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Overcoming the Global Despondency Trap: Strengthening Corporate Accountability in Supply Chains

Alice Evans

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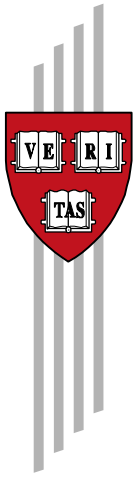

Working Papers

Center for International Development at Harvard University

OVERCOMING THE GLOBAL DESPONDENCY TRAP
Strengthening Corporate Accountability in Supply Chains

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Forthcoming in Review of International Political Economy

This paper re-examines why global collective action problems persist, and how to overcome them. Drawing on 140 interviews with campaigners, politicians, and businesses in 10 European countries, it suggests that many activists are stuck in a despondency trap. Never seeing radical reform, they lower their ambitions, and invest in more feasible but sub-optimal alternatives. This creates a negative feedback loop, in which the dearth of radical reform becomes self-fulfilling. But if reformists see advances at home and abroad, they may become more optimistic about collective mobilisation and break out of their despondency trap. This is shown by tracing the drivers of ground-breaking legislation. From 2018, large French firms must mitigate risks of environmental and human rights abuses in their global supply chains, or else be liable. This bill – the world's first of its kind – was vociferously contested by businesses. But French campaigners and politicians persisted for four years, because they saw reasons for optimism. These include growing international support; public outcry; the French political culture (state intervention, and distrust of multinationals); together with a Centre-Left Government. Optimism galvanised relentless mobilisation. Legislative success in France then delivered a positive shock to activists across Europe, who were emboldened to launch similar campaigns and escape their despondency trap.

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Introduction

Regulating global supply chain faces a collective action problem. When one government represses workers' rights, economic competitors tend to follow suit, to remain internationally competitive (Wang, 2018; Davies et al, 2013). This 'race to the bottom' is fueled by corporate impunity. Buyers try to maximise profits by scouring the world for low costs: reinforcing downwards competition (Bartley, 2018).[1] If only buyers were liable for abuses, they would have an incentive to source more judiciously – from suppliers that pay living wages, respect freedom of association, and safeguard the environment. But buyers have tended to oppose such legislation: citing concerns about international competitiveness, or threatening to leave. This saps political support for legislation. Inaction is not only due to self-interest. If sympathetic politicians and activists do not see peer countries legislating, they may not even contemplate reform, or anticipate success. They are stuck in a despondency trap, reinforcing a bad equilibrium. Expectations and self-interested concerns curb support for legislation.

This paper examines the world's first legislation requiring that parent companies reduce risks of human rights and environmental abuses in their global supply chains, or else be liable. France's Duty of Vigilance Law (2017) mandates that large French firms reduce such risks in their global production networks.[2] They must develop and implement a vigilance plan, comprising: a risk map (which identifies, analyses, and prioritises risks relating to their subsidiaries, subcontractors, and suppliers); procedures to regularly assess risks; appropriate actions to mitigate risks; an alert mechanism (co-developed with union representatives); monitoring and evaluation mechanisms. If a company does not establish, implement, or publish a vigilance plan, then victims, NGOs and trade unions can use civil litigation, to secure compensation for damages. This Law creates extra-territorial liability, covering the whole supply chain (Palombo, forthcoming).

This paper explores why France was the first country to introduce stringent legislation. It emphasises the enabling environment, activism, and luck. Growing international support, public outcry (over Rana Plaza), the French political culture (widespread scepticism of multinationals, and acceptance of state intervention), and a centre-left Government all increased hope for reform. Politicians and activists thus mobilised relentlessly for four years. Tenacious persistence increased their likelihood of success. But mobilisation was not sufficient. Campaigners also got lucky, with the coincidental appointment of a sympathetic Minister.

This Law has also inspired activists and politicians across Europe: catalysing 13 campaigns/ parliamentary motions for stringent legislation; overcoming the global despondency trap. Empirically, this argument is derived from interviews with 148 participants (politicians, activists, unionists, and business associations) in nine countries.

This paper makes three contributions to the wider literature. First, it recognises that many activists are stuck in a despondency trap, reinforcing a bad equilibrium. This paper emphasises norm perceptions, and the domestic politics of global coordination problems. Second, to explain successful activism, we need to understand what fuels hope for reform: i.e. growing international support and peer advances, public outrage, the national political culture, and sympathetic government. Third, this paper suggests that the first few countries to introduce stringent legislation to tackle global collective action problems may be quite unusual: particular institutions, concerted activism, and luck. But these forerunners inspire activist coalitions in other countries, thereby overcoming the global despondency trap.

Literature Review

Global supply chains are marred by a coordination problem. To maximise profits, global buyers search for low costs. Low-end supply chains (like garments) have become marked by intense cost competition, reselection, and unstable orders. To attract these contracts, low- and middle-income governments repress organised labour, and curb wages (Bartley, 2018; Wang, 2018). This rational choice framing could also

1 Together with product quality and speed.

2 1 Firms registered in France with either: more than 5,000 employees (working for the company and its direct or indirect French-registered subsidiaries); or more than 10,000 employees (working for the company, and its direct or indirect global subsidiaries).

explain high-income country governments' reticence to create extra-territorial liability (for this would undermine the domestic competitiveness of domestic businesses). Perhaps national legislation is thus impossible (as Sandler, 2010 suggests for global public goods more broadly).

To investigate the causes of socio-political change, I focus on *individuals' reasons for acting*: their beliefs and desires. Beliefs include 'internalised ideologies' (beliefs one personally endorses) and 'norm perceptions' (beliefs about what other people support or abhor). Internalised ideologies shape how we process new information, diagnose problems, attribute culpability, and develop policy solutions. For example, Vail (2018: 11) argues that 'distinctive elite understandings of the appropriate role of the state, the underlying structure of society, and the related character and focus of political responsibility have shaped patterns of social and economic adjustment in the neoliberal era'. Clift (2012) suggests that the French governing elite's internalised ideologies (about the appropriate degree and direction of state intervention) influences their objectives, relationships with interest groups, and the kinds of policies they develop. Schmidt (2016:328) attributes neoliberalism to widely-shared uncritical assumptions about appropriate policy tools. Phillips and Mieres (2015) ascribe the dearth of global value chain regulation to neoliberal ideologies. This focus on internalised ideologies is emblematic of ideational scholarship.

However, perhaps many people *are* privately critical of neoliberalism, yet comply because they think everyone else is supportive. We call this 'pluralistic ignorance'. By observing their national political cultures, people develop beliefs about what their compatriots think and do ('norm perceptions'). But compatriots' experiences, interactions, and norm perceptions are not homogenous. By focusing on *individuals*' norm perceptions, my theoretical framework recognises the reality of within-country heterogeneity (whereas 'social norm' discourses fabricate monoliths). Importantly, individuals are not always conscious of these beliefs, yet nonetheless influenced by them.

