Shirt off your back: the potential for ethical clothing markets
Andy Hira

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Introduction

Over several decades, stories about workers in developing countries who suffer from disastrous working conditions while making consumer goods for us have become part of the landscape. The idea of resolving such issues seems tantalizingly simple. A study in 2011 suggested that a mere increase of 2 to 6% in the final retail price could finance a 100% increase in production worker wages in the garment industry, for example (Heintz 2011, 269). As recently as 2012, a series of reports by The New York Times about FoxConn, the premier electronics components manufacturer in the world, including for Apple, revealed a rash of worker suicides protesting conditions in Chinese factories. Apple promised to set things straight. A clothing factory in Rana Plaza in Bangladesh collapsed in 2013, reflecting a continuing lack of basic worker safety standards, and violating the pledges of our clothing companies that the situation had been rectified after previous incidents. Meanwhile, a series of strikes by Cambodian textile workers pushed for minimal wage increases in 2014, but the government warned that work would be lost to other countries. In the apparel industry, many of the workers are women with few career options, partly explaining why workers subject themselves to such conditions. In this article, we propose to examine why anti-sweatshop movements going back several decades have failed to change the fundamental working conditions in the developing world, with a focus on the case of Bangladesh. Using independent assessments, news reports, and stakeholder interviews,¹ we analyse the flurry of new activities pursued in Bangladesh by foreign governments, companies, and the government at the instigation of international labour and ngos to secure worker safety through a stakeholder analysis. We find that while there are prospects for improvement, there is still not a system of governance that will ensure minimal labour standards. We suggest a long-term solution to the problem must work through improving workers’ political presence.

The Growing Importance of the Garment Industry in Bangladesh

A comprehensive analysis of the clothing export markets by the World Bank (2012, 2-3) after the expiration of the Multi-Fibre Agreement in 2005 finds that wage differentials only explain 30% of the location of production for apparel exports; the rest depends in good part on location, country policies to promote the sector, and the ability to upgrade to higher value-added components of production.

¹ 10 interviews were conducted by phone and skype from Nov. 2014-Jan. 2015 with think tanks, NGOs, companies, inspection agencies, and business associations working on the ground in Bangladesh on these issues. In order to ensure honest and thorough answers, anonymity was ensured.
The economic structure of Bangladesh has changed significantly over time as can be seen by the charts below, with garments increasing steadily and other products reducing their share.

**Figures 1a-c: Export Composition of Bangladesh, 1980-2007.**

Similarly, while there were only 134 garment factories in Bangladesh in 1983, by 2008, there were 4825. Garment exports now provide employment for more than 3 million people (Oh and Sardar 2013, 36); some estimates suggest 5400 factories and almost 4,000,000 workers (TIB 2013, 1).

In 1980, the top export destinations were, respectively, the US, Japan, Italy, the UK and Singapore. In 2000, the top export destinations were the US, Germany, UK, France, and the Netherlands. However, the value of exports to the US remains twice as large as to Germany. Bangladesh is trade deficits come primarily from a large number of imports from India and China (Oh and Sardar 2013, 38 &42).

The government continually struggles to maintain a balanced budget. There are several sources of problems. One is the subsidy on school and fertilizer prices. Another is the lossmaking state-owned enterprise Bangladesh Petroleum Corporation. The government employs one third of all workers in the formal sector, however most people are still employed in the informal sector (Economist Intelligence Unit Country Profile 2008).

The ready-made garment industry is the largest category of exports. However it requires a large proportion of imported inputs. In 2008, 90% of garment workers were female (Economist Intelligence Unit Country Profile 2008), though according to some interviewees, the percentage is dropping. The graph below demonstrates the growing importance of clothing exports to the country.
Using data from the largest markets, we can also track the impressive growth of the Bangladesh apparel industry. The first set of graphs shows imports of clothing (HS 61) from the top 10 country sources to the US. The data over the past 2+ decades demonstrate an overall shift in the division of labour, as now developed economies Korea and Taiwan drop out, and textile work shifts to Central America and Bangladesh. In the case of Bangladesh, several authors including the World Bank (2012, 215, 219, 228) point to the vital importance of government support behind the growth of the sector. One interviewee summarises the support thus: (a) a cash compensation scheme (started with equivalent to 25% of f.o.b. value; subsequently reduced now to 5%); (b) import of raw materials through bonded warehouse (at zero-duty) and (c) facility of import of raw materials and fabrics under back to back L/C (against master L/C issued by the buyers) that allowed entrepreneurs to start business with low working capital and hence low investment. As a result, apparel exports went from 0.4% of total exports in 1981 to 79.3% in 2009. On top of this, the government granted cash incentives for exports of apparel from locally produced yarn and fabric, improving backwards linkages. The government also provided subsidized credit and direct support for investment in land development, power, and infrastructure.
Top Global Exporters, Textile and Apparel, 1989 & 2013

1989 HS 61 ($)

2013 HS 61
Source: Author from USITC, database accessed Oct. 2014. HS 61 is apparel and clothing, knitted or crocheted, while 62 is apparel and clothing, not from knitted or crocheted sources.

We can reinforce these trends with an examination of Germany, the largest European market.
Is This Time Different?

Emergence of Accord and Alliance System of Safety Inspections

On April 24, 2013, 5 garment factories in Rana Plaza, Bangladesh, collapsed, killing an estimated 1100 workers and injuring 2500 others. This latest incident reminded everyone of the horrendous working conditions under which many of our clothes are made. A factory fire in Nov. 2012 at Tazreen Fashions and 130 workers dying in 2005 alone from factory collapses and fires indicate a recurring issue (Monjur Morshed 2007, 106). Bangladesh is the 2nd largest garment producer in the world, after China, and garments account for some 70% of all exports. There are at least 5000 garment factories in Bangladesh. This time, again, both the government and companies have claimed new actions would lead to more permanent solutions.

The actions that appear to be a break from the past are based on the creation of two major consortia who have pledged to change working conditions. The first is the Bangladesh Accord on Fire and Building Safety, including 150 apparel companies, two global labor unions (IndustriALL and UNI), several local unions, and several NGO signatories (WRC, ILRF, CCC, and MSN). It legally binds companies to spend money to improve factory conditions. Companies include several of the largest European brands, such as H&M, which purchases over $2 billion/year of clothing from Bangladesh. The Accord mandates inspections of 65% of directly contracted factories, bans those who do not comply with audits or address violations immediately, and requires the international firms who sign the Accord to spend up to $500,000 per year on safety investments. Most importantly, it gives legal liability for damages in a disaster to the international firms. However, there are no mandatory requirements for suppliers to invest in safety, nor does the inspection system extend to subcontractors. All interviewees suggest that the Accord could be an historic milestone in that it sets liability and requires union
involvement. The second is the Alliance for Bangladesh Worker Safety, including 26 mostly US retailers, such as Walmart, Target, Sears, the Gap, Nordstrom’s, Macy’s, J.C. Penney, L.L. Bean, Canadian Tire, the Children’s Place and Walmart. Some interviewees say the Alliance was formed in response to the Accord, initiated when the Gap pulled out for fear of the liability and financial remediation costs. The Alliance forces 100% of the roughly 500 factories involved to be inspected within the first year and increases the per factory financial contribution to renovations and training to a maximum of $1 million per manufacturer, considerably more than the European-based accord. However, it removes legal liability from the international companies (Bearnot 2013, 96-7), and unions are not direct parties. Moreover, it relies on local companies to take out loans from the IFC of the World Bank to cover the costs of remediation.

The Bangladeshi government also responded. In June 2013, the parliament passed amendments to the labor law with significant changes, such as prohibiting factories from blocking exits, mandating fire drills every six months (versus 12), removing the requirement that government share the member list of unions with employers, and lowering the required number of votes for strike to two thirds from three quarters. Maternity leave for garment workers is also extended from 2 to 4 months. Nonetheless, there remain significant obstacles to workers’ unionization. More than 30% of a company’s employees must agree to certify a union. This is problematic as many companies have far-flung factories. Unions are also banned from hiring external advisors to help with administrative, organizational, or negotiating challenges. This opens the door for companies to simply fire would be union leaders (Bearnot 2013, 97).

A number of locally-based activities in Western countries, such as the Clean Clothes campaign, have put further pressure on retailers. In regard to compensation for Rana victims, companies also pledged $40 million in compensation for the workers, however only $15 million have come through. The International Labour Organisation (UN) is managing the fund. Canadian-based Loblaw’s, which controls the Joe Fresh line, has pledged $3.3 million according to the Rana Plaza Trust Fund site. It is part of the Accord. There appear to be a number of NGOs involved in the effort, including the International Labor Rights Fund (ILRF) in the US and the MSN, and the CCC. United Students Against Sweatshops successfully pushed several university brand suppliers to sign the Accord. There is no question that the pressure is having an effect on conditions in Bangladesh. One interviewee states: “If disasters didn’t happen, the government wouldn’t act. The government is indifferent. Workers are considered disposable. There are thousands of workers each of whom can be easily replaced since they are uneducated and lack skill. Therefore foreign pressure is key to creating change. The value of foreign pressure can be seen in the wiping out of child labor in South Asia. The combination of foreign pressure and education to change values allowed for enforcement (of child labour laws) to take place.”

There has not been enough time yet to make a full assessment of activities in the aftermath of Rana. The new Bangladesh Labour Act of 2013 capped off a year of activity by the government to assure foreign investors of renewed effort. It reflected the changes, mostly focusing on building safety, in the “National Tripartite Plan of Action on Fire Safety and
Structural Integrity in the Ready-Made Garment Sector in Bangladesh” released by the Min. of Labour and Employment on July 25, 2013. The Plan was signed by the major private sector organisations, including the BGMEA (Bangladesh Garment Manufactures & Exporters Association) and BKMEA (Bangladesh Knitwear Manufacturers and Exporters Association), however, there are no signatures by any unions. BGMEA and BKMEA have also initiated their own compliance programs (Nasrullah and Rahim 2014, 127-42). These have created a third set of inspections by the government and carried out by BUET (Bangladesh University of Engineering and Technology) alongside those of the Accord and the Alliance.

The ILO in Oct. 2013 launched a $24 million project to support the national plan of action. The program provides technical support, spreads awareness, and aids victims of industrial disasters. According to the ILO (2014), “building inspection standards have been harmonised, procedures established for the closure of unsafe factories and almost 60% of garment factories nationwide inspected for structural and fire safety.” Outside experts can now come in to bargain with management on behalf of unions, and a central fund is to be created to improve workers’ living standards. On top of this, factories with over 50 workers must establish safety and health committees with members of the workforce. The labour regulation system is being “rebuilt from the ground up with both new and existing inspectors from the factories and fire safety departments receiving comprehensive training,” reflecting that “the Government of Bangladesh has shown a real commitment to change.” This includes a newly rebuilt Dept. of Inspections for Factories and Establishments (DIFE), including 392 new inspectors, a new accountability unit, and an increase in budget from $900,000 in 2013-14 to $3 million in 2014-15. They cite the increase in the number of trade unions in garments from 131 at the beginning of 2013 to 367 by Sept. 2014. The US Dept. of Labour and the Norwegian Govt. have funded local capacity efforts for workers, including an advocacy campaign, training events, and a new electronic registration database maintained by the Dept. of Labour and Employment in Bangladesh. The same Dept. is to initiate a dispute settlement and mediation system. Nonetheless, most interviewees stated that they had no confidence that the Bangladeshi government would be able to take over from the Accord/Alliance after 5 years, and that some continuing outside presence or involvement is likely, but they are unsure of its nature.

