bolstering corporate power, interests, and influence over consumers and policymakers, and ultimately, is deepening corporations' power to make their own rules and norms, and to evaluate and report on their own performance and adherence to those rules.

The consequences for global corporate governance are significant. As noted in Section I, states and financial institutions increasingly rely on audit-based information to estimate and assess corporate responsibility. Furthermore, states are increasingly adopting audit-based approaches to fixing serious supply chain problems. But given the serious shortcomings of the audit system, the prospects for addressing the key flaws of the global production system – including forced labour and slavery, or environmental destruction, pollution, and chemical spills and dumping – seem increasingly limited. Rather than improving practices, recent initiatives ultimately reinforce the privileging of private interests over protecting the public good in the global regulatory sphere. Indeed, that growing adoption of audits is accelerating at the same time as audit ineffectiveness is becoming more widely recognised – including by brand and retail businesses themselves – suggests that supply chain benchmarking is much more about reifying and legitimating standard business aims and practice than driving actual environmental or social improvements.

While we have endeavoured to show that the weakness of audits as a tool for driving environmental and social improvements is rooted in audit design, power relations, and implementation, it is also notable that certain weaknesses that have been previously identified in 'governing the world at a distance' through benchmarking do seem to limit the capacity of the audit regime as a form of global corporate governance.⁷² Audits bring 'a semblance of certainty, relative standing, and measurable temporal change to an otherwise unmanageably complex world',⁷³ but that certainty serves to stabilise, legitimise and reinforce endemic problems within supply chains. Enclosing authority within expert knowledge, the symbolic power generated through audits has helped companies to stave off more stringent forms of regulation or restrictions on their activities. As with other benchmarks, therefore, the audit regime must be seen as 'an exercise in symbolic power that can alter the cognitive understandings that international actors use to make sense of the world and to purposively act upon it'.⁷⁴

⁷² See Broome and Quirk, 'Governing the world at a distance'; Liam Clegg, 'Benchmarking and blame games: Exploring the contestation of the Millennium Development Goals'; Harrison and Sekalala, 'Addressing the compliance gap?'; Alexandra Homolar, 'Human security benchmarks: Governing human wellbeing at a distance'; Caroline Kuzemko, 'Climate change benchmarking: Constructing a sensible future?'; Porter, 'Global benchmarking networks'; Leonard Seabrooke and Ducan Wigan, 'How activists use benchmarks: Reformist and revolutionary benchmarks for global economic justice'; Sending and Lie, 'The limits of global authority': all of the articles listed here in *Review of International Studies*, 41:5 (2015), pp. 813–1010.

⁷³ Broome and Quirk, 'Governing the world at a distance'.

⁷⁴ *Ibid.*