If people seldom see critique or policy change, they may become stuck in a despondency trap, moderate their ambitions, and reluctantly perpetuate the status quo (Roser-Renouf et al, 2014 on environmental activism; and Klandermans, 1984 on failed strikes depleting morale). These norm perceptions can curb bottom-up pressure for reform, and lessen the likelihood of legislative change. We know from socio-psychology that individuals' group efficacy beliefs strongly predict collective action (Chan, 2016; Klandermans et al, 2008; Rees and Bamburg, 2014; Van Zomeren et al, 2008). Expectations can also help us understand regional waves of contentious politics. Revolutions in neighbouring countries can raise expectations, embolden democrats, and catalyse further revolts – as in the 1848 revolutions and the Arab Spring (Weyland, 2014). As Hirschmann observed (1977), '[t]he expectation of large, if unrealistic, benefits obviously serves to facilitate certain social decisions'. That is, if more people become optimistic, they may collectively invest in sustained activism, increasing their likelihood of success.

People's reasons for acting also include their 'perceived interests' – whatever they consider instrumental to satisfying their desires, e.g. for job security, business growth, campaign success, consumer satisfaction, re-election, or peer respect. If retailers bear no liabilities for their suppliers' malpractices (and consumers remain loyal), they have little financial incentive to rethink their sourcing practices. If NGOs seek to expand with corporate funding, they may be reluctant to campaign for stringent legislation. Alternatively, they may prioritise structural change, even if this jeopardises revenue. Thus conceptualised, interests are subjective. Their content cannot be assumed *a priori*. Perceived interests are also shaped by norm perceptions. If people doubt wider support, they may be reluctant to invest in this forlorn hope. To understand people's perceived interests, we need to undertake qualitative research, for they cannot be inferred from structural positions.

This theoretical framework enables us to connect macro and micro dynamics: exploring how national and international political cultures influence individuals' expectations, which in turn influence their national campaigns for corporate accountability.

Methodology

Embarking upon this qualitative research, I envisaged four methodological challenges: (1) protagonists' depictions of the past may be influenced by recent developments; (2) activists and politicians might overemphasise their contributions to legislative reform; (3) participants may not be consciously aware of their beliefs, the causes of their beliefs, or recognise the specificity of their national context; (4) I might misinterpret their portrayals.

To address these challenges, I triangulated contemporary interviews with historical sources; interviewed participants from different sectors, different countries; observed change over time (through successive rounds of fieldwork); and invited comments on earlier drafts.

First, I created an amalgamated timeline – through systematically browsing media, parliamentary debates, and press releases. I used this historical record to triangulate contemporary interviews.

Second, I interviewed 148 participants: business associations, trade unions, human rights advocates, environmentalists, volunteers, lawyers, and politicians (of different leanings, and involvement). My goal was to understand their reasons for acting (their norm perceptions, internalised ideologies, and perceived interests), as shaped by the wider political culture, to ascertain the drivers of legislative reform. This breadth of participants enabled me to triangulate diverse perspectives.

Third, to understand why France was the first to introduce stringent legislation, I investigated why this has not happened elsewhere: selecting wealthy European countries, with different regulatory approaches. I interviewed a broad range of actors in Belgium, Denmark, Germany, Finland, Sweden, Norway, Spain, Switzerland, the Netherlands, and United Kingdom – in 2016, 2017, 2018, and 2019. I also observed activists' and businesses' gatherings, workshops, and conferences. Revisiting these communities over several years, I recorded how expectations were changing over time. I contextualised emergent narratives by engaging with wider research on comparative politics. Interviews were transcribed, coded, and names changed to preserve anonymity.

Table 1: Sample

	Business	NGOs	Volunteer Activist	Unions	Civil Servant	Politician	Journalist	Academic/ lawyer
France	2	6		4	3	4	1	1
Germany	4	11			2	2		1
U.K.		2						2
Switzerland	4	12	11	2	1	2	1	3
Belgium		2		2				1
The Netherlands	4	18			1	2		1
Finland	5	4		4	2			
Spain		1						
Sweden	4	10						1
Denmark		2				2		1
Norway		2						

Fourth, I shared my emergent hypothesis, and early drafts of this paper: inviting participants' comments and corrections, to ensure accuracy and accountability.[3]

[3] Participants helped clarify key dynamics, but did not ask me to change any quotes.

Obstacles to Corporate Accountability Legislation

The Duty of Vigilance law was not inevitable. It was developed by a small, peripheral group of young, female activists, together with lawyers and left-wing deputies. Having tabled the bill in 2013, they lobbied for four acrimonious years: through two readings in the National Assembly, two readings in the Senate, and then the Constitutional Court. They were vehemently opposed by business, disregarded by Government, and largely ignored by the public.

Business associations (the Movement of the Enterprises of France [MEDEF] and the French Association of Large Companies [AFEP]) strongly mobilised against the Bill. They argued that by unilaterally introducing such legislation, the Government penalised French businesses: jeopardising jobs, growth, and investment. European competitors were not subject to the same liabilities. Further, the Bill only applies to companies domiciled in France, so might deter new investment. MEDEF and AFEP also expressed concerns that the wording was vague, liabilities untold, and financial damages too onerous (AFEP, 2015; Le Figaro, 2016a). MEDEF warned the law would 'shoot a bullet in the foot of our companies and their competitiveness'; 'Stop being naive and think that our competitors American, Chinese or European will imitate us'; 'this text undermines the attractiveness of France and the competitiveness of its companies, no other European country has voted such a law to date. This debate should take place at least at the level of the European Union' (Le Figaro, 2015b; 2016b; 2017, translated). Across Europe, business associations have similarly opposed national legislation.

French business associations lobbied through established channels: harnessing long-standing ties and privileged access to key ministers, deputies, and senators. Government-business camaraderie is not unusual in France (Maclean et al, 2006; Jabko and Massoc, 2012: 10–11). The French state has long promoted 'national champions' (large firms), both domestically and internationally (Clift, 2012). Such closeness is epitomised by the President of AFEP's informal letter to Macron:

> *Dear Emmanuel,*
> *This text is just unreasonable.*
> *Friendship*
>
> [translated] (quoted in Contexte, 2015).

Prime Minister Valls privately assured business leaders that the Bill would not pass (according to my informants). President Hollande was uninterested. Although he had campaigned on the left, Hollande did not always govern on the left (Parsons, 2015: 65; Roussel, 2014). The Duty of Vigilance bill lacked Cabinet support, initially at least . Indeed, the French Ministry of Economy and Finance created a counter-proposal, heeding advice from MEDEF and AFEP.

> *Part of the Government was pro-business... They were hysterical, and met ministers much more than us… Business was pitching their tent in the garden of the Government* [i.e. business benefitted from close ties and frequent interactions], explained one activist

Politicians worried about competitive advantage; job losses; the unfairness of making French businesses liable for malpractices committed by other actors in other jurisdictions; together with legal and constitutional uncertainties (Senat, 2017). For them, French companies already practised world-leading Corporate Social Responsibility, and should not be punished with harsh legislation. Instead, they espoused voluntary due diligence, in line with OECD guidance (ibid).

AFEP's virulent resistance and Cabinet's dismissal coloured deputies' expectations. Many "[Socialist] deputies were pessimistic. They signed the petition, but were not optimistic. Because of AFEP" – explained one politician (translated). Moreover, no other country had ever made companies liable for human rights and environmental abuses in their global production networks. Few politicians were keen to invest scarce resources in this forlorn hope.

Fifth, few politicians perceived this Bill as a vote winner. The public was largely uninterested: more troubled by '*la vie quotidienne*': unemployment, a sluggish economy, terrorism, and immigration (Eurobarometer, 2018). Since 2012, France has struggled with low economic growth (below 1.2% GDP growth per annum), high unemployment (10%), and several terrorist attacks. Before Rana Plaza, NGOs' campaigns and petitions for extra-territorial liability struggled to garner public support. Politicians' norm perceptions – of public uninterest – curbed their support for the Bill (echoing a European trend).