The DIFE inspection database is now on-line and one can read the inspections. The categories are fire, structural (such as weak roofs) and electrical and contain notes and times lines for action plans. So far, there is no visible report showing “corrective actions completed,” however it is still very early in the process. It appears that BUET (Bangladesh University of Engineering and Technology) is conducting some inspections while the Accord and the Alliance are conducting their own. The latter two feature reports noting that union representatives were present at inspection meetings. There is conflicting information about the results as of Oct. 11, 2014 when the websites were checked. According to the Government website (http://database.dife.gov.bd/reports/safety-assessment-reports), 6/504 factories inspected have been shut down; all three inspection agencies shut down at least one. However, on a separate
page titled “One year after Rana Plaza,” they claim that 3498 inspections have taken place. The Accord database appears to be harmonised with the Government’s, however, it is impossible to use their website to aggregate any overall picture of activities. According to the Alliance website (http://www.bangladeshworkersafety.org/factory-information/government-review-panel-summary-reports), 580 factories were inspected, with 5 closed, 12 partially closed, and 2 operating with a reduced load; the factory reports give a mixed committee of the Alliance, Accord, BUET and BGMEA conducting and agreeing up the assessment. When factories are closed, workers are given compensation in the form of 50% of their salary for a month. Both the Accord and the Alliance websites give factory location information. One interviewee stated that while very few factories have been closed, all of the factories inspected by the outside parties have revealed rampant safety issues throughout the sector, particularly issues with electrical systems creating fire hazards and lack of basic fire exits.

One interviewee in Dhaka sounds a cautiously optimistic note, “Before Rana Plaza, there was compliance of sources, but designed only for a certain amount of output and labor. Everyone, including the companies, knew the hypocrisy. Everyone was looking the other way. That model is now under scrutiny. There is pressure from the Alliance and the Accord to align output with sourcing from particular factories. So the norm is changing.”

*Formal Assessments Reinforce the Fact that Many Issues Have Yet to beResolved*

The ILO report (2014) states several shortcomings, however. The first has been widely publicised by NGOs, namely the lack of compensation from companies who had committed to compensate Rana victims. The second is a lack of follow through “remediation” for factories which have been found to fall short of standards. The third is the shortcomings of the new Labour Act in regard to bringing freedom of association and collective bargaining rights up to international standards. One interviewee estimated that 80% of Bangladeshi factories are keeping double books, making compliance outside of building structural issues challenging.

Most reports indicate a major deficiency in the capacity of the government to regulate the sector (Saini 2013). The plethora of activities, including the two different major corporate efforts, indicate a lack of agreement about what needs to be done, and how to do it. The Accord and Alliance last only five years, indicating their temporary nature. Walmart, the Gap and other major US retailers expressed concerns about legal liability in the Accord. It is notable that unions are not part of their agreement. The Workers’ Rights Consortium, working with the Accord, published a report on conditions at over 1,000 factories in Oct. 2013, finding abuses in a Gap factory. The Institute for Global Labour and Human Rights revealed around the same time that both the Gap and Old Navy also abused workers in terms of number of hours and not paying for work (Ellis Oct. 2013).

Beyond this are still bigger long-term issues. The first is that the national inspections have no enforcement capacity. The Centre for Policy Dialogue (CPD 2014, 46) states “Unlike
the Accord and the Alliance, no buyer relations are particularly dependent on BUET’s inspection outcomes except for the structural team’s declaration of any fatal structural hazards. Factories cannot be shut down based on fire safety violations; the suggested logic being that even the slightest incident such as electrical spark ordained that cigarette can lead to a devastating fire a garment factory. As a result, the effectiveness of particularly the fire inspections can only be realized once there are adequate enforcing agencies that regularly follow up on factory safety.”

They go on to note the challenges of the topography of the garment industry in Bangladesh. Some factories are garments only, but many are multi use buildings with multiple owners and activities. Moreover, some factories have multiple suppliers and owners. This is on top of the fact that many factories supplying to multiple buyers.

The first annual report of the Alliance (July 2014) reports on its accomplishments, including inspections, financing for both remediation and compensation to factory workers whose factories had been closed down, several large surveys, and training of 1.2 million workers on safety. They also set up a helpline through which workers can provide a confidential channel for complaints. The financing remediation appears mostly in the form of loan guarantees or loans through the IFC (part of the World Bank). Their before and after surveys of worker safety knowledge showed significant improvements. The report notes an amendment to the original agreement to allow workers the right to refuse unsafe work and the appointment of three local labour leaders to their Board of Advisors. They also list an important set of challenges remaining, including (23):

- lack of capacity in government inspection agencies;
- 40% of garment factories in mixed-use buildings;²
- major unauthorised subcontracting based on pricing pressures
- lack of leverage of individual companies because factories respond to many
- factory remediation is still cost prohibitive
- lack of literacy and culture of safety among workers
- workers “have limited power to force change or require safety improvements without support”
- worker organisations remain weak, and workers who have tried to assert their rights have been harassed

The Alliance’s Roundtable Report (Feb. 2014) reinforces these findings with some other problematic issues. Based on their survey of 3,200 workers (6), they found that 54% of workers do not feel responsible for health and safety, and 73% think that some fatal fire accidents can not

² Rana Plaza had a shopping mall and 5 factories.
be prevented; only 17% would talk to their worker representatives about safety concerns. Only 2% correctly identify common fire hazards.

**Other Evidence of Ongoing Issues**

Despite all of these well-intentioned efforts, it appears that the problem has not been solved. Only 237 of the 5,000 factories have unionised, according to Amirul Haque Amin, the president of the country’s National Garment Workers’ Federation. News reports highlight ongoing safety issues (Butler 2014). Meanwhile, both the local owners, represented in the BGMEA and BKMEA and the Bangladeshi government has expressed concern that raising wages would push the work to other countries. Some analysts echo this concern, suggesting that the loss of wage jobs would particularly hurt females attempting to enter into employment for the first time (Kabeer 2004). In addition, a common concern echoed by several interviewees centres on the lack of remediation financing, despite promises, thus far.

During November 19-20, I conducted a search for the keyword “garment” from the following on-line Bangladesh newspaper sources:

- Prothom Alo
- New Age
- The Financial Express
- the independent

While the search engines do not go back far enough to do a quantitative analysis, I was able to locate a number of events and policy positions that shed further light on developments in the Bangladesh garment industry since Rana Plaza.

**Key Events**

- In May 2014, one worker died and 300 others felt sick after drinking water at a Supreme Knitwear factory in the export processing zone.³

- In July 2014, 30 people were injured as apparel workers clash with police as they protested payment of dues and festival allowances at multiple factories. Workers of two garment factories in the Export Processing Zone also staged a sit in.⁴

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In August 2014, hundreds of workers staged a demonstration in front of the BGMEA to protest the Jamuna Fashion Wears Ltd. company closing the factory without notice and without payment of termination benefits as legally required.

In September 2014, workers formed a human chain in front of the National Press Club in Dhaka to demand payment of dues Festival allowances from the company Mamun Garments Ltd. There were also ongoing disputes between workers and the head of the Tuba Group, Delwar Hossein, who was responsible for the Tazreen Fashions factory which caught fire in 2012. Hossein was able to get out of jail through promising to pay workers remaining dues, but then he dragged his feet claiming that he needed settlement of insurance claims first. This led workers to protest the lack of payment in front of the National Press Club on Sept. 11. Police stopped the protestors as they headed towards the labour ministry. In the same month, workers held a 2 hour sit in in front of the Need Asia Group over the alleged illegal firing of 100 workers. In the same month, a factory of Cordial Design Ltd. in Dhaka caught fire. There were no casualties.

In October 2014, workers of Dorin Fashions Ltd. protested in front of the Bangladesh Garments and Exporters Association Building to protest the relocation of the factory without paying their dues, and back salary and benefits. In addition, officials identified some 385 garment factories where wage Festival allowances remained unsettled.

In November 2014, 4000 garment workers of five different factories demonstrated as work shifted away from their factories to others.

**Key Assessments**

- In Feb. 2014, Human Rights Watch issued a press release stating that the Bangladesh government “should stop garment factory owners from intimidating ad threatening workers for organizing trade unions, and prosecute those responsible for attacks on labour leaders.” The organisation interviewed 47 workers in 21 factories around Dhaka. Workers claimed that there was not only intimidation and mistreatment, but also threats to kill those involved in setting up unions. Labour union activists claimed that “yellow unions” were being set up by factory owners themselves to control the situation.

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12 "4000 workers of 5 RMG factories remain unpaid for months," *New Age*, Nov. 12, 2014. It is notable that a cement factory in Mongla collapsed in March 2015.
On April 24, 2014 a progress report by the Bangladesh commerce ministry on the 16 point action plan that the United States government gave to Bangladesh in order for trade benefits to be reinstated revealed that only six out of 16 conditions were met. In the same month, the Centre for Policy Dialogue, a civil society think tank, released a report saying that both the government and the BGMEA had fallen behind on their pledges in terms of both financial support and legal measures for victims of the Rana Plaza tragedy.

In April 2014, the Bangladesh Occupational, Health and Environment foundation released report stating that in the garment sector 3 workers died in 17 were injured from January to March 2014 alone.

In June 2014, a row erupted between the Bangladesh Government’s Inspector General of Factories and the Accord over minimal concrete standards for safety. The Inspector General refused to close down 6 factories that have been deemed unsafe. One BUET professor said that it might lead to the closure of 40 to 50% of all garment factories in the country.

In a November 2014 meeting, Commerce Minister Tofail Ahmed said ”global retailers’ groups – Accord and Alliance - were responsible for the negative growth in the country’s export earnings in the last couple of months of the current financial year.” He said that even though industrial accidents occurred around the world, the Accord and the Alliance only had operations in Bangladesh. He said that the Western groups had found structural faults in less than 2% of the 1800 garment factories they inspected, while the percentage of global vulnerable factories is 2%. He also said it was “very much interesting that there were trade unions in only 9% of the factories in the US whereas they mounted pressure in Bangladesh to introduce trade unions in 100% factories.”

These issues warrant a more in depth examination of whether the new arrangements can succeed over time in finally resolving the long-standing problems. If not, it begs the question of what alternatives exist. We begin our analysis with a review of the major perspective on labour rights.

Economic Perspectives

The core idea of supply and demand forces sums up well the baseline issues from the economics perspective. The bottom line is that there are major labour surpluses in the developing world, unskilled labour with no jobs waiting for them. Thus, the anti-sweatshop movement is fighting against basic forces of nature. Perhaps there should be more understanding of the need for population control, most effectively gained through women’s rights to work and

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education and access to contraception, by such movements. Economics also explains why work is apparently so geographically tenuous; companies have a natural incentive to move to the cheapest wage conditions which globalisation (reduction in transactions costs) has enabled. The economics perspective, as illustrated in the graph below, would expect that surplus labour will slowly be siphoned off, leading eventually to rising wages and export diversification through government policies, such as investment in human capital.

