

# MAINTAINING GLOBAL SUPPLY CHAIN INTEGRITY

## THE NEW FRONTIERS

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By **Jeffrey Brochin, Esq.**

**GreenPoint**>  
ESR

**EXECUTIVE SEARCH AND RECRUITMENT**

[william.anderson@greenpointglobal.com](mailto:william.anderson@greenpointglobal.com) | [pranav.menon@greenpointglobal.com](mailto:pranav.menon@greenpointglobal.com)  
International Corporate Center, 555 Theodore Fremd Avenue, Suite A102 Rye, NY 10580  
[www.gpesr.com](http://www.gpesr.com)

**The last time you turned on your cellphone, watched your HD TV, drove in your EV, or grabbed your cup of joe to start your day, did you give a second thought as to whether or not slave labor, child labor, or unsafe working conditions went into the manufacture of any of those items?**

Probably not. In our highly material, rapidly escalating tech economy, all of us—for the most part—have a tendency to just say, ‘gimme the goods.’ But fortunately for all concerned, there are supply chain ethicists out there who mind our consumer ethics for us. We will examine how supply chain watchdogs are impacting the global production of our consumer goods and whether or not the tech industry is heeding the call for ethical sourcing.

## From Handicrafts to Healthcare Supplies

Where it all began: In 1946 when Edna Ruth Byler decided to import needlecraft from low-income women in South America, she probably did not know that her initiative was going to be the genesis of a future worldwide movement to help the poor economically. Her Mennonite Central Committee helped inspire SERRV International, a fair trade organization founded in 1949 to assist displaced European refugees after World War II to market their own handicrafts. That organization now operates in 24 countries empowering 8,000 artisans and farmers annually.

By the 1960s, the fair trade movement had gained much traction in the United States by promoting an approach to economics whereby price would be directly linked to actual production costs, with producers being given fair and equal access to markets. In 2007, British surgeon Dr. Mahmoud Bhutta, disgusted by the fact that children as young as seven-years-old were being put to work in horrendous and unsafe working conditions to manufacture surgical instruments, founded the British Medical Association's (BMA) Medical Fair and Ethical Trade Group.

## Contemporary Ethical Sourcing

Ethical sourcing is a practice whereby businesses contract with suppliers who regard the working conditions, sustainability, and other factors in determining whether the raw materials were mined, fabricated, or otherwise placed into the supply chain in a fair and ethical manner. More and more businesses are looking into each phase of the supply chain in order to verify whether their supplies came as a result of child labor, low wages, or other adverse working conditions.

Although the terms ‘responsible sourcing’, ‘ethical sourcing’, and ‘sustainable sourcing’ are often times used interchangeably, ethical sourcing places emphasis on the social and community impact along with the element of humane working conditions, as opposed to just environmental and renewability concerns. The barometer for measuring ethical sourcing is whether, throughout the supply chain, did the sourcing have an overall positive or negative social impact?

## Fair Trade and Electronics

Each year in Munich, Germany, the world's leading international trade fair for electronic components is held. On display are the latest in

## Executive Summary

### > The Issue

Is the issue of ethical sourcing being adequately addressed by manufacturers all along the supply chain route?

### > The Gravamen

Despite widespread abuses in the procurement of raw materials in terms of child labor, harsh working conditions, and other negative social impacts, manufacturers—especially in the automotive and electronics industries—are not taking practical steps to address the problem and are continuing with ‘business as usual.’

### > The Path Forward

Stakeholder demand for more widespread integration of ethical sourcing will likely be key to advancing the universal adoption of ethical sourcing.

components, systems, applications, and solutions that make cutting-edge technology for the entire world of electronics possible. It is also the platform where exhibitors and electronics vendors, in general, make their business contacts, whether for smart homes, electric vehicles, and the whole range of the Internet of Things. But what about the supply chain for those components? Are they being ethically sourced?

Two years ago in China, thousands of temporary workers held a mass protest outside of a major factory in Shanghai after the Taiwan-owned electronics company ordered them to relocate to another facility 63 kilometers away. Workers who refused to relocate due to their family life being located in Shanghai would be dismissed and forfeit bonuses that amounted to a large part of their remuneration. After the police were called to the scene and altercations broke out, the company relented and revised its relocation policy.

## Raw Material and Exploitation

In India, child labor is used on a large scale to mine mica, a mineral that is widely used in the electronics and automotive industries. Terre des hommes, a global child advocacy NGO found that over 22,000 children are involved in mica mining in India alone and that a similar situation exists in 20 other countries where children's rights are violated in the process of extracting this increasingly in-demand material. Working conditions are harsh, many mines are illegal, collapses can occur, and mica dust released

during the process causes lung disease silicosis.

Yet, because mica is used in over 15,000 car parts, 26% of mica continues to be purchased by the automotive industry, and because it is used in thousands of consumer electronics, the electronics industry largely turns a blind eye to this unethical sourcing. In South Korea, the death of a worker from leukemia allegedly caused by exposure to materials at a Samsung semiconductor fabrication plant led to a 1,000-day sit-in and was the impetus for the UN Special Rapporteur on Human Rights and Hazardous Materials questioning whether the South Korean government itself withheld relevant information from the families of Samsung workers.

## But Is It Illegal?

As more countries adopt stricter laws on child labor and workplace safety, the issue might not become one of illegality for the manufacturer at the end of the supply chain, but it certainly does implicate the source suppliers. Not only are many of the mica mines in India illegal, but the problem extends to other material source suppliers as well. In the Congo, 200,000 'artisanal' miners—informal diggers—go deep into the ground every day to bring up cobalt, another highly valued mineral used in lithium batteries that power everything from cellphones to electric vehicles.