In brief, French businesses feared that legislation would thwart their international competitiveness. Further, many deputies were pessimistic, given state-business ties, Cabinet dismissal, and public apathy. Norm perceptions in turn shaped perceived interests: for business strength, and re-election. Few businesses, voters, or politicians, perceived the Bill as serving their self-interest. The Law was *not* inevitable.

Enabling Environment

A small coalition of advocates relentlessly lobbied, 'tirelessly pleaded'; over five years, 'they never gave up on this text'.[4] 'Even when the door was closed in our face, we continued to drive the nail. All the time. We had to be obsessed!', explained one campaigner (Amnesty, 2017). Researchers might explain their eventual success by focusing on their characteristics, charisma, connections, and campaign strategies. But this is an incomplete explanation, as it presupposes relentless motivation and investment (which did not occur earlier, or in other European countries). As one campaigner exclaimed, 'You don't fight four years without being hopeful!'.

To maintain popular support, politicians and campaigners need to invest strategically, in 'winnable battles'. In the early 2000s-2010s, European corporate accountability activists believed legislation was necessary, but were despondent, lacking support from both their own organisations and potential allies.

> *Internally, I always had to fight my colleagues.. my god… others don't believe that it would ever come to legislation.. so I didn't get any support and nobody believed in the lobby for legislation, media and social media didn't work on legislation at all.. It's difficult if something you really think should happen is not seen as something to put your effort on, I always had to justify this work* – Dutch campaigner (echoing a wider sentiment).

> *We reached out to lawyers, but they said 'here's no political climate for this kind of law'. They were quite negative about it, rather than giving legal expertise about what/ where* – Swedish campaigner.

> *The level of enthusiasm is not great. It is being a bit challenging to engage other NGOs* – British campaigner.

A few activists formally requested legislation in the early 2010s, when deliberating over National Action Plans, in the Netherlands, Sweden, Finland, and Germany. But they did not invest in building large campaigns for legislation – in concert with other NGOs, politicians, and business. Without anticipating broad support for stringent legislation, many instead sought to improve private regulation (see also Bartley, 2018).

> *At the beginning of the Texil Buendnis* [voluntary agreement]*, no one believed there would be a law* – German campaigner.

> *Everyone thought it was too ambitious* [in the early 2010s]. *Officials in the ministries, politicians, even Social Democrats running the key ministries (now supporting the law) thought it was unrealistic. There were no examples [of legislation from other countries]... So, we didn't put that much effort in trying to get them on board* – explained a Finnish activist (who jointly coordinated a huge campaign in 2017-19, when they were much more optimistic).

> *We all knew legislation was necessary, but there was no momentum [so we joined a multi-stakeholder initiative]* – Dutch campaigner.

[4] 'NGOs and unions tirelessly pleaded, for several years, in favour of the duty of vigilance' – noted Senator Didier Marie (Senat, 2017), as did Deputy Dominique Raimbourg (translated, Assembly Nationale, 2016b).

> *We have liberals and conservatives in government, they don't want legislation.. everything was about voluntary, we're on the backfoot* – Dutch campaigner.
>
> *I don't think there's political commitment, so I don't want to invest my energy on it* – Dutch MEP.
>
> *After being repeatedly rebuffed by politicians, 'the air leaves you' (luften gick ur mig). 'If there's no appetite for it, you don't put that much resources into the direct lobbying. That was the consequence of those talks. We put less effort into legislation* – Swedish campaigner (*Instead, they tried to persuade the oil companies to reform voluntarily*.

In the UK, campaigners were also despondent. With low expectations, they praised the UK Modern Slavery Act, even though it merely requires large companies to upload a short statement on how they are addressing forced labour. There are no criminal or financial penalties (i.e. incentives to actually eradicate) forced labour (LeBaron and Rühmkorf, forthcoming; Mantouvalou, 2018). Yet with NGOs' seal of approval, Theresa May could credibly tell voters that 'My Government will lead the way in defeating modern slavery' (2016). Such pretensions would likely have been less persuasive had they been publicly lambasted (rather than legitimised) by NGOs. The same goes for the German Partnership for Sustainable Textiles in Germany, and Dutch Responsible Business Agreements – two forms of private regulation post-Rana Plaza.

My interviews across Europe show that many activists are caught in a despondency trap. Without seeing stringent legislation or broader support (within their own organisations, NGO networks, lawyers, or politicians), many activists lacked hope for extra-territorial liability. So, instead they moderated their ambitions, invested their time in, legitimised, and reinforced sub-optimal alternatives. Private regulation and weak legislation remained the 'only game in town'. Seeing only this, other campaigners were not optimistic about, or did not even consider liability.

One exception is Switzerland, where campaigners *did* start a campaign for mandatory human rights due diligence in 2012, but they only called for Swiss companies to be liable for their subsidiaries or companies they economically control, not all their suppliers' malpractices. As a key proponent explained,

> *'We had to restrict this to make it feasible politically. Either go with the full programme*[5] *[i.e. liability for suppliers, like the French Bill], and it would be killed, it would be killed in the egg. Even to convince with the population, it would be difficult because business would be so much against it. But we think this current initiative is very manageable, feasible'.*

French protagonists were more hopeful. So, to explain the passing of the French Law, we need to understand what raised campaigners' expectations, and galvanised sustained mobilisation.

The remainder of this paper suggests that activists' hopes were raised by: growing international support; public outrage; national political culture (widespread anticipation of state intervention; anti-globalisation sentiment); a centre-left government. The coalition of left-wing politicians and civil society subsequently benefitted from extraordinary good luck.

1. Growing international support

Many campaigners explained their initial optimism in the Duty of Vigilance Bill by referencing the global growth of commitments to human rights due diligence and responsible business practices. These include the United Nations Global Compact (2000); Dodd-Frank Act (2010); the United Nations Guiding Principles on Business and Human Rights (UNGPs, unanimously endorsed by the UN Human Rights Council in 2011); OECD Guidelines for Multinational Enterprises (revised in 2011); the International Labor Organisation's Declaration of Principles; ISO 26000 standard on Social Responsibility (2011); the California Supply Chain Transparency Act (2010); the EU Timber Regulation (2013); EU Non-Financial Reporting (2014); the Swiss Coalition for Corporate Justice, calling for mandatory human rights due diligence (started in 2011, gaining 135,000 signatures); the UK Modern Slavery Act (2015); the Green Card initiative for

[5] French companies had joined by May 2005, as urged by President Chirac (Antal and Sobczak, 2007).

mandatory human rights due diligence, supported by eight EU Member States (2016); and the proposed Dutch Law on Child Labour Due Diligence (adopted by Parliament in 2017).

Member states' unanimous endorsement of the UNGPs signalled broad support for three tenets. First, states should protect human rights from abuses by third parties (including businesses), through appropriate policies (such as regulation). Second, corporations should respect human rights, by undertaking due diligence: pro-actively identifying and mitigating risks of abuses in their supply chains. Third, victims of abuse should have greater access to remedy. These principles gained acceptance through broad consultation, peer learning, participatory conferences, and high-level summits (Duval and Partiti, 2018; Ruggie, 2017). They are reinforced and operationalised in OECD Guidelines and National Action Plans.