![Graph illustrating economics perspective](image)

Labour markets in practice do not operate as smoothly as suggested by this perspective. Particular industries need different skill sets, and employees may be slow or unwilling to relocate. As industries move from large, concentrated, routine, and integrated enterprises such as shipbuilding and autos in the North, unions have become less prevalent. In turn, the political acceptability and effectiveness of union associations has declined (Fairbrother, Lévesque, and Hennebert 2013, 6-7). Moreover, there are limited prospects of North-South linkages among unions given that they are competing with each other for jobs. Families may choose to allocate household, family, or self-employment tasks in ways that do not show up in formal employment indicators. The same is obviously true for those who lack full citizenship rights (Smith 1994, 311 & 341). From a Keynesian point of view, multiplier effects could work in both positive and negative directions. Increasing wages lead to increasing consumption, in turn increasing wages, and vice versa.

A pure economic analysis reveals a strong diagnosis, but not much of a solution in the immediate term. Workers’ rights and social safety nets are not necessarily linked to increases in income. In East Asia, and China in particular, for example, wages have increased with few signs of rights improvements and limited safety nets. At the same time, empirical studies suggest that
productivity increases are *not* correlated with compensation, nor do labour standards negatively affect compensation or attract foreign direct investment (Raynauld and Vidal 1998, 63; Flanagan 2003, 47; Flanagan 2006, 136). Rather, as incomes increase, so do demands for worker safety. Increasing incomes also correspond with declining child labour rates (Flanagan 2006, 42-3). These findings make intuitive sense given the wage stagnation but higher compensation in the West. Nonetheless, the issue of labour rights is measured in these studies on the basis of ratification of ILO conventions rather than actual enforcement (Mah 1997, 784). More importantly, they parallel another issue with the standard economic thought— they miss the quality of the work done by employees. The quality will depend in part on education, but also upon more intangible factors related to the management, motivation, and morale of the workers (Elliot 1991, 5). Shifting industry needs outpace the ability of educational institutions to train workers appropriately.

Most authors argue that trade does not lead to a deterioration of working conditions as critics often claim (Flanagan 2006, 187). Multinationals, because of outside scrutiny, are more likely to have better working conditions than the rest of the economy and therefore resist further ramping up standards. Economic logic tells us, moreover, that raising the conditions in just one sector and in those limited to multinationals will have a rather limited effect on workers throughout the economy. The upshot is that if conditions improve in one factory run by multinationals, there will still be huge incentives for cheating based on the lack of those conditions in the rest of the economy, hence the proliferation of subcontracting in the industry.

It is moreover an issue that trade agreements have generally excluded labour provisions, effectively separating economic transactions from social and environmental ones. Labour provisions tend to be side agreements with no enforcement provisions, such as in the NAFTA agreement. This reflects the lack of domestic pressure in countries of the West for such linkage, in turn reflecting the decline of union power (Lorenz 2001, 223). In turn, organisations such as the WTO have resisted including social and environmental clauses by using the excuse that such were the responsibility of the ILO. This is problematic since the WTO is a much stronger institution, offering the leverage of each dispute resolution mechanism and its tradition of reciprocity as a form of enforcement that the ILO simply does not possess. It is interesting to note that employment and decent working conditions were left out of the millennium development goals (Rodgers, et. al 2009, 216 & 227). In fact, there is no evidence that agreements such as NAFTA have led to improvements in working conditions in Mexico (Huberman 2012, 170).

**Rights Perspectives**

The right of workers to organise has long been promoted as a fundamental human right. It is embodied in the development of the International Labour Organisation (ILO), a branch of the UN designed to promote labour standards around the world. Worker rights are generally linked to collective bargaining and unionisation. Unions were evidently at the centre of many of
the hard won gains in the West in regard to improvements in working conditions and labour protection laws. The key to such gains was the development of state protections for unions, such as the right to collective bargaining and the right to strike.

The ILO was created as part of the League of Nations in 1919, based on impetus from the U.S.-based American Federation of Labour and other national unions. Immediately attempts to reach agreements in the South were challenged as being impractical and creating competitive disadvantage. While this issue has become less important over time, the lack of enforcement remains the Achilles’ heel of the ILO (Engerman 2003, 62). The ILO governs through “tripartism” whereby both workers and employers have representation along with states, a unique arrangement among international organisations. However, it also inhibits the ability of the ILO to take pro-active stances at times, such as the inability to suggest alternatives to neoliberalism (or shifting to market-based economic governance) from the early 1980s. Moreover, this arrangement lends itself to critiques that informal sectors of workers and other civil society organisations are not represented (Rodgers, et. al 2009, 17 & 197). The graph below summarises the expected dynamics of the rights perspective.

The rights perspective has strong normative arguments, but has made a limited difference in the real lives of workers around the world. International efforts have fallen short of establishing the norms that Western workers enjoy. The International Trade Union Conference annually reports hundreds of cases of violence against union activists around the world (Garwood 2011, 29). A number of authors make a persuasive argument that the Western experience of improvement in labour conditions is closely tied to the historical strength of collective bargaining, which naturally improves leverage for workers in a particular sector.
Collective bargaining also likely has the effect of compressing wages at the high-end while raising them at the lower end (Moene and Wallerstein 2003, 101).

The ILO has no ability to enforce compliance thus creating collective action issues. When it tried in 2000 to get members to sanction Myanmar for gross violations, the effort failed. The ILO not only lacks enforcement provisions, including issue linkage to trade, but also suffers from chronic underfunding. For decades the US refused to pay its share, which amounted to some 25% of its budget (Seidman 2009, 587). The ILO’s more recent theme of “decent work” for all, including jobs, worker rights, social protection, and social dialogue between workers’ organisations and employers’ organisations is another laudable effort that lacks teeth.

Whether coming from a push from Northern consuming states or Southern producing states, there appears to be quite limited ability to enforce the rules. Even if the rules were enforceable, such a task it could be problematic. For example, how would one determine the appropriate minimum wage? Moreover, collective bargaining rules have always been seen as a subject for domestic decision-making.

Value Chain Perspectives

Given the absence of either economic incentives or international enforcement to create labour standards, the main instrument should be domestic enforcement. Throughout the West, domestic labour legislation enforcement and the creation of social safety nets changed the status of workers, and helped to build middle classes. Unfortunately, there has been almost no capacity or willingness on the part of governments to enforce labour laws. So, the question from a political analysis perspective is where can pressure come from for change?

Gereffi and Korzeniewicz (1994, 97) point out power can be understood by examining the supply chain of production. They distinguish between producer-driven and buyer-driven chains. The former would exist in high capital and high technology sectors, wherein the lead firms, such as Apple, would retain the most power. Buyer-driven chains are found in labour-intensive sectors, where marketing and product design by leading retailers are the most important levers of power; this would typify clothing markets. In buyer-driven chains, we would expect to see less vertical integration.

The GVC literature also tends to be heuristic, rather than generating a clear set of policy or consistent empirical propositions (Author 2013). Sverisson (2004) points out further that the difference between buyer- and producer-driven chains is sometimes elusive. He notes that the commodity chains literature “exogenises” changes in markets, particularly price and innovation, that drive changes to and in the chains. Further the links between and among chains and the fragmentation of chains related to specialised production functions, such as subcontracting for an MNC, are not well mapped out.
Subsequent empirical studies reveal unsurprisingly that the nature of chains is considerably more complicated than the expected duality. For example, some would argue that in some commodity markets such as in coffee or cocoa, the wholesale, rather than the retail, retains the most power. Some industries, such as software, may also depend on new sources of technology, which could be rather diffuse than concentrated. Even producer-driven chains such as autos over time have become less vertically integrated with outsourcing across the globe becoming a fact. Furthermore, in areas such as computers, there are actually several strands of value chains converging rather than one (Gibbon, Bair and Ponte 2008, 323-4).

The question of dynamism in the chain and its linkages, including how the chain is upgraded, how units change their position, and how power is distributed can only be understood in descriptive fashion (Morrison, Pietrobelli and Rabellotti 2008). The latest iteration of the GVC literature seeks to improve analysis of governance by bringing in the notions of transactional economics, such as principal-agency, organisational costs, information asymmetries, and asset specificity to understand supply chain governance. They also cite the importance of path dependency in terms of the way institutions shape governance (Sturgeon 2009).

The shortcomings of GVC have led to the development of the Global Production Network (GPN) concept, which seeks to correct the overly linear nature of the GVC concept (Coe, Dicken, and Hess 2008). GPN does have other useful features in terms of incorporating the ideas of regional assets and recognizing the importance of regional (local) institutions, including government in seeing production decisions as a continual negotiation between governments and companies. The implications from the GPN perspective are that regional institutions can improve local bargaining power through developing local assets, such as improving human capital, financing local ventures, and developing local technologies, all to develop specific assets in the region (Coe, et. al 2004). Below is a graph representing the GVC perspective, as reflected in the corporate codes discussion which follows.
But these corrections still avoid the explicit consideration of politics—who is winning and who is losing from decisions that are made. Without politics, we can not understand why decisions to improve local conditions, such as providing basic worker safety an education, are not made. A recent study of value chains in the apparel industry finds considerable variation in terms of both the internal power of individual actors within chains and of actual actors responding to them. Lane and Probert (2009, 26-27) state “the power that suppliers may wield depends on both their size and their level of competence, and these, too, are shaped by the institutional environment of their domestic economies, as well as by that in the buyers’ country. Buyers who encourage inter-firm learning are much more likely to empower their suppliers and, sometimes, nurture future competitors…. The power struggle occurs also between firms within developing countries but in different industries. Conflicts of interest between ‘manufacturers’ and textile producers deserve consideration.” They go on to note that labour in supplier countries also has potential power. They conclude, “it therefore would not be accurate to view all relationships between buyers in developed and suppliers in developing countries merely as hierarchical power relationships. As our analysis of empirical data on buyer-supplier relations shows, these differ by nationality of the buyer. Relational contracting may sometimes be found in long-established inter-firm relations, and often there exists a complex mix of motivations, objectives, and attitudes…. Most often, however, learning occurs through demonstration effects which were not necessarily intended by the buyer and are rarely the result of targeted partner promotion.” They go on to emphasize that all firms are embedded into specific social and institutional contexts. In their examples, the point out that there are important differences between the German apparel supply chain and back in the US and the UK. In the former case,
“power differences are much less pronounced… And contracting relations less adversarial (104).”

Why is enforcement of basic labour standards so challenging? In the case of clothing, at each step of that chain, there are differential levels of bargaining power. Workers’ power is the most limited, since they are easily replaced. Governments are beholden to multinationals, particularly large subcontractors, generally foreign, such as Li & Fung, and large retailers. Governments feel that if they enforce labour rights, the work will move elsewhere. The fear is plausible. In the 1990s, in response to complaints, Wal-Mart pulled its production out of Bangladesh, launching its “Made in the USA” label instead (Brooks 2007, 9). Nike also stopped making soccer balls in Pakistan in 2006 in response to revelations that child labour was being used (Nadvi 2008, 323). Subcontractors complained that multinationals place increasing and quite unreasonable demands upon them in terms of cutting time and keeping prices low, thus de-incentivizing improvements in labor conditions (Lane and Probert 2009, 286). Governments are also infiltrated by domestic subcontractors who wield economic and political influence.

Like FoxConn’s oligopolistic place in electronics, analysts point to key subcontractors in the apparel industry such as Tainan Enterprises, worth $17.65 million who manufactures in China, Cambodia, Indonesia, and Taiwan; and Li and Fung with operations in over 40 countries (Garwood 2011, 19). However, these major subcontractors themselves have multiple subcontractors. There are some signs that the initial reactions of companies to activists, to simply close out contracts with subcontractors that brought bad publicity, leaving the workers stranded, are starting to change into more effort to change subcontractors’ behaviours (Garwood 2011, 50).