The artisanal miners flagrantly violate Congolese law—including skipping out on export fees—while at the same time defying the rights of the site owners. But at a profit of

## Action

### 1 Know Your Supplier:

The client who is serious about engaging with ethical sourcing must thoroughly investigate the practices of the supplier—and the supplier's suppliers along the way.

### 2 Obtain Certification:

Although the various fair-trade organizations do not have legal enforcement powers (except as to use of their marks), they nevertheless can serve as highly useful resources for tracking the entire supply chain process.

### 3 Emerging Technology:

Technologies such as IBM's Thank My Farmer app should be investigated to see how blockchain can be used to validate ethical sourcing in your client's industry.

### 4 Shareholder Influence:

Clients should be mindful of the negative corporate image that will be fostered by procuring materials that have not come through ethical sourcing routes, and by working with activist shareholders, the company's public image can be maintained without fear of child labor and other scandals arising.

\$200 per week in an economy where the average income is \$2 per day, charges of child labor, corruption, and dangerous working conditions are likely to go unheeded for the foreseeable future. And there are those who argue that with stricter enforcement of ethical sourcing globally, hundreds of thousands of workers, perhaps millions, may face a much more difficult economic situation.

### **Ethical Sourcing and ESR**

Perhaps the real pressure for reform will come from shareholder demand as part of the adoption of ESR-related principles.

Stakeholders who are now placing corporate image alongside corporate profit are increasingly voicing their concern as to the ethics of their company's supply chains and the tarnishing of their company's image. Certain technology is emerging to better track material in the supply chain throughout its journey. For example, IBM has developed an app, 'Thank My Farmer' which uses blockchain technology to create a permanent digitized chain of transactions that cannot be altered, tracking each step of a coffee bean's journey.

Closer scrutiny of the entire supply chain process, from mines to transport, country of origin export, and manner of distribution, is likely the key to bringing about more meaningful change for the benefit of all concerned.

**“THERE ARE SOME HORRIBLE WORKING CONDITIONS; KIDS AS YOUNG AS SEVEN MAKING SURGICAL INSTRUMENTS; PEOPLE LOSING LIMBS. IT'S HORRENDOUS.”**

—DR MAHMOUD BHUTTA,  
FOUNDER OF THE BRITISH MEDICAL  
ASSOCIATION'S (BMA) MEDICAL FAIR  
AND ETHICAL TRADE GROUP

## Further Reading

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1. <https://www.sedex.com/blog/what-does-ethically-sourced-mean/>
  2. <https://www.theguardian.com/sustainable-business/nhs-healthcare-supply-chain-guidelines>
  3. <https://www.newyorker.com/magazine/2021/05/31/the-dark-side-of-congos-cobalt-rush>
  4. <https://www.accaglobal.com/sg/en/member/member/accounting-business/2019/10/insights/ethical-supply.html>
  5. <https://www.intertek.com/blog/2016-11-15-ethical-sourcing/>
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### **Jeffrey Brochin, Esq.**

GREENPOINT STAFF COUNSEL AND  
CONTENT EDITOR

After receiving his Juris Doctor degree from The John Marshall Law School in Chicago, Mr. Brochin served as an Administrative Law Judge with the Illinois Department of Labor for six years where he presided over cases dealing with job separation issues and matters pertaining to contested Unemployment Insurance claims. He also co-wrote the agency's administrative rules, and periodically served as a 'ghost writer' for Board of Review decisions.

Following that position, he was Director of Development for a Chicago-area non-profit college where he was responsible for High Net Worth donations to the institution. For the next eighteen years he practiced as a solo practitioner attorney with an emphasis in the fields of Real Estate law and Commercial Contracts transactions, and was an agent for several national title insurance agencies.

In 2003 he was recruited to head up a U.S. title insurance research office in Israel, a position he held for four years, and between 2007-2017 he participated in litigation support for several high-profile cases. He has taught Business Law as a faculty member of the Jerusalem College of Technology, and has authored a wide variety of legal White Papers and timely legal articles as a professional legal content writer for GPL clients. Separate from his legal writing, he has co-authored academic articles on Middle East security topics that have been published in peer-reviewed publications.



### **William H. Anderson, Esq.**

MANAGING DIRECTOR

William Anderson is Managing Director and Head of Law & Compliance. He leads the GreenPoint practice in providing regulatory, legal, and technology solutions to law firms, legal publishers, and in-house law departments around the world, overseeing our team of experienced US attorneys and data and technology experts. Will has over 25 years' experience working with corporations to improve the management of their legal and corporate compliance functions. Will began his legal career as a litigator with a predecessor firm to Drinker, Biddle LLP. He then served as in-house counsel to Andersen Consulting LLP, managing risk and working with outside counsel on active litigation involving the firm.

Will has leveraged his legal experience interpreting regulations and appearing before federal (DOJ, SEC, FTC) and state agencies (NYAG) to oversee research and other areas at Bear Stearns. In this capacity, he counseled analysts on regulatory risk and evolving compliance requirements. Will also consulted on the development of a proprietary tool to ensure effective documentation of compliance clearance of research reports. Will then went on to work in product development and content creation for a global online compliance development firm pioneering the dynamic updating of regulated firms' policies and procedures from online updates and resources. Will holds a Juris Doctorate with High Honors from the Washington University School of Law in Saint Louis and is admitted to state and federal bars. He lives in Pawling, NY, with his wife and daughter.



### **Sanjay Sharma, PhD**

FOUNDER AND CHAIRMAN



### **Pranav Menon, Esq.**

LEGAL RECRUITMENT MANAGER  
AND DATA PRIVACY SPECIALIST –  
LAW & COMPLIANCE | GPESR





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## About GreenPoint Law & Compliance

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