These processes *could* have legitimised a voluntary approach. However, a handful of young, female French NGO activists[6] interpreted these multilateral commitments as growing acceptance of human rights due diligence and extra-territorial liability. Strategically building on the UNGPs' legitimacy, they jointly drafted a Duty of Vigilance bill (in 2012). This stipulated that French companies identify and mitigate risks of human rights abuses in their supply chains, or else be held criminally liable.[7] They were determined, though not overly optimistic. Corporate accountability was not a priority for the general public, politicians, or many NGOs. Communications teams – concerned not to alienate more conservative supporters – cautioned them from being too critical of multinational companies. That changed in April 2013.

2. Public Outcry

The 1,134 deaths caused by the collapse of a textile factory at Rana Plaza triggered media attention and public alarm. It was a front-page horror story, across Europe. French brands were implicated, found in the rubble. Camaïeu and Auchan paid compensation to the victims, following NGO campaigning. Mainstream journalists (not just those on the left) drew a direct link between the catastrophe, globalisation, multinationals, and the dearth of adequate legislation (Le Figaro, 2013; 2014; Le Monde, 2015; Le Parisien, 2014; Le Point, 2015; La Tribune, 2015). Sustained coverage inculcated ideas of transnational liability, and raised expectations for legislation (as also observed by Simmonet, 2017).

> *'The acceleration is really the Rana Plaza drama. In France it was really a big drama. For us, it is so terrible, we have to push quickly. Rana Plaza was covered by newspapers, petition of NGOs, film, documentary, a lot of people in a few days write in. A lot of MPs saw a lot of French citizens are shocked. A lot of the left side heard our proposal. We were really optimistic after Rana Plaza, because it's such a drama. It's an example of the problem. We think it's possible to propose the law'* – explained one politician.

> *'Rana Plaza was important for mobilisation. In Parliament there was a meeting with a lawyer from Dhaka, very bright, 300 people invited, present, interested, and for the group [of campaigners] it was very encouraging'* – detailed a lawyer.

But outrage over Rana Plaza was not sufficient for legislation in France, or elsewhere. Immediately, the Socialist Minister of Foreign Trade (Nicole Bricq) asked the National Contact Point to implement the OECD Guidelines for Multinational Enterprises. They recommended that companies (voluntarily) undertake due diligence, reduce their number of suppliers, procure independent audits, and support industrial democracy. Bricq endorsed all their recommendations (Guillemoles, 2014). That could have been it.

Other European parliamentarians were also appalled by Rana Plaza.[8] But still they pursued voluntary, multi-stakeholder agreements (SER, 2016; PST, 2018). NGOs and unions saw these as imperfect, but still joined.

[6] Mathilde Dupre (CCFD-Terre Solidaire, a Catholic Socialist NGO); Sabine Gagnier (Amnesty International France, focusing on human rights); Nayla Ajaltouni (le Collectif Éthique sur l'étiquette, specifically tackling working conditions in global supply chains);), and Juliette Renaud (les Amis de la Terre, Friends of the Earth); and Sandra Cossart (Sherpa, which litigates economic crimes).

[7] This echoes Simmons' (2009): activists use international treaties to gain legitimacy and push for domestic compliance.

[8] The Netherlands: The Braakhuis motion, Lower House, Session 2011-2012, 26485, No. 135; The Thieme and Van Gerven motion, Lower House, session 2013-2014, 28286, No. 753; The Van Gerven motion, Lower House, Session 2013-2014, 28286, No. 758; and The Voordewind motion, Lower House, Session 2014-2015, 34000

NGO campaigners struggled to secure organisational support to campaign for legislation (see also Oxfam, 2016; Preuss et al, 2015: 75). What was different in France, that evoked such strong reactions, and heightened expectations for legislation?

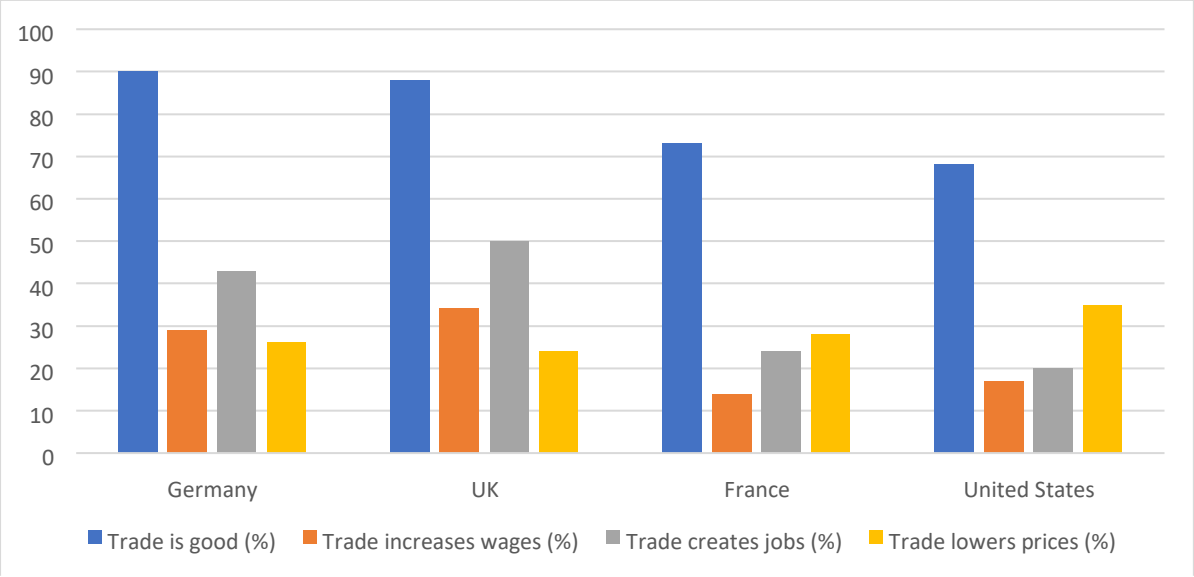
3. The French Political Culture

(a) Widespread Scepticism about Globalisation and Multinationals

French people *could* have disregarded Rana Plaza: dismissed it as a Bangladeshi problem (emanating from regulatory capture and corruption); cherished fast fashion; accepted multinationals' denials of culpability; and scapegoated a few, unscrupulous outliers. To understand why Rana Plaza generated such visceral critique, we need to recognise confirmation bias, and pre-existing distrust of multinationals in France.

Scepticism about globalisation and multinational companies is widespread in France, compared to other European countries. 65% of French respondents identified globalisation as a threat – compared to 25% in the Netherlands, 36% in Germany, and 37% in the United Kingdom (sampled just before Rana Plaza - Eurobarometer, 2018). Only 44% of French respondents affirmed that globalisation is an opportunity for economic growth (ibid). These trends are fairly stable over the past decade, and are associated with grave concerns about high unemployment (ibid). Multinationals are often accused of 'social dumping': off-shoring jobs to countries that undercut French labour standards. Responses vary with questions posed, but whatever the wording, scepticism always appears second highest in France (after Italy). In 2014, only 14% of French respondents affirmed that trade increases wages, and only 24% declared that it creates jobs (Table 1).