Companies claim they are unable to enforce provisions due to a myriad of subcontractors in clothing production. A study of Reebok’s introduction of codes in a South China factory found that while the most egregious labour abuses, including child labour, unsafe working conditions, paying below legal minimum wages, work beyond the maximum legal hours and corporal punishments were eliminated, the lack of union rights led to continuing ramping up of work production quotas leading to excessive and poorly compensated overtime. The costs of adjustments to Reebok’s codes were thus passed on to the workers. China’s labour codes provided no effective help to the workers (Yu 2008, 525).

Manufacturer American Apparel vertically integrates its operations, by eliminating subcontractors, and claims not to have labour violations. A few interviewees claim that other companies are moving towards greater control and integration of their supply chains in order to address sustainability concerns (both environmental and labour) in the production processes. Thus, one interviewee states “compliance (with ethical standards) is not a factory problem, but a supply chain issue.” However, the dynamics of the industry appear to be moving in the opposite direction. Like other retail industries, with the IT revolution and globalisation, the apparel industry has decentralized over time. While in the West there used to be a few large
retailers, such as Sears, there are now a plethora of retailing outlets for clothing. The industry is highly variegated, stretching from basic commodity-type products such as t-shirts to high fashion. In many cases, the industry has moved to a just in time system whereby retailers order what they think their customers want from a variety of wholesalers, or create custom orders that manufacturers must then scramble to create. Such operations require a sophisticated logistics and information system. Designers in the West can electronically send orders to subcontractors around the world. Bar codes feed into inventory systems that allow retailers to track and anticipate customer preferences. Distribution centres respond to changes in orders.

Manufacturers must create flexible, modular manufacturing systems to make rapid adjustments to changing orders and to multiple clients (Abernathy, et. al 1999, 9-13; 56-64; 244-46). One interviewee states that the fast fashion aspects of the industry have to become a minor part of it, rather than the norm as it is now, for labour standards to have a chance of improving.

Corporate Social Responsibility Perspective: Corporate Codes

Introduction

There is a rapidly growing segment of business studies related to corporate social responsibility (CSR), the idea that corporations may engage in socially beneficial activities that only indirectly may affect profitability. Some scholars suggest that CSR emanates from a notion of the need for social legitimacy by companies, reflecting their embeddedness within (and consequent vulnerability to) a social and regulatory environment. This links with stakeholder theory, the idea that there are key interest groups including the government who can affect the company’s activities. These interest groups may make normative claims upon the company’s operations. Therefore, the company engages in self-regulatory activities (Sammeck 2012, 12, 14, 15). A more obvious approach is to look at the issue from the point of view of transaction costs economics. From this perspective, companies engage in CSR for the purpose of regulating markets. Self-regulation takes the place of public regulation and enables the industry to create collective goods that are shared by all firms. The collective goods revolve around the belief that reputation affects profitability (Sammeck 2012, 19-20), despite the lack of hard evidence for this linkage, either in terms of sales or investment decisions (Vogel 2010, 77). Reputation creates trust by customers then develop brand loyalty. Reputation could partly extend to an entire industry, such as fossil fuels, thus creating a collective action issue.

Corporate Codes- RLS Theory

As a result of the failure of the previous three approaches (economic, domestic regulation, international rights), the default instrument adopted by corporations, frequently in response to anti-sweatshop activists ascending from the late 1990s with the publicity around abysmal conditions related to Nike and Kathie Lee Gifford’s clothing line for Walmart, has been corporate codes. Evidently, we are talking here about large companies- for small companies the costs of creating monitoring systems are prohibitive. The “discovery” of a sweatshop outside of
Los Angeles (El Monte) in 1995 with slave-like working conditions led Pres. Clinton to develop the Apparel Industry Partnership to improve labour standards (Ross 2004, 161). In 1998, a number of major apparel firms in the US, NGOs, and unions (who later withdrew to protest issues of implementation) developed a code of conduct through the Fair Labour Association (FLA) to monitor in certifying companies to meet labor standards through the Apparel Industry Partnership. Similar campaigns took place in the Netherlands with the Clean Clothes Campaign, the UK with the Ethical Trading Initiative, and in Australia with the Fair Wear campaign (Encyclopedia 2011). Most companies have adopted social compliance departments to deal with such issues. While analysts note that such codes have made a significant difference, there are no systematic data on the topic. There is no central registry or tracking of codes. Attempts to harmonize codes have been ineffective (Madhav 2012, 282).

In a famous book, Fung, O’Rourke and Sabel (2001) argue that firms are motivated towards differentiation on social environmental standards, and that such efforts lead to emulation in other firms, which they call ratcheting labour standards (RLS). Such movement is reinforced by publicity from NGOs and social trackers for investment funds. RLS is expected to work on the basis of four principles: transparency, competition, continuous improvement, and sanctions. The first relates to developing information systems to identify and monitor labour standards. The second derives from the first, namely from the idea that information flows would create increased competition around social attributes, thus leading to the third attribute. The fourth refers to some type of regime that concretize practices through sanctions. The authors do not mention the ILO or the governments of the South, who would be the most obvious actors to conduct this effort. It is also problematic in approaching regulation from a firm perspective, rather than work in general, thus bypassing the crucial question of collective bargaining rights (Murray 2002, 34).

While RLS sounds great in principle, evidently the four required conditions are not in place (yet). In practice, enforcement of codes is problematic. The bottom line is that codes raise the costs for both suppliers and companies without improving their margins, with the exceptions of a handful of niche producers such as American Apparel who make it part of their brand (Vogel 2010, 81). As one interviewee put it, “There is no way compliance can happen just by doing audits. You can be the best audit company in the world. But you can’t audit companies into compliance. Auditing is the starting point. You have to act upon it. And that’s where things tend to fall apart.”

Some studies suggest that enforcement has improved conditions. A study of factory audits of 800 Nike suppliers across 51 countries from 1998-2005 found that “Despite substantial efforts and investments by Nike and its staff to improve working conditions among its suppliers, monitoring alone appears to produced only limited results.” They go on to suggest that changes in subcontracting practices, particularly in creating more scheduling and responsibility for quality by workers of suppliers, leads to improvements. Similarly, when Nike works with subcontractors to improve management generally and production processes for time and/or
quality specifically, standards improve (Locke, Qin and Brause 2007, 3 & 22-23). Another study, this time of two Adidas factories, found that practices differed substantially in terms of practices from one factory to another. They found that when the company worked in collaborative, rather than compliance, orientation better standards, performance, and employment relations resulted. (Frenkel and Scott 2002, 34 & 44).

Richard Locke (2013a, 67) completed a fascinating study of one of the corporate leaders in the anti-sweatshop movement, Nike. Over the course of several years, he and his team gained access to Nike’s internal audits of more than 900 suppliers across 50 countries, and conducted field research at a number of factories. These include a number from after Nike’s rigorous M-Audit programme was launched in 2002. He concludes that despite general improvement, the results have been at best “limited, and perhaps, mixed.” On examining the same factories over time, in almost 80% of Nike suppliers, workplace conditions either remain the same or worsened over time. Noncompliance among Nike suppliers persist through many years of auditing. In examining a global clothing manufacturer with rigorous audit procedures due to media scrutiny, his team found that only 24% were in full compliance with the company’s code of conduct and 53% were explicitly “not approved.” His study notes the fact that gains tend to be concentrated in areas that are fairly transparent to auditors, such as health and safety, though even those are hard given the continually shifting contracts and work orders of different factories. In other areas such as freedom of association and excess overtime, it is much harder to find consistent gains. In general, factory managers have learned how to game the system, by cooking the books to meet audit requirements. There are few, if any, consequences for failed audits. In practice, “orders are often in the pipeline well before audits have been scheduled and… global companies continue to place orders in many factories that have serious compliance issues…. Conversely, “good” factories are seldom rewarded by sourcing strategy that is designed to seek out the cheapest sources of production…. Locke suggests that the types of ongoing monitoring required are beyond the capacity or resources of most firms (Locke 2013a, 31–32, 38, 41, 52, 65).

What lies behind better performance? Locke suggests that businesses need to move from a competitive to a collaborative model, which he calls “commitment” elsewhere (2014). He finds that where Nike has long-term, collaborative relationships between its local representatives and factories, compliance tends to be better (Locke 2013a, 67). Similarly, for a large global apparel maker, improvements in a Honduran factory were based on the global company giving the factory the means to comply and maintaining sourcing from factory as it went through a transition of its practices (Locke 2013a, 89). Yet his own study concludes that having large global firms with greater value chain power does not lead to consistent improvement in audit results (Locke 2013a, 61). Moreover, we have seen that long-term relationships do not typify the textile clothing and shoe markets. He does not explain the nature of what will give rise to this commitment or how it can be shaped.

*The Development of Corporate Consortia to Enforce Codes*
Thus far, we have seen the only alternative appears to be to allow multinational companies to police themselves, and to continue to apply pressure on them in their home markets. However, we also see that companies suffer from a collective action problem. The nature of this problem is that if one company cheats on the rules by underpaying workers or attempting to reduce costs and less stringent enforcement on subcontractors, will have a free rider effect in terms of tempting the other companies to do the same. For anyone wishing to be successful, therefore, there must be a classic collective action elements of transparency of information and enforcement of rules. In this context what is particularly problematic is the need for companies from different host countries to coordinate together, yet the pressures of activists in their home countries vary considerably. The resulting efforts of European countries suggest much higher pressure in that part of the world than in North America.

Bartley (2007) offers a view on the emergence of private regimes. His study of both the forestry and apparel standards regimes suggests that political pressures from NGOs and leadership by key firms concerned about shaming, rather than corporate good will, were behind their formation. In the example of apparel, the Clinton Administration’s promise to incorporate labour and environmental concerns into NAFTA but failure to do more than side agreements led them to push for private voluntary standards. This combined with scandalous media coverage of working conditions pushed companies to form industry standards, in good part because they would be weaker alternatives to public regulation.

As a result of the incapacity of the state, the default system is one of voluntary corporate compliance. In cases such as the Forest Stewardship Council (FSC), these efforts are premised around the idea that a private regulatory regime can take the place of state regulations. FSC was created in 1993 and supported by major environmental NGOs Greenpeace, World Wildlife Fund and Friends of the Earth International. FSC is one of at least 23 sustainable forestry regimes (Pattberg 2005, 368), but it has received the most attention. FSC has both core principles and mandatory performance criteria revolving around environmental, labour, and local and indigenous rights in order to merit its certification label. Voting takes place in three chambers: the economic (companies, including auditors), social (civil society groups and individuals representing communities and labour rights’ groups), and environmental, with each chamber carrying 1/3 of the vote. Furthermore, votes are divided into 50% for the North and 50% for the South. Accredited assessors audit for compliance, at least once every five years (Overdevest 2004, 178-80). Some authors suggest that such measures are sufficient to allow the WTO to continue to avoid social issues (Bernstein and Hannah 2008, 575-608). While similar in purpose to fair trade labelling efforts, the FSC has been far more successful in capturing significant percentages of the wood products market, perhaps because it is guided by corporate as opposed to NGO councils. The FSC revolves around voluntary corporate compliance in exchange for FSC certification for the sustainable origin of lumber, which is marked with its seal. Most companies do not see benefits of joining in terms of a price premium that can be passed down to consumers. Another issue is funding: FSC has relied upon heavy investment by foundations,
such as Ford, Rockefeller and MacArthur who provided 77% of its funds from 1996-2003 (Pattberg 2005, 366, 368).