Figure 1: Public Scepticism about Globalisation, 2014



(Pew Research Centre, 2014: 16)

These concerns about globalisation have been publicly expressed in best-selling books, media headlines, political statements, and public protests (Gordon and Meunier, 2004; Waters, 2012). 150'000 people demonstrated at the European Social Forum in Paris, according to organisers (della Porta, 2009). 200'000 gathered in Larzac to protest against globalisation in 2003 (Meunier, 2004). Heeding such concerns, the Government has also sought to tackle social dumping. Centre-right Prime Ministers Balladur and Juppé pushed for a 'social clause' at the EU and WTO, to link trade and labour standards (though was opposed by Germany, the United Kingdom, and developing countries) (Orbie et al, 2005). The Government also sought to manage globalisation by taxing international financial transactions (2012).

XVII, No. 30. In Germany, 'Tackling Corporate Responsibility: Legal Regulation to Protect Human Rights' was tabled but not debated.

Figure 2: Alter-Globalisation Demonstration at the European Social Forum, Paris, 2003

Source: Wikipedia, 2018

Widespread distrust of multinationals and globalisation likely influenced NGO campaigns, newspaper coverage, and public interpretations of Rana Plaza. French people were perhaps more receptive to NGOs' pejorative narratives, about multinationals' malpractice and impunity. This is because people tend to seek, interpret, and remember information that confirms their existing beliefs. Such 'confirmation bias' influences how people process information, and their expectations of how others will process information (Nickerson, 1998; Taber and Lodge, 2006).

Earlier demonstrations and discourses in favour of managed globalisation may have influenced people's expectations. Anticipating widespread concerns about corporate impunity, journalists, campaigners, and politicians may have tapped into these sentiments, with a more critical narrative. Even in La Croix (2017, a centrist, Catholic publication), readers hear that, '*Rana Plaza [is] a symbol of wild globalisation… this tragedy is synonymous with a globalization without any other law than that of profit at any price, even contempt for the lives of employees*' [translated]. Such condemnation is hard to find in other European newspapers, even those on the centre-left (such as *the Guardian* and *Süddeutsche Zeitung*).

In sum, many French people are sceptical of multinationals and globalisation. Accordingly, they may have been more receptive to campaigners' critical narratives: blaming brands, calling for legislation. Moreover, because resistance to globalisation is well-publicised in France, activists may have anticipated a sympathetic response.

(b) Anticipation of State Intervention

Even if campaigners were emboldened by public outrage, and growing support for reform, they need not have pursued legislation. This section explores how long-standing acceptance of state intervention may have influenced their expectations of broadly acceptable solutions.

Interactions between French businesses and labour are often acrimonious (Andolfatto and Labbé, 2006; Balsiger, 2018; Lux, 2015; Schmidt, 2003). Confrontation reflects the closed political system: the French state seldom facilitates inclusion or dialogue between diverse stakeholders. The elite business community is strong and cohesive: interlocking directorates create stakes in peer companies (Heemskerk, 2011; Maclean et al, 2006). For example, when the French Clean Clothes Campaign graded businesses' social performance in the early 2000s, businesses did not try to outdo each other. Instead, they jointly rejected and delegitimised the rankings (Balsiger, 2018). This adversarial, unsatisfactory history colours norm perceptions.

By contrast, Dutch, German, and UK governments have developed multi-stakeholder partnerships, in collaboration with NGOs, unions, and firms.[9] These activists were equally concerned by labour abuses;[10][11] sought legislation ideally; but also a little hopeful that problems could be solved through co-operative, group-based, tripartite policy-making (Andeweg and Irwin, 2014; Bair and Palpacuer, 2012; Hemerjck et al, 2000; Hendriks, 2011, Prak and Van Zanden, 2013; Touwen, 2014; Vail, 2018). Upon reflection, Dutch and Germany participants shared that they were flattered by invited participation, entering the corridors of power. Meanwhile, French activists outrightly dismissed multi-stakeholder initiatives:

> *No. For me, MSI [multi-stakeholder initiative] is something we've been forced to attend, like the National Platform on CSR, and OECD… The state has abandoned its regulatory power. And we've wasted so much time and energy. It's just time-consuming.*[12]

French campaigners were also much more optimistic about the prospect of state intervention. I suggest this optimism emanates from France's history of *dirigisme*.

State intervention is the widely-accepted and anticipated mode of problem-solving in France (Blasco and Zølner, 2010; Clift, 2012b; Howell, 2009: 251; Schmidt, 2003; Vail, 2018). "Left-Right differences don't matter. The French think that the only way to reform is through the state" – declared Dennis Kessler, Vice Chairman of MEDEF (cited in Vail, 2018:96). Now, *dirigisme* has receded with three decades of liberalisation, privatisation, deregulation, and employer discretion (Baccaro and Howell, 2017; 197; Howell, 2009: 231, 249–53). But the French state still plays a facilitative role: resolving collective action problems and institutionalising reforms (Clift, 2012; Schmidt, 2003; Vail, 2018). Seeing this, many people look to the state 'as the guardian of Republican values', whereas business solutions are often eyed with suspicion (Goyer and Glatzer, 2016; Blasco and Zølner, 2010). As Antal and Sobczak (2007: 14) observe,

> *The long-standing tradition of centralized power and faith in changing society via legislation in France is one factor behind the acceptance of what in other cultures would be seen as intolerable state interventionism.*

The French state has played a central role in propelling and legitimising Corporate Social Responsibility reforms: mandating reporting in 1977; subsequently increasing the range and rigor of reporting required. France was the first EU country to legally mandate non-financial disclosure reporting.

Widespread acceptance of state intervention raised activists' hopes for the Duty of Vigilance bill. Because activists believed their compatriots would accept this bill, they invested their time and resources in the campaign, notwithstanding repeated setbacks. As a law professor explained:

> *Claude: This law [mandating a duty of vigilance], it's not a surprise for French people. We have the habit. It's in the political culture…*
> *Author: Did you ever think it would fail?*
> *Claude: I thought it would take time.*

Campaigners tapped into this broadly-shared anticipation of state intervention for the common good:

[9] These include the Netherlands Agreement on Sustainable Garments and Textiles, the German Partnership for Sustainable Textiles, the UK Ethical Trading Initiative, and Extractive Industries Transparency Initiative.

[10] Indeed, it was Dutch and British activists that first protested against labour abuses in their global supply chains, founding the Clean Clothes Campaign in 1989 (Bair and Palpacuer, 2012). The Government has promoted these ideas both domestically and in its foreign policy. The school curriculum includes sustainable development and corporate social responsibility (LVDO, 2008). The Netherlands was also one of the first countries to implement the UNGPs, publishing its NAP in

[11] . The Dutch Government also prioritised business and human rights during its 2016 EU Presidency: organising a pan-European, multi-stakeholder conference (ECCJ et al, 2016; Ministry of Foreign Affairs, 2016). From 2014, the Dutch Government convened multi-stakeholder processes to develop sector-specific agreements in high risk global value chains (starting with garments - SER, 2016).

[12] NGOs and unions did request a 'National Platform for Global Actions for Corporate Social Responsibility' (a multi-stakeholder platform, first convened in 2012). But – according to my informants – this was primarily to enhance access to government ministries, rather than try to resolve grievances through constructive discussions with business. Relations were tense.

> "*The NGOs are there to remind the State that it is up to him to work for the common good and that companies, in a permanent way of profit, are not able to regulate themselves… Multinationals are not captured by the law. Subsidiaries of French companies may commit offenses with total impunity. There is no mechanism to empower parent companies"* (Reporterre, 2016, translated).

Others argued that the law restored state power, hitherto weakened by globalisation (Alternatives Economiques, 2017). This framing addresses a common concern in France: that the state (fundamental to national identity) has been eroded by global economic integration (Meunier, 2004).

But I should clarify, the Duty of Vigilance law is not state intervention of the Gaullist tradition: i.e. control through regulation, directives, or state ownership. The grievance mechanism is the law court: the onus is on victims to press their concerns, which some activists consider an abdication of state responsibility.

4. Centre-Left Government

The Varieties of Capitalism literature maintains that country responses to globalisation are mediated by *non-partisan* norms and networks of coordination between firms, labour, and government (see Baccaro and Howell, 2017: 183; and Vail, 2018 on commonalities between Socialist and Gaullist governments in France). But perhaps political parties exert an under-recognised influence?

Scepticism of multinationals and concern for Rana Plaza was not country-wide. Many French people have voted for political parties that intervene to support (rather than impose liabilities upon) 'national champions' (Clift, 2012; Jabko and Massoc, 2012). Right-wing parties held legislative majorities in France from 2002 to 2012. Had they been in Government post-Rana Plaza, they would have likely dismissed a Bill on extraterritorial liability.

From 2012, the Socialist Party held the Presidency (under François Hollande), Parliament, Senate, and majority of regions (Kuhn, 2014). Leftist parties had gained power following waves of street protests – against austerity, unemployment, inequality, pro-business responses to the Great Recession, and Sarkozy's coziness with the wealthy elite (Béroud and Yon, 2012: 170; Hewlett, 2012; Lux, 2015). In his presidential campaign, Francois Hollande promised a renewal of social democracy (Parsons, 2015). This sparked hopes among leftist civil society.

Interviewed activists repeatedly emphasised this 'five-year window'. They perceived the Socialists as sympathetic (relative to previous administrations). Such expectations are implicit in media coverage: '[this is] 'a race against the clock… The *presidential election is approaching and it will clearly no longer be a priority. We are in a situation where we are working with the deputies and the government to advance the procedure, the culmination of which is one of François Hollande's campaign promises*' (quoted in Reporterre, 2017, translated). This unique opportunity galvanised rapid, concerted investment from a broad range of campaigners.

Few socially democratic parties were in power in Europe after Rana Plaza. France was unusual. Activists in Belgium, Germany, Spain, Sweden, the Netherlands, and United Kingdom[13] often declared that 'legislation is impossible with this parliament', 'we always knew with a conservative government, we wouldn't get legislation'. These expectations are perhaps accurate. The UK Conservative Government rejected calls for liability, made by the Joint Special Committee on Human Rights (2017a; 2017b). That said, the Conservative party could reject calls for liability without jeopardising its popularity or tarring itself as 'the nasty party' because this issue is not politicised, since there is no concerted push for reform from civil society. That was not the case in France.

5. Sustained Activism - through a civil society, academic, and left-wing political coalition

[13] Pessimism was pervasive in my earlier interviews (2016-2018). By 2019, many activists were more optimistic, and had had started campaigns – see full discussion of this in the Conclusion.

With their expectations raised, a small group of activists prepared a bill on the Duty of Vigilance. This section charts their campaign.

The bill was originally developed by a handful of young, female NGO workers. They had collaborated since 2004, jointly reviewing the OECD National Contact Point, and National Action Plan (see also Sobczak and Havard, 2012). They had run several joint campaigns, calling for binding regulation.[14] Through working together, seeing each others' expertise, energy, and dedication, they came to trust each other, and anticipate mutual commitment. Seeking to build on the UNGPs' legitimacy, they developed a working group on parent company liability, and drafted a Duty of Vigilance bill in 2011.

Their campaign was strengthened by diversity and breadth. Environmental, human rights, international NGOs, Catholic socialists, legal justice advocates, academics, and trade unions[15] harnessed their expertise, resources, networks, constituencies, and legitimacy. 'Everyone came with their own strengths' – explained a unionist. The NGOs were energetic, imaginative campaigners: creating comic, inflammatory videos and petitions; mobilising grassroot volunteers (who lobbied deputies). Amnesty's involvement strengthened their legitimacy: it was not just a small, peripheral, radical or militant French NGO, but a major international organisation, with gravitas. 'The NGO work was very important: raising the issue, lobbying, with conviction and expertise, creating petition' – explained one Senator. The breadth of organisations enabled them to mobilise different constituencies – such as the Catholic Socialist supporters of CCFD. Union involvement further enhanced their legitimacy, especially in the eyes of the Socialist Party (historically allied with the French Democratic Confederation of Labour, CFDT).[16] CFDT's General Secretary signed open letters, participated in breakfasts with MPs, and facilitated meetings with ministers. Given their links to the Socialist Party, union involvement gave hope to NGO activists. They trusted each others' commitment, and gave each other autonomy (to pursue parallel initiatives and campaigns, without need for universal agreement).

To secure legislative support, national campaigners and local activists wrote to all candidates in 2012 (before Rana Plaza). Hollande pledged support, along with over 70 deputies elected to the national assembly:

> *I hope that the principles of the responsibility of the parent companies for the actions of their overseas subsidiaries be translated into law when they cause environmental and health damage* [translated, April 2012].

Encouraged by such commitments, activists set to work: engaging with sympathetic legislators. '*The NGOs were very motivated, they were very happy to find THREE deputies who wanted to talk about it*' – laughed one politician [translated]. These three, passionate deputies were Danielle Auroi (Green, President of the European Affairs Commission), Philippe Nogues (Socialist, President of the National Assembly's CSR Study Group, and Dominique Potier (a Socialist, close to CCFD, a Catholic Socialist NGO). Each had long-standing concern for global justice. They developed a cross-party coalition.

They tabled their bills in November 2013.[17] Many Socialist deputies were broadly sympathetic: seeing it as a '*marker of the left'* [translated], but not terribly engaged. Cabinet was largely uninterested. The Minister of the Economy, Emmanuel Macron, had no time to meet with campaigners. It was only in January 2015 that the proposal was finally debated in the National Assembly. After initial discussions, Dominique Pottier proposed a second, weaker version of the bill: only applying to large companies; reversing the burden of proof (requiring claimants to prove wrong-doing); and replacing criminal liability with a civil fine. It was approved at its first reading in the National Assembly (March 2015); and went on for a first reading in the Senate, where it was rejected (November 2015); so went back for Committee Work; then onto a second reading in the National Assembly (which reinstates articles and approves the bill in March 2016); then a second reading in the Senate (with pro-business amendments, October 2016); then a Joint Commission;

[14] These include Amis de la Terre's 2009 campaign "Profits réels, Responsabilités artificielles" (supported by FCRSE and ECCJ); and the 2010 the campaign "Des droits pour tous, des règles pour les multinationales" coordinated by the CRID network and FCRSE (which comprises CCFD, Amis de la Terre, Peuples Solidaires among others).

[15] Key actors included Sherpa, CCFD-Terre Solidaire, Amnesty International, the Collectif Éthique sur l'étiquette, Peuples Solidaires, Les Amis de la Terre France, CFDT, CFT, as well as academics and lawyers.

[16] This is a growing trend in France: unions have broadened their coalitions to leverage impact (Milner and Mathers, 2013).