FSC certification is disproportionately located in Northern producers and large Northern retailers, because of the costs of certification. It thereby relies upon a supplier-retailer interaction, rather than strengthening consumer demand a la fair trade (Taylor 2004, 143). The problem is in good part its voluntaristic nature. Few building codes, for example, require more than 10% FSC certified wood be sued in construction (Schepers 2010, 286). Many analyses of FSC operations in terms of labour rights emphasise improvements in health and safety and wages, however, the larger questions about land rights, access to democratic decision-making, and consistent enforcement are frayed, especially in regard to small-scale producers (Boström 2012, 6). It is important to point out that forest products are of a distinct nature from apparel, requiring far less guidance or tailoring from buyers. Forest degradation is also arguably more visibly apparent than what happens behind closed factory doors. Perhaps the most important difference, as Bartley (2010, 25) points out, is the nature of the activist groups- with environmental NGOs looking for universal collective benefits, such as biodiversity. Labour movements, meanwhile, tend to have more national origins and politics. Thus, much depends in any case of code compliance on the national political economy setting. Perhaps more importantly, most of the limited FSC literature ignores the key role of states in regard to certification schemes. Bartley (2014, 103) finds, for example, that the Chinese government effectively usurped FSC efforts by introducing its own domestic standards. Bell and Hindmoor (2012, 151-4) make this point every more plainly. FSC succeeded despite initial opposition in Australia and British Columbia government opposition in certifying significant forest holdings. More remarkable is the progress made when governments support FSC. FSC worked hand in hand with national standards committees in the UK, Sweden, Mexico, and parts of Central America. The UK and German Governments also made purchasing decisions favouring FSC wood. In the US, the Lacey Act of 2008 passed, banning the importation of illegally harvested wood, thus reinforcing the FSC as a go to way to prove legality.

There are now a number of private regimes related to the apparel industry (Zeller 2012, 172, 175, & 178). The purported advantage is that every company that belongs to the regime can claim the accreditation and it reduces the possibilities for free riding. However, as Zeller points out, these regimes vary considerably on the basis of the labor standards themselves, the monitoring and reporting required, the transparency of information, the evaluation of results, and the possibilities for enforcement. A number of these regimes are very cautious about releasing public information. Under the Alien Tort Claim Act, US companies can be sued for labor rights abuses. The Global Compact was created by the United Nations Secretary-General in 2000 and includes 4300 companies of which 118 are from the apparel and luxury goods industries. The Worldwide Responsible Accredited Production (WRAP) was formed based on the recommendation of a multi-stakeholder task force formed by the American Apparel Manufacturers Association (now the AAFA) organized in response to numerous allegations of
sweatshop conditions that surfaced in the 1990s. The panel suggested the formation of an independent third-party organization free of government or corporate influence that could identify and reduce the prevalence of sweatshop conditions in factories around the world. The first Board of Directors was named in 1999 and WRAP was officially incorporated in 2000. WRAP works with international manufacturers and has certified about 1,870 factories worldwide. The UK-based Ethical Trading Initiative (ETI) was also founded in 1998 and includes a coalition of NGOs, trade unions and 50 multinationals. The Fair Labour Association is also founded in 1998 under US Pres. Bill Clinton’s initiative and includes 20 brand-name companies and approximately 200 postsecondary institutions in the US. The Business Social Compliance Initiative (BSCI) was founded in 2003 by the Foreign Trade Association (FTA), as of Nov. 2014, it notes more than 1,400 company members. Most appear to be European. In 1997, the Council on Economic Priorities and Accreditation Agency (CEPAA) created the Social Accountability standard (SA 8000) that has three signatory level members, three floor level members, 15 supporting members, and 254 certified facilities in the apparel industry. CEPAA no longer seems to be active; it’s place has been taken over by a new NGO, Social Accountability International (SAI). SAI manages the standards, which is designed to attempt to harmonise voluntary corporate codes. The result is a dizzying number of codes, reflected in frequent complaints by supplier factories about the onerous nature of meeting multiple audits and standards.

The panoply of private regimes creates serious free riding problems in terms of which regimes a company joins, with obvious incentives to water down the regime itself, and serious confusion in the minds of consumers who are unable to differentiate different standards of different regimes. It is probably asking too much for the ordinary consumer to research each regime for each company’s claims. Indeed, Zeller points out (2012, 205) that private regimes have never improved their standards over time. Thus they are more about deflecting criticism rather than solving the issue of labor standards. In the same way, governments can claim that private regimes solve the problem, thus avoiding further responsibility.

**Corporate Codes Through Third Party Monitoring**

In response to the credibility gap, corporate codes are increasingly developed in partnership with 3rd parties through “multistakeholder initatives,” either consulting firms or NGOs, to check out factory conditions for the contracting companies, however, it is hard to tell what the capacity of such parties are for the purpose. There are multiple reports of haphazard monitoring. There is also a potential principal-agent problem in the sense that the companies are contracting out work to agents that want more contracts. Monitoring visits are often announced beforehand.

There are concerns about the potential for co-optation of monitors (whether NGOs or consultants) by companies. Moreover, there is concern that monitors will reduce the scope and possibility for the development of local trade unions and regulatory capacity within supplier
countries (Lane and Probert 2009, 283). We should not forget that NGOs also have their own interests and are not simply benign objective observers.

So far efforts by pockets of activists and corporate codes have not been enough to raise the general working conditions of the electronics and apparel industries to acceptable levels. Garwood (2011, 193) concludes in a study of anti-sweatshop movements that state regulation in the supplier country and legislation in the buyer country are necessary complements to NGO activism. An investigation of Chinese toy manufacturers revealed an astonishing level of deception in regard to compliance with a European retailer’s demands, despite rigorous factory inspections (Egels-Zandén 2007). A case study of Reebok factories in China found that corporate codes led to the elimination of the most egregious violations, such as child labour, unsafe working conditions, and corporeal punishments, but “Chinese workers… were forced by authoritarian management to work harder, faster but earn less payment.” Furthermore, though a union was developed and “trumpeted” by Reebok as a sign of commitment to workers, it was dominated by the factory owners, and “brought feeble hope for workplace democratization and failed to enhance workers bargaining power” (Yu 2008, 525-6). In a related vein, Tewari and Pillai (2005, 248) find in a study of Indian leather firm compliance with German environmental standards that “in contrast to a private sector model of governance, the state was crucially involved, both in imposing the environmental standard and in collaborating with industry to help diffuse broad-based compliance.” Wells (2007, 56) notes that corporations have come increasingly to rely upon consulting agencies such as PriceWaterhouseCoopers for labour monitoring. There have been widespread reports about major flaws in their monitoring methods, including clear biases in favour of factory owners, such as a lack of confidential input from workers. He points out (959-61) that NGOs, including those set up by companies themselves, suffer from organisational weaknesses and depend for their resources upon companies. They suffer from similar issues, including an unwillingness to interview union representatives. Companies have strong influence on their directing boards. He concludes by citing Nike’s own findings that even after FLA violation reports, behaviour at the factory level did not significantly change. The system lacks enforcement.

The central issue is the monitoring system. Given the byzantine nature of supply chains in the apparel industry, such an effort would require considerable resources and an ongoing organization with expertise and measurement indicators. This would require, therefore, the ability to raise revenues. Yet it is not clear where those revenues would come from, or, if from the companies themselves, whether they would be willing to pay into such a system. ETI (website, “Auditing working conditions,” accessed Nov. 11, 2014), notes the weaknesses of the current auditing system. It estimates the third party audit system be worth around $50 billion, with most companies devoting at least 80% of their ethical budgets to audits alone. They state the problem quite bluntly:

there is overwhelming evidence that the predominant approaches to auditing that companies have adopted, which typically involve commissioning third-party auditors to carry out
inspections, followed by ‘corrective action plans’, failing to deliver any real change to workers’ lives. Instead, the value of auditing has been undermined by low-quality inspections, poor value for money, unnecessary duplication of audits, inconsistent corrective action plans and, perhaps more worryingly, a rapid growth in ‘audit fraud’. In fact, audit fraud is now so common that a whole new industry has developed to facilitate it. For example, factory managers in China can now buy software packages that allow them to keep multiple sets of records, or get trained on how to falsify their records. The reality is that suppliers are developing an ever more sophisticated and wide range of practices, all with a single theme of hiding the truth in presenting an alternative reality to suppliers.... Most audits represent a snapshot of the given point in time—in other words, they don’t show the situation before or after an audit. Not only that, standard audit methodologies rarely allow for digging deep to discover the root causes of workers’ rights violations, or for assessing the risk of future violations.

They go on to mention the fact that some US companies have a zero-tolerance policy items the incentives for fraud. In the end, they conclude that audits diagnose but they don’t cure. WRAP, on its website, (“Frequently Asked Questions” accessed Nov. 11, 2014), also acknowledges the limitations of audit processes, when it states, “more broadly though, supply chains for garments and footwear are long and complex, making it very difficult to detect any one of them is being made fully in WRAP-certified facilities. For instance, while the final assembly of the shirt may have taken place in a WRAP-certified facility, the cloth, buttons, or other components may have been made in the facility that is not WRAP certified.” One interviewee (not related to WRAP) said that companies are starting to realize that their “tails” (chains) are too long and complex, and sees (still limited) movement towards consolidation of supply chains.

Evidently, this issue exacerbates rather than resolves the collective action problem. While it gives companies an excuse for violations, by placing the responsibility upon the agent that they have hired to monitor the situation, one would expect quite naturally that there are going to be highly varied capabilities and performance of the monitors themselves. Though the development of technology such as cell phones increases the ability to monitor, absent third-party verification it is difficult to follow through in a systematic way upon such data. This means that the workers will be unlikely to have a consistent set of guidelines or rules, and therefore makes it much more difficult for them to appeal for violations.

Enforcement is even more problematic. Thus far activists have relied primarily on shaming campaigns. While effective to degree, this is no substitute for an ongoing monitoring and enforcement system. As noted above, the ILO has never had any significant enforcement capability. Thus far, it appears that no states are willing to take up or present the threat of sanctions upon companies who violate labor standards, or upon states who claim to be unable to enforce their own rules. Nor are companies coordinated to the extent to which they would be willing to threaten leaving the country en masse for violations. On top of all this, there is no
system to verify that the monitors are doing the job properly. Moreover, NGOs/consultants now find themselves in a conflicted position. They want to monitor companies’ ethical activities, but they are also accepting payments from them for their monitoring efforts. They are apt to cut corners and, potentially, accept bribes. Thus the leakage in the current system lends itself to cheating on a consistent basis.

A major study of the impact of ETI efforts at code compliance by the Institute of Development Studies (2006, 7-11, 36) offers both positive and negative assessment for the apparel industry. First, it is difficult to track down all levels of the value chain, since there is such a high level of subcontracting. Second, as noted earlier, throughout the supply chain are false response compliance, making a stratified sample for in-depth study problematic, in other words, the sheer number of suppliers prevents a comprehensive examination. Third, since there are multiple forces at work terms of labor conditions, it is difficult to trace a clear impact in a cause-effect relationship from the codes. On the positive side, they find improvements from the codes in health and safety; reduction of child labor; reduction of working hours; and adherence to local minimum wage laws. Yet they also find that there were major limitations in terms of the macro context of labor relations, including ability to choose employment; freedom of association; discrimination; use of irregular employment conditions; and uneven production of harsh treatment, such as sexual abuse by management. Their conclusion reinforces the importance of the political and regulatory context; social and cultural context; and trade union organization as necessary components of a positive working environment. These same problematic macro aspects are cited by a number of other sources, such as BSCI (“Our Impact” section of their website, accessed Nov. 11, 2014).

Brown (2013) describes inconsistent and often shoddy features of the third party system, where some consulting firms focus on making profits while training others on inspections; local monitoring subcontractors are undertrained, understaffed, and ignore violations; and gross violations seem to bear no obvious consequences. At the core is not only a haphazard auditing system, but a basic conflict of interest where subcontractors depend on companies for their funding. Because the monitoring system, which relies primarily on commercial and outside NGO subcontractors, it is not only haphazard and superficial, but also more costly than necessary. A better approach would be to build local capacity for monitoring and to streamline the possibility for workers to independently make complaints about violations (Rodríguez-Garavito 2005, 218).

**Accord-Alliance disharmony**

On top of these underlying problems is a lack of harmony between the two major consortia in Bangladesh, with the Accord demonstrating doubts about the Alliance methodology.

- A June 2014 news story reported that there was “erratic decision-making” in regard to whether factories were structurally sound. BUET engineers had dissented from some decisions taken to
close down factories. In addition, the Accord inspectors felt that the Alliance inspectors were too lenient and refused to accept their evaluations. On top of all this, disagreements over legal liability, noted above, in regard to who would pay workers’ salaries, by how much, and for how long also extend across workers, owners, the Accord, and the Alliance.\textsuperscript{17}

- In a Nov. 2014 assessment, World Bank economists noted growing issues regarding the lack of coordination between the Alliance and the Accord, whereby the Accord refused to accept inspections from the Alliance. That left some 300 factories subject to inspections by both groups. Meanwhile, Walmart blacklisted 250 factories for safety issues, that were still in service by other reputable North American and European brands. On top of all this, the BGMEA had yet to develop a worker database that it had committed to.\textsuperscript{18}

An example of the potential long-term implications of having two competing systems came through clear in a Dec. report that the Alliance had enlisted the IFC, a branch of the World Bank, to provide loans to factories needing an upgrade. This contrasts diametrically with the Accord which provides the financing.\textsuperscript{19}

\textit{Conclusion- The Inadequacy of Private Solutions}

Dirnbach (2014, 286-8) summarises why current efforts to instill corporate social responsibility have failed to address “root causes” for sweatshops in the apparel industry and serves ultimately as a “PR” (public relations) exercise. First, he notes the separation of brands from workers through the contracting system, exacerbated by ruthless price competition and desperation of workers. The task of monitoring thousands of continually shifting subcontractors is well nigh impossible; it is not surprising that (sub)contractors are learning to game the system through false documents. Second, there is an inherent conflict of interest when companies control the code and monitoring systems. Third, workers are not part of the system, either in design or enforcement. These are resisted in part because they would require increasing costs and prices. What is missing above all is a multistakeholder reporting system that makes transparent a database of ongoing factory conditions, whereas at present monitoring, even by NGOs, and reporting are haphazard (291).

An in depth report by Labowitz and Baumann-Pauly (2014, 6-7) of NYU’s Stern School of Business based upon a year of research reaches the following conclusions about the current arrangements:

\textsuperscript{17}“Inspection Intensifies Bangladesh garment industry’s woes,” \textit{Prothom Alo}, June 27, 2014.
Indirect sourcing through subcontracting means that there is no transparency in the supply chain. While there are advantages given the scarcity of capital and the need for low cost and flexible manufacture, it acts as an obstacle to upgrading worker conditions.

The two major plans offered “fail to address the greatest risks of this system” as they do not cover factories who are subcontractors.

The government lacks the capacity to address the pressing regulatory or infrastructure issues of the sector (and the economy generally).

Perhaps more interesting is Locke’s conclusion at the end of his chapter on Nike’s failures (2013a, 68):

> Regardless of the specific mechanism, it is clear from both Nike’s audit data and our own field research, that the effectiveness of private regulatory programs is very much tied to the strength of public authoritative rule-making institutions. This suggests that even as manufacturing stretches across national borders, folding the work of many workers employed in Marietta factories into a single product, the fate of these workers remains tied to the domestic institutional endowments of their home countries.

In a rejoinder to the global value chains literature’s claim that upgrading is a good strategy for developing countries, Locke states that by contrast, the reality is that industrial upgrading does not necessarily lead to either better wages or working conditions. Instead, “the enforcement of some labor standards (particularly enabling rights) may have little to do with the profitability or technical sophistication of suppliers but instead hinge on other social and political factors (Locke 2013a, 102–3). Despite this conclusion, Locke concludes that public regulatory upgrading will never work on its own, that it needs to be matched to private regulatory regimes to ultimately change conditions (2013a, 173). One can argue that this is self-contradictory given his conclusions about the failures of both public regulation and private regimes, but if the marriage leads to a completely new form of institution, how and why the form will emerge, what it will look like, and how it will move things forward are still in the speculative realm. It appears that his conclusion is that it is impossible to improve public regulation on the domestic level, one that we should not take for granted. Again, his own study finds that “the effectiveness of private regulatory programs is very much tied to the strength of public authoritative rule-making institutions” (Locke 2013a, 68).

The Answer is Politics

We have seen that efforts by outside parties, however strenuous, have a limited long-term capacity to solve the problems of poor working conditions in the developing world. This leads us to examine once more whether domestic forces can be marshalled towards change. In a broad examination of what Short (2013,24) calls “blue moon self-regulation,” that is regulation that succeeds in achieving public as opposed to private self-serving goals, she finds three basic
conditions under which it is most likely to take place: “when government regulators have sufficient resources to monitor and sanction; second, when government regulators refrain from using these resources to force companies to adopt self-regulatory measures; and third, when there is reasonable consensus among regulators and regulated entities about the norms or standards governing behavior but convergence on the methods of achieving compliance with those norms.”

In the case of Bangladesh, several interviewees involved in the industry are optimistic that a change in values is taking place, mainly because the economic stakes are so high for the country. However, they acknowledge that thus far corruption has overwhelmed the ability of the government to enforce its own standards. McKinsey and Company listed corruption as one of the main risk factors for the sector in 2011. Loopholes in the labor law as noted above reinforce the possibilities for corruption as detailed by TIB (2013, 6–7). Among the problems they note are: no trade unions are allowed and export processing zones; mid-level supervisors cannot join unions; owners can deduct wages for participating strikes; and contractors, who are often used, are not eligible to join unions. However what is more concerning is the fact that their own laws are often not enforced, even to the point where the BGMEA headquarters has been cited as being in violation of building codes.

Owners of the Bangladesh Textile Industry Block Real Change

The state in the developing world has proven incapable of labour standards enforcement (Macdonald and Marshall 2010, 376). As Berik and Van Der Meulen Rodgers point out (2010, 81) an international funding mechanism that improves the regulatory capacity of the government could be a win-win situation. As Ahmed et. al (2014, 267-8) point out, however, the government has little reason for improving conditions for workers given that they are a politically weak group. In the Bangladeshi Parliament, of 345 members, 29 are owners from the garment manufacturing industry, while only four have a union background. One interviewee states, “Quite frankly, the ministers are stooges of the owners. Since there is so much parliamentary representation of the factory owners, ministers won’t say anything against the industry….Since people in Bangladesh panic when they hear the term union, so it may be necessary to try to develop health and safety workers committees.” Another puts it similarly, “There is no factory owners and government; they are virtually the same entity, with the same interests.” Several interviewees note the rampant corruption in the factory inspection system. The end result is the government sees limited reason to invest in regulatory capacity.

The elite class who owns most of the textile factories have roots in agriculture, primarily jute. All our family-based and most are well educated. The new entrepreneurs are highly dependent on government patronage in the form of contracts, loans and credit. They are politically active through the business associations (Kochanek 2000, 153-55). As noted above, there have been consistently strong industrial support policies for the sector. Transparency International Bangladesh (TIB 2013, 1) highlights the 1982 New Industrial Policy that opened up
at duty-free import of machinery, as well as the creation of export processing zones in 1991, as examples of “continuous support policies” by successive governments to support the sector.

While foreign direct investment played a central role in establishing the clothing industry according to the World Bank (2011, 137), the industry is now dominated by locally owned firms. In 2006, there were only 83 wholly or partially foreign owned firms out of an estimated total of 4303. Meanwhile, there has been significant upgrading in value-added. While in the 1990s most firms were involved with CMT (cut, make and trim), the majority are now in charge of input sourcing. There are also increasing backward linkages in Bangladesh. While 75% of fabrics for woven clothing are still imported for knitwear, the percentages only 20%. Most accessories, including thread, zippers, printing, embroidery, washing and dying are locally sourced today as well in sharp contrast to the previous decade and to competitors such as Cambodia and Vietnam. However, there are still severe limitations to industry growth, particularly the development of local cotton and man-made fibers, poor infrastructure, and constraints on finance. On top of this, low productivity reflects a lack of skilled workers, supervisors and managers. There are a lack of technical and design skills such as powder masters, product developers, designers textile engineers, production managers and marketing professionals. Companies are reluctant to provide in firm training due to high worker turnover averaging 10 to 20% annually. (World Bank 2011, 144-46 & 148-9). It would seem to suggest that it would be worth examining if improving working conditions would reduce turnover.

Transparency International Bangladesh (TIB) released an interesting report in Oct. 2013 which gives a strong analysis of the problems in the sector post-Rana Plaza. In a follow up report released in April 2014, they note remarkable progress in a number of technical areas, however, politics is one area that has not changed. They state, (2013, iii), “But driven by motivation for quick profit, a larger section of the employers have not only ignored the basic requirement of transparency in setting up terms of employment like basic minimum wages and benefits and workplace safety, they have also use their money–power to enjoy impunity violating laws, regulations and codes thanks to a vicious and apparently unbreakable collusion of elements in politics, business, administration and law enforcement.” They note (2013, 18-20) the conflict of interest between legislative committees regarding the sector and members of Parliament from it, leading to a traceable favoritism for owners across different governments. Moreover, the BGMEA itself is run for the benefit of a few dominant factory owners would enjoy impunity from labor laws. Their desire to move factories to residential areas reflects the lack of enforcement of building codes there (the 2014 TIB report 15, 18, & 22). However, political influence on policymaking continues, including impunity for violations and the fact that trade unions are still “in BGMEA’s pocket.”

Workers are Hamstrung

One of the central issues as described above has been the refusal of the Bangladesh government to accept ILO standards. In regard to Bangladesh, a number of reports spell out basic
human rights responsibilities, on the part of the companies, factory owners, governments, and buyers (CCC/SOMO 2013). Though the new legislation is superficially more open to unionisation, Bearnot (2013, 97) points out that there are still major impediments. First, worker turnover from factory to factory is high. Second, subcontracting relationships are non-transparent. Third, the new rules still require unionisation approval to take place at the company rather than the factory level, which is problematic given the high dispersion of many factories. Unions are also barred from hiring external advisors or administrators who are not workers at the factory, thus Bearnot contends, unionisation leaders are simply targeted for redundancy by owners.