[17] The Socialists and Ecologists separately tabled identical bills.

and back to National Assembly (November 2016); only to be rejected by the Senate (February 2017). It was consistently rejected by the Senate, which had a right-wing majority.

Throughout this turbulent process, business associations (MEDEF and AFEP) lobbied vociferously. They expressed grave concerns to deputies and ministers: the bill was too vast, legally vague, with huge liabilities, hurting French companies, thwarting their international competitiveness (AFEP, 2015; Figaro, 2016).

Activists tried to galvanise support for the Bill by publicising atrocities (such as Rana Plaza, the Tazreen factory fire, oil spills in Ogoniland, as well as forced labour in Thai fisheries, and West African cocoa farms – Le Figaro, 2015; Novethic, 2016); collaborating with journalists, lawyers, academics, deputies, and MEPs; organising public events; designing humorous videos (such as Amnesty, 2014); launching polls and petitions: engaging the public, and signalling broad support for corporate accountability.

(A still from Amnesty International France's video campaign: "Do not ostrich",
i.e. do not just stick your head in the sand, while rights are violated).

(Organised by Friends of the Earth France, the 2015 Pinocchio Climate Awards called on the public to vote for the companies with the worst track record of adverse lobbying, environmental abuse, and greenwashing. 43'000 people participated)[18].

Their joint petition garnered 183'000 signatures (Avaaz, 2018; Sherpa, 2015).[19] By showcasing public support, they tried to shift politicians' norm perceptions about voters' concerns:

> *For politicians, international issues don't seem like priorities. So, it's very important to get real people to put pressure on them to do something about it. We created a petition, and polls, to show public support, to convey the sense that the public cared about it* – explained one activist.

Careful framing was used to address countervailing interests and norm perceptions. First, advocates portrayed the bill as implementing EU, UN, OECD, and ILO commitments (National Assembly 2016i; Senate, 2015; 2017). Second, campaigners highlighted the growth of legislation in global supply chains: the UK Modern Slavery Act; the Dutch Responsible Business Agreements; the proposed Dutch Law on Child Labour Due Diligence; the EU Non-Financial Reporting Directive; and EU Conflict Mineral Regulation. They also noted that French legislation could influence EU Directives: Grenelle II informed the EU Non-Financial Reporting Directive (2014/95/EU). By shifting norm perceptions (emphasising parallel legislation in other countries), they sought to placate self-interested concerns about French businesses becoming less competitive. (In reality, other laws are weaker and narrower in scope). Third, politicians presented the bill

[18] http://www.prix-pinocchio.org/

[19] By contrast, only 23'000 people signed Oxfam Deutschland's (2018) petition for mandatory due diligence.

as preventive: human rights due diligence would reduce the risk of costly disasters, and restore confidence in companies (National Assembly, 2016b; Senate, 2017). Fourth, they argued that since many French companies are already undertaking due diligence, legislation would ensure a level playing field, so that ethical firms would not be undercut (National Assembly, 2016a).

Besides these self-interested appeals, Dominique Potier (Socialist MP and rapporteur on the bill) made grand, historical, emotive speeches, invoking Republican values. As President Hollande's ratings plummeted, Potier rallied deputies who feared the Left had lost its way.

> *[T]he challenge for our society and our republic is to build a new age of globalization. There was the time of conquest and that of the colonies, the time of capitalism and that of a financial neo-capitalism. Come the age of a new civilization based on human rights.*
>
> *We are the Enlightenment nation... The great tradition of the Republic… is to defend these rights on a universal scale. We are the heirs of these struggles for a new age of globalization...*
> *I appeal to all those whose heirs we are, who fought against slavery, who managed to fight against the slave trade. I recall Victor Schoelcher [a French abolitionist], who said that it was better to lose colonies than honour... How can you miss such a measured step alongside this first step towards a more responsible globalization?* [translated] (National Assembly, 2016b; Minister Michel Sapin, Senators Didier Marie and Jacques Bigot marshalled similar arguments – ibid; Senate, 2015).

Despite this emotive rhetoric, Cabinet remained uninterested. The bill was not a priority. That changed in August 2016, when Macron left his ministerial post to work on his presidential campaign. He was replaced by Michel Sapin, who became a key advocate, putting the bill back onto the legislative agenda. This intervention was likely for party-political reasons: trying to placate/provide a parting gift to left-wing Socialist deputies, who were greatly aggrieved by the fiercely contested, pro-business El Khomri law (2016).

(200'000 people protested against the El Khomri law (BFM, 2016; Viatys, 2016).

Suddenly, change was possible. Dominique Potier and allied campaigners seized this opportunity: labouring through nights, trusting each other, finessing iterations of the Bill, shuttling backwards and forwards to ministries, checking revisions with lawyers: compromising to secure government approval, while trying not to weaken its force. There were only a few short months before the elections (which the Socialists were widely forecast to lose). With less than a week before the close of parliament, the Bill was adopted. As a final move of resistance, 120 right-wing legislators appealed to the Constitutional Council (France's highest court). The Council removed the €10 to €30 million civil fine, but upheld key tenets of the Bill: mandating that large companies establish, implement, or publish a vigilance plan to prevent human rights violations and environmental damage caused by their activities, as well as their subsidiaries and suppliers. If they fail, interested parties (victims, NGOs and trade unions) can ask judicial authorities to order this. Interested parties can also use civil litigation, to secure compensation for damages (for technical details of the ruling see Brabant and Savourey, 2017).

Conclusion

If buyers were liable for human rights and environmental abuses, they would have an incentive to source more judiciously. But rich country governments are reluctant to unilaterally impose such legislation – given business opposition and limited public concern. Accordingly, they have preferred to deregulate, and provide incentives to business. France has bucked this trend: mandating that large companies mitigate risks of abuses, or else be liable.

This Law was not inevitable. Obstacles were overcome by sustained lobbying from politicians and activists. To explain the success of their campaign, one might highlight particular characteristics: a broad coalition; committed politicians; creative public engagement; strategic framing; and a window created by coincidental, internal dynamics within the Socialist Party (discontent from the Left, and an existential identity crisis). But this explanation is incomplete, because it *presupposes* relentless motivation and investment (which did not occur earlier, nor in other European countries[20]).

A coalition of activists, unionists, and politicians heavily invested in a five-year campaign for corporate accountability because they saw *glimmers of hope*:[21]

- Growing international support: multilateral agreements; and laws in other countries;
- Public outcry over Rana Plaza;
- French political culture: scepticism about globalisation; acceptance of state intervention;
- Centre-left government.

These factors did not ensure the law would be passed, they merely raised expectations, which galvanised continued mobilisation. Organisations were more inclined to see this as a winnable project, and invest. Hope fueled their 'marathon' (as activists frequently termed the campaign). They also got lucky, with a fortuitous change of minsters. There are also three qualifiers: the original bill was watered down; 'due diligence' risks becoming a superficial reporting process, without changing procurement practices little busines; especially if French courts exculpate companies, despite strong counter-vailing evidence.