In fact the Commerce Minister, Tofail Ahmed, discounted the possibility of allowing trade union activities in the export processing zones, claiming that this would lead to the loss of “millions” of jobs as foreign investors fled.20 According to interviewees, some investors, particularly the Korean firms are strongly against allowing for collective bargaining in the export processing zones. According to a study by the DIFE from a survey done in April – June 2014, there is no right to form a trade union in 94% of apparel factories in the country. According to the assistant Executive Director of the Bangladesh Institute of Labor Studies, workers involved in trying to form trade unions faced harassment and that is why almost none have been formed.21 The European Union urged the Bangladesh government again in October 2014 to ensure effective enforcement of this labour laws.22 In the same month, the World Bank and the International Monetary Fund asked for the Bangladesh government to ensure international workplace standards were met and that unionization proceeded.23 From 2013, the US Government rescinded GSP status for Bangladesh leading it to place a 16% duty on exports until it was satisfied that appropriate improvements to labor conditions have taken place.24 The US Trade representative July 2014 stated that the measures would not be lifted, noting “We are seeing some improvements that move us closer to our shared goal of protecting workers from another workplace tragedy such as the April 2013 Rana Plaza building collapse, including a significant increase in the registration of unions. However, we remain concerned about the large number of factories that have yet to be inspected, the lack of progress on needed labor law reforms, and continuing reports of harassment of and violence against labor activists who are attempting to exercise their rights.”25 This sentiment was renewed in Jan. 2015, citing the lack of rights in EPZs and the need for legal reforms.

One interviewee notes with alarm that foreign pressure in the wake of Rana is solely focused on worker health and safety, and that only the garment industry is receiving such scrutiny, leaving other issues and industries in continuing trying conditions. In June 2014, a series of stories were reported around the accusation of the head of the BGMEA and the Commerce Minister that workers from the National Garment Workers Federation and Industrial had jeopardized the future of the garment industry by sending letters to the U.S. Congress claiming worker harassment. The AFL-CIO submitted a report to the US Trade Representative in Oct. 2014 alleging major violations of the pledges by the Government of Bangladesh in the Bangladesh Labour Act of 2013. The report mentions rejection of unions for “arbitrary reasons, sometimes outside the bounds of what is required.” It also states that the government has reneged on its promise to create a database to track the status and final outcome of union registrations, and that the database on inspections does not track compliance adequately. It reports on several incidents of harassment and beatings of union leaders. While the government promised a hotline to report labour standards violations, it does not exist. In sum, the main regulatory body, the Joint Directorate of Labor, “has demonstrated a lack of either capacity or will to enforce the law and protect workers,” including a lack of participation of workers in the regulatory process itself. Moreover, as one interviewee puts it, “you can't ignore the fact that many of the leaders of the Bangladeshi union federations are already affiliated with one of the two dominant political parties and their affiliation has done little to advance workers' interests.”

An address by the ILO Director-General guy Ryder to a High Level Meeting in Apr. 2014 on conditions in Bangladesh underscores the long-term issues. He states, “the labor law was amended last year with progress in the area of Occupational Safety and Health….Regrettably, there have been only modest improvements in freedom of association. The gap between national law and practice and Conventions such as Convention 87 (Freedom of Association) and 98 (Collective Bargaining) remains wide despite the ratification of these two Conventions by Bangladesh…. But it is crucial that at the same time employers and other key actors in Bangladesh, including the industrial police, realize that a strong constructive voice of the workers is a key element for preventing disasters. It is also not helpful if international interests in practice discourage or outright opposed the Bangladeshi workers’ organizing rights. Cooperation for better, safer working conditions has to start now to avoid another Rana Plaza and Tazreen.” One interviewee notes that “Rana Plaza opened up space for workers to begin asserting their rights, which is the real key to improving the situation.” The interviewee goes on to note that the health and safety committees required by the Accord must have worker participation, which might eventually lead to better worker organisation for collective bargaining.

Labour unrest in Bangladesh has elicited responses from the government in the past. Minimum wages had barely moved from 1985-2006, and in fact real wages showed a net decline.

over the period (Yunus and Hamagata 2014, 93). In 2006, the government raised the minimum wage from 930 Tk as set in 1994 to 1662 ($24) for skilled workers and 880 ($11.5) monthly for unskilled. In response to further pressure from global buyers, in July 2010 The Bangladesh Ministry of Labour and Employment further increase the minimum wage to 3000 TK ($43) per month, an increase of 80%. However, trade unions and campaigners expressed disappointment at the limited scale of the increase (World Bank 2011, 151). According to an interviewee, it was subsequently raised by 76% again to 5300 TK/month. One interviewee notes that workers who organise are still meeting with physical intimidation.

Another interviewee sums up the problem in a political light,

“Labour rights are still in a gray area. I am not sure who will really pursue this. There is an inherent resistance to accepting collective-bargaining rights. Enforcement is also spotty, and labor wrestling continues. But there are some improvements; for example the number of trade unions has increased. The Alliance and the Accord push the idea for unions, but they don’t really fight for unions. The BGMEA is very powerful, and with the government it resists change. The government seems to wear 2 hats. It understands the need, but it has a hard time resisting the political pressure.”

Foreign actors are needed to support Bangladeshi workers, not take their place in bargaining. In 1995, pressure from activists centred on the Harkin Bill which banned trade with countries who used child labour led to the major diminishment of child workers in Bangladeshi apparel factories. In response to the subsequent protests by the children, the US Embassy, the ILO, UNICEF, and the BGMEA signed a Memorandum of Understanding that set up schools that child workers could attend for part of the day while working for the other part. The efforts were considered successful in wiping out child labour, but inspectors from the ILO could not check for any other provisions, such as safety (Brooks 2007, 17-22). The core problem is ultimately political, as Ahmed, Greenleaf and Sacks explain (2014, 268):

Government officials and labor leaders openly acknowledge that the ratio of labor inspectors to workers is hopelessly imbalanced. Moreover, inspectors rarely have the tools they need like cars for travel between factory locations or sufficient salaries to resist bribes. The lack of resources allocated labor ministries is due to the marginalization of labor from the current political settlement. Although there are technical skills in which labor inspectors may need to be trained, such as how to evaluate efficiencies in different types of production in order to work with suppliers on capturing greater gains, this aspect of labor regulation is far less important than the basic issue of funding.

Another interviewee reinforces this point, stating that the pressure from the US Government for worker rights in return for the return of GSP status for Bangladesh exports is

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27 The Bangladesh Knitwear Manufacturers’ Association (BKMEA) is the other main industry association, though it is smaller than the BGMEA.
putting pressure on the government for change. Continuing pressure from companies and consumers after the 5 year period of the Accord/Alliance ends is “the key” to consolidating gains, according to the source.

In the long-run, unless workers are given the right to effective collective bargaining, it seems unlikely that the incentives for cheating will dissipate. Workers are, in fact, the best sources of ongoing information at the factory level and are their own best advocates. Concerns about union activities could be similarly regulated by establishing union codes of conducts (Egels-Zanden and Merk 2014). As Barrientos and Smith (2007, 727) state in a study of the limited impact of corporate codes, “buyers and retailers prioritise commercial imperatives and take a technocratic approach to code compliance which does little to challenge embedded social relations or business practices that undermine labour standards in global production systems. In contrast, civil society organizations emphasise workers rights, and are increasingly focused on underlying commercial relations as a barrier to the realization of those rights.” In fact, multinationals can in fact open up a space for workers’ rights even in the absence of strong local capacity or enforcement, particularly if they include worker participation and offer input along with using NGO monitoring (O’Rourke 2006, 910).

As Mahmud describes (2009), the resistance to workers’ rights clearly runs deeper than simply changing laws, however. In general the garment industry reflects the patron-client culture of the society. Besides the fact that the workforce is largely female, with few alternatives, and culturally trained towards passive acceptance, the informal nature of the industry means that workers often perceive factory work as temporary. Owners also see flexibility of the workforce as a fact, and expect rapid turnover and movement of workers at the same time that they receive unrealistically high volume and rapid turnaround orders from buyers, thereby becoming more rigid and inflexible in the workplace itself. The factories themselves are often flexible workspaces, oftentimes in commercial or residential buildings. Mahmud states,

“The sustainability of mobilizations is undermined by ‘divide and rule’ strategy of employers, which is very effective. Employers strongly suppress any agitation or movement for fear that this may spread and disrupt production. They do this by a variety of methods: sacking the more vocal workers, buying out leaders, placing their own agents among the workers to identify the ‘trouble makers’, hiring goons and ‘mastans’ to beat up workers, and so on.”

This, along with the lack of regulations, explains why worker protest tends to be spontaneous. As Mahmud concludes, “The extremely resilient social structures operating in the Bangladesh society and economy (missing culture of accountability and clientilist attitudes) have reproduced themselves in the factory, preventing the emergence of horizontal solidarities that could be used for mobilization.” Sources cite the 2011 Freedom of Association protocol of Indonesia in which local unions worked with international brands such as Adidas, Nike, New Balance, and Puma to support worker unionisation rights. The agreement was promoted by the International Trade
Union Confederation, the Intl. Textile, Garment, and Leather Workers’ Federation, the Building and Wood Workers International, and the Clean Clothes Campaign. Several sub-national entities, including some provincial and municipal governments, such as Los Angeles, have begun to disclose the factory sources for the clothing they procure, an important first step.

Lessons from Other Cases

The ILO announced in Oct. 2013 that it would initiate a Better Work program for Bangladesh, to last for 3 years. Better Work is a joint venture it conducts with the IFC to try to improve labour conditions in several countries, such as Jordan, Lesotho and Nicaragua. The Better Work program tries to improve technical capacity while incentivising factories to participate through linkages with buyers who demand safe conditions. Better work also raises focuses on organising national meetings of the key stakeholders to develop plans of action for improving worker safety. Where enforcement occurs comprehensively, it appears to provide good results. During a 2006 ILO project called Better Factories Cambodia, significant improvements occurred (Garwood 2011, 27). Over half of all manufacturing in Cambodia is in the garments sector (Hill and Menon 2013, 47). Efforts in Cambodia derive from the US policy in 1998 to link textile quota imports to labour rights compliance, in response to US labour groups’ lobbying on behalf of Cambodian workers who had registered complaints about working conditions. They enlisted the ILO to monitor compliance; it had never before examined private sector operations, having focused on working directly with governments. The program was set up around voluntary entry by firms, which at first led to a free rider problem. This led the Cambodian government to limit export quotas to those who participated (Polaski 2006, 920-1, & 923). As a result, sales of apparel in both quota and non-quota markets soared. Polaski concludes that the good labour label attracted more buyers. Conditions for workers, including payment of wages, also improved substantially. All of this was based upon the creation of transparency through the monitoring system, including reporting results on the factory level as called for by RLS (Polaski 2006, 923 & 925). The Cambodian government, with the assistance of the ILO and the World Bank, is attempting to use social responsibility as a source of competitive advantage through the successor program Better Factories Cambodia (BFC) which sets up monitoring and training systems for labour compliance (Lane and Probert 2009, 151). ILO monitoring reports reflected major improvements over time in payment of wages and reduction of health and safety violations reductions (Polaski 2006, 925).

Yet, this effort has also been criticized. A joint report of Stanford Law School and WRC (2013) concluded that the ILO monitoring system in Cambodia was fatally flawed because it revealed audit results on to factory owners and the brands, and for lack of remediation enforcement steps. Moreover, as we see in other cases, the onus was put on the factory owners to ensure compliance, but brands did not offer any remediation funds or reduction in pricing and timing pressures to allow for improvement in working conditions and wages. On top of all this, there was no mechanism for workers to complain directly about violations. As a result, working conditions had not improved overall, and in fact job security and wages might have declined.
The core of the problem relates to the lack of transparency and collective bargaining rights reflecting ILO’s status as an outsider dependent upon the goodwill of the Cambodian government and industry; the report concludes (55) is that BFC “is an organization charged with policing violations that approaches its work as if one of its primary tasks were to maintain the good will of those same violators.” Following the report, ILO agreed to name the factories found in violations. Still, one interviewee puts it, while there an independent labour movement in Cambodia, it’s not clear whether the dominant ruling party would ever accept it in place of the officially sanctioned unions.

Furthermore Locke (2013b) points out that the BFC was initially tied to trade access to the US, but this leverage was lost in 2005 when the multi-fibre agreement ended. The result was that continuing improvements have come “from the state, not external sources. Cambodia refused to grant export licenses to apparel companies that did not participate in the BFC program. At the same time, reputation conscious buyers could look to improve working conditions in order to determine which factories to source from.” He concludes both were needed, but it seems more logical to conclude, given the pressure on the Bangladeshi government, that the real difference was government policy. On top of this, it is important to point out the conclusion by Hughes (2007, 845-6) that the ILO pre-empted the ability of the local trade unions to set their own agenda and to form transnational alliances with other unions. DiCaprio (2013, 111-13) further observes, “yet, though the Government of Cambodia has supported the factory monitoring program, neither the managers, factory owners nor the government appeared to accept that labor rights are in fact, a right.” There continues to be a culture of impunity for violence and intimidation against union officials, and there is limited evidence of improvement in bureaucratic capacity within the labor sector in Cambodia. Despite all this, the number of units has expanded and they have become more active. The ILO ignored the long-term goal of empowerment of workers through unions, including the jailing of a number of them on political grounds. Recent news stories indicate that worker unrest in Cambodia continues, with widely reported mass strikes led by garment workers in Jan., Apr., and Sept. 2014 around minimum wages, and a violent crackdown by the state as widely reported.

Sri Lanka also seems to have made great progress in terms of labor standards. Sri Lanka has been emphasizing labor standards as well as environmentally friendly production practices which it hopes will lead to a competitive advantage in eco-branding for clothing made there (Lane and Probert 2009, 151). Perry and Towers (2011, 350-1) state that strict enforcement of labor codes by the government are the core, but there are other causes as well behind this strong performance. First, as English is the native language, and literacy is high, there are low communication barriers among the various parties in the production process. Second, the relationships between the buyers and the producers tend to be long-term. Third, there is a high level of vertical integration in the supplier companies, and relatively limited work done at home. Third, factory managers are better trained and view their workers in partnership terms; this is backed up by a cultural foundation taste on Buddhism towards ethical treatment of workers.
An equally interesting case is Lesotho. Seidman (2009) explores the decision to move to a national “sweat free” principle. The movement of apparel there was in part propelled by trade concessions by the US government, and in part from pro-active efforts by the Lesotho government itself. In regard to the motivations, he states (585)

to a large extent the shift to a more state-centric strategy reflects the lessons of experience: after a decade of experimentation with private schemes, the limitations of the approach are widely recognized. Even enthusiasts of voluntarist regulation acknowledged that private schemes often involve tiny, under-funded NGOs, who depend on the companies they monitor not only for funding, but also for access to suppliers. Even more problematically, NGOs or brands find violations have few sanctions except to cut the suppliers’ contract – a sanction that blocks monitors from future factory visits and raises the likelihood that workers will lose their jobs. Finally, voluntary schemes allow companies to choose their own monitors: companies who are concerned about working conditions – that is, the very companies most likely to cut corners on with standards – inches monitors won’t make a fuss. Very few consumers, no matter how much they care, can distinguish one monitoring group from another, meaning that only the most well-meaning companies are likely to invite rigorous monitors to monitor suppliers.

The move to compulsory national standards was seen as a source of competitive advantage as in the other cases. Though the situation has markedly improved, there remain issues with worker reluctance to report problems (Seidman 2009, 593 & 595).

The lessons from these apparent success cases are clear- governments and local stakeholders are integral to success in creating a new regulatory environment; foreign pressure and resources are necessary but insufficient. As Polaski (2006, 922) points out about the case of Cambodia, a number of private consulting firms such as KPMG and PWC or non-profit groups such as ETI could have conducted the monitoring, as they do for the corporate codes in place, “however, none of these groups had established credibility at an international level and among the diverse groups affected by the textile agreement, which included employers, investors, buyers, labor unions, and governments.” The ILO’s step into the enforcement arena, together with buy in from the Cambodian government and factory owners, was therefore the key. Polaski (2009, 14) reports that the funding requirements for the monitoring programme were “surprisingly modest” as the ILO was able to employ local hires for the inspection, while it supervised. Funding for the first three years totaled $1.4 million, and came from the US ($1 million), and $200,000 each from the Cambodian Government and the Garment Manufacturers of Cambodia. Funding subsequently poured in from other international development agencies. The vulnerabilities of relying on continued outside funding for ILO monitoring, and to changes in markets for garments are clear. One can question the extent to which the perceptions of these governments that ethical production can differentiate their products enough to overcome price differences is realistic. Evidently domestic regulatory capacity remains limited in these cases,
and labour unrest continues, as noted in the introduction. This suggests a lack of breakthrough on collective bargaining rights.

The Boomerang Effect Revised- Western Pressure by Governments and Consumers for Change

Effectively, governments, corporations, international organisations, and activist groups have to work together to create a global public policy network (Detomasi 2007) in order to level the playing field for all countries. However, they need to pressure domestic actors for change. That leaves consumers, who so far have not been able to show any strong preference for ethically-produced goods. There is no question, therefore, that raising consumer consciousness, even if it only ends up touching a portion of the population, is a key challenge. However, such efforts require a long-term approach. Even if consumers are conscious, the importance of moving towards global standards to avoid the distortions noted above cannot be missed. In theory, NGOs can change the balance of power using the “boomerang effect” as theorized by Keck and Sikkink (1998, 13). They suggest that where direct political pressure, such as a workers union on the Honduran government and multinationals fails, the workers can find a third party advocate (NGO) abroad to put pressure on the companies and their own governments for change. In theory, therefore, the more power that the NGO can wield in its home market, the more leverage it should have to pressure for change (Garwood 2011, 133). This can not happen until consumers are engaged. It seems more likely to start in European markets, where consumer and green pressures are more central to politics.

Anner (2013) relates the story around one recent important victory for workers’ rights, namely the 2009 decision by Russell sportswear to reopen a plant in Honduras with union protections and wage increases. The workers had been fired for what the company claimed were economic reasons, but were viewed upon investigation by the WRC as union-busting. There were some unusual characteristics of the case that deserve mention. Russell had concentrated production in Honduras. Russell was vertically integrated, meaning it owned all operations. Union leaders were strong and determined, eschewing any depictions of victimhood. However, what is important is that pressure by activists made a clear difference, despite a favourable finding by the Fair Labour Association (FLA), of which Russell was part, agreeing to union rights. USAS conducted high profile protest campaigns against Russell, including advertising at the NBA playoffs and placing protest flyers in retail outlets including university stores about sweatshop practices. As a result, 110 universities and colleges as well as the Sports Authority ended their contracts with Russell. In 2009, the FLA relented to the pressure and put Russell under a 90 day review. The mounting pressure finally forced the company to relent. Anner concludes that a combination of political, normative, and economic power were all responsible for the success.

NGOs have also moved to increase worker organisation within developing countries, such as the Worker Rights Consortium (WRC). WRC was a response to shortcoming for the industry-developed Fair Labour Association, including a dominant position of the major
manufacturers in its governance; the manufacturer’s ability to choose and pay the auditor of their choosing; limits on data reporting; the absence of living wage provisions; and the ability to operate in oppressive labour environments, as long as factory managers were in compliance (Barenberg 2008, 39). University students, through organisations such as United Students Against Sweatshops (USAS), have been particularly active in trying to change the procurement codes of their institutions to reasonable working conditions and wages. (McIntyre 2011, 36-7 & 149-51). The USAS pushed for suppliers to their campuses to adopt the Workers’ Rights Consortium standards, including: living wages; voluntary overtime at 1.5 X normal rates; pay equity; a ban on child labour; and collective bargaining rights (Garwood 2011, 163). Similar efforts as led by the Canadian Fair Trade Association Network have transformed a number of college campuses into ones where only fair trade goods are sold.

By and large, such efforts have limited effects in that they are largely confined to university sales and to apparel, not touching the electronics industry where similar issues abound. WRC auditors seek more extensive preparation and wider participation of stakeholders, including workers and government officials. Other aforementioned limitations to factory audits still apply, including the inability to require the provision of documents or witnesses by factory managers. Most auditors lack formal training in labour provisions, safety, or sanitation (Barenberg 2008, 40-1). In a study of athletic sportswear factories in China, Frenkel (2001, 558) concludes “the absence of de facto supporting institutions and norms and the national and local levels in China militated against workers’ awareness and support for workers’ rights, as enshrined in labour legislation and the codes of practice.” He goes on to point out that worker trade union strength in recently developing countries such as Korea came only when factories consolidated and concentrated in stable working forces. A 2006 MSN report also points to an important obstacle in applying fair trade to clothing. It is easier to certify farmers as the original producers of agricultural commodities, than the employees of a complex and changing subcontracting system and it is likewise unclear how the minimum revenue provisions central to fair trade would be subdivided between the factory owners and the multitude of employees. In the case of university apparel, the system as noted is one of monitoring and auditing, dropping the revenue provision. Still, it is problematic for clothing industry observers to see how a labelling system would work in product lines that are ever shifting and in which there appear to be limited possibilities for alternative outlets (vs. coffee) to the large mainstream retailers.

On top of this, we note the dizzying array of foreign actors and compliance standards, of a temporary and shifting nature. As several interviewees noted, factories and the local government feel constant time and price pressures, meaning that they are receiving mixed messages from brands- they want safety without sacrificing price and time advantages. As noted above, this suggests some restructuring of the supply chain for more reasonable standards and coordination is required to improve the situation; coordination would have long-term competitive benefits of reliability and avoidance of risk. This brings us to the bigger question, which is, after the 5 year wave of the Accord, Alliance and ILO, what will take its place? At the moment,
government capacity building seems to be a second priority, given its track record. More importantly, even if, as all interviewees contended, the sector is too important for government to let safety issues slip again, the government has not shown any ability to raise the funds needed for sustained enforcement. That suggests that some ongoing foreign presence and/or funding is likely, something that will create ongoing uncertainty in regard to establishing new norms and practices.

Therefore, foreign governments, companies and NGOs could best improve the situation in the immediate term by improving the bargaining strength of domestic workers. Companies in particular appear not to see this in their interests, but in the long-term it appears necessary to ensure that domestic authorities themselves see it in their interests to look after workers. Given the estimated $50 billion (ETI website) that companies spend per year on third party audits, it would be considerably more cost-effective for them to use the cheaper and more effective domestic regulators, and, over time, pass increasing responsibility on to them, where it belongs. The foreign pressure can work. One interviewee related that child labour was drastically reduced in Bangladesh after the Harkin Bill in the US Congress from 1992 that sought to ban imports of goods made with child labour. Though the bill did not pass, along with pressure from the UNDP, ILO and foreign companies, the situation completely changed when the Govt. of Bangladesh adopted new policies. There