There are now campaigns and parliamentary motions for legislation in 13 European countries. In Switzerland, a huge civil society campaign is pushing for corporate accountability. Though the centre-right government courts a wealth of multinationals, Swiss activists knew they could change the constitution if their popular initiative gained 100'000 signatures, and a subsequent referendum secured a double majority of the people and cantons. Believing change was possible, a growing coalition of human rights, labour, environmental, and religious organisations, as well as journalists, academics, and lawyers invested in sustained activism, publicising atrocities, highlighting parallel legislation in other countries – for six years and counting. As more organisations joined, others saw their growing strength in numbers, gained confidence in the possibility of legislative change, so invested in the Responsible Business Initiative. Hope reinforced a positive feedback loop, improving their prospects. In 2018 and again 2019, the Swiss National Council voted for mandatory human rights due diligence and liability.

'Hope for reform' helps explain both France and Switzerland as forerunners and subsequent campaigns across Europe (i.e. both cross-national differences and change over time). 'The French law showed it was possible, after this long period of thinking legislation is *never* going to happen!' - exclaimed a Dutch campaigner. Expectations of domestic support also motivate activism. Anticipating a leftist victory, Finnish activists campaigned ahead of the 2019 elections, and secured a commitment from the new government. Meanwhile, German NGOs were emboldened by the coalition agreement, and the Ministry of Economic Cooperation and Development's draft legislation on human rights due diligence. In 2019, the Dutch Senate mandated child labour due diligence. Dutch NGOs became more confident they could secure extra-territorial liability, so coalesced to form a public campaign, with lawyers, academics, politicians, and civil servants. In Spain, activists saw the strength of public resistance in the anti-austerity movement and TTIP protests. 'Everyone is seeing the momentum in Europe: things are *happening* in France, Switzerland, Finland and Germany!' – smiled a Dutch campaigner. Seeing campaigns and legislative successes, activists become

[20] Except Switzerland.

[21] No French participants hinted at a shift in their internalised ideologies about what was right/ wrong. They were not suddenly persuaded of the need for legislation.

energised and emboldened, secure organisational backing, and build large coalitions. '[Previously], everyone in my organisation was really sceptical… That really demotivated me to put a lot of effort in it, not having support in my organisation.. Now people are on board! Our press team is *on it*! I'm now really happy to invest... The campaign brings people together, it's really motivating, the campaign workshops, being with people, it's also fun to work on it!' – a German campaigner enthused. Such campaigns improve activists' domestic and also neighbouring country prospects: raising expectations, inspiring sympathetic politicians, embarrassing laggard governments, and alleviating politicians' concerns about international competition. In 2018-19, Belgian, British, Danish, Dutch, German, Luxembourgian, Norwegian, and Swedish NGOs launched campaigns for mandatory due diligence. Norm perceptions are also changing in European parliaments: when pushing for motions on due diligence, politicians invoke the French law and parallel initiatives (Folketinget, 2019). Our peers are changing, and so can we - they insist.

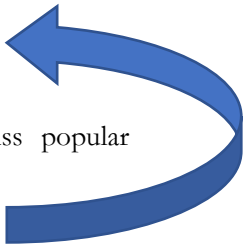
Another attitudinal driver of change over time is NGOs' mounting frustration with (toothless but time-consuming) voluntary processes (especially in the Netherlands and Germany). Though this is not a complete explanation, since NGOs have always wanted legislation. What changed was not so much their internalised ideologies about ideal policy, but their norm perceptions of what is politically possible. Business opposition to legislation is also fragmenting. Tarnished by media scandals, a few retailers have invested to reduce risks of abuses (e.g. Tchibo and Kik in Germany, Kesko in Finland). They now publicly support legislation: either to incentivise their suppliers to perform due diligence, or to create a level playing field, so they cannot be undercut by other retailers. As more businesses join, expectations shift, and others follow suit. Businesses support was important to the Finnish campaign in particular: strengthening legitimacy, reassuring politicians and unions, thus strengthening the reform coalition. As more countries introduce legislation, businesses become more supportive of EU-wide regulation, to avoid a patchwork approach.

There are parallels with other global governance issues. Governments were long reluctant to unilaterally criminalise the bribery of foreign officials, as it would jeopardise comparative advantage (Gutterman, 2017; Koehler 2012). But many governments have since legislated – following the USA's lead in 1977. After Watergate, the US Government investigated domestic and international corruption. This revealed further scandals, fuelling public outrage, and demand for accountability. The centre-left Carter administration was sympathetic. Business resisted, but scandals had eroded their legitimacy. So, in 1977, the USA introduced the Foreign Corrupt Practices Act. US businesses initially opposed the FCPA, but once they realised it was permanent, changed tack, and lobbied for multilateral reform (George, 2000; Gutterman, 2015). The US Government championed the OECD Anti-Bribery Convention (1997), and prosecuted foreign companies (thereby levelling the playing field). Inclusive consultations around the OECD Anti-Bribery Convention also shifted norm perceptions: people realised growing, widespread condemnation. Over in the UK, in the early 2000s, BAE Systems was accused of bribing the Saudi Arabian Government. The UK Serious Fraud Office investigated, but was halted by Prime Minister Blair (Jarrett and Taylor, 2010). The UK fell down the OECD rankings: condemned for corporate impunity. Outrage sparked calls for legislation. This was resisted by Blair, Tory opposition, and the Confederation of British Industry. But the Labour government belatedly championed the UK Bribery Act (2010).

Thus, the UK and USA criminalised transnational bribery due to public outrage, activism, sympathetic centre-left governments, broader shift in expectations, and lucky coincidences. As more countries follow suit, norm perceptions shift. Many OECD governments (even centre-right parties, in Australia and Germany) have criminalised transnational bribery. It has become globally expected. Likewise for climate change legislation, the 'best predictor of a national government's behavior is the behavior of the governments of other countries' (Fleig et al, 2017:101; Fankhauser et al, 2016).

We can now sketch a theory about how activism can overcome global collective action problems . I offer this as a qualitative explanation of quantitative work showing positive feedback loops (ibid).

- Growing international support signals broad support, raises hope for reform:
  - Multilateral agreements;
  - Laws in other countries;
- Scandals and public outcry (Rana Plaza, Watergate, BAE);
- National political culture (French acceptance of state intervention; Swiss popular initiatives);
- Centre-left government (as in France and Finland);
- Advocacy coalitions (hopeful, they campaign for national legislation).[22]



This paper makes three contributions to the literature on global collective problems. First, it suggests that many activists are caught in a global despondency trap, and to explain successful activism, we need to understand what fuels their hope for reform. Through cross-national research, it draws attention to: growing international support, public outrage, national political cultures, and centre-left government. Second, it suggests that the first few countries to introduce stringent legislation may be unusual: with idiosyncratic political cultures, sustained activism, and good luck. These forerunners shift expectations and self-interested concerns in other countries, motivating parallel reforms (enabling a positive feedback loop). Third, this analysis challenges realist models of global collective action problems and preoccupations with free-riding. These theories treat states as unitary actors, reluctant to penalise domestic companies for fear of undermining their international competitiveness. This overlooks domestic politics. To be clear, there *is* a global coordination problem: but not just about self-interest, also despondency. Politicians and activists heavily invest in campaigns for radical reform to address global governance issues if they anticipate success – by seeing domestic support, international agreements, and peer legislation.

Key then, to tackling global coordination problems, is to provide credible reasons for hope.

[22] Other scholars could test/ triangulate this theory with quantitative research. Curiously, most nationally representative surveys ask participants about their internalised ideologies: "Do you want/believe X/Y?". Alternatively, one might collect cross-national survey data on norm perceptions: asking respondents to estimate wider support, and prospects for legislative success (perhaps on a scale of 1-5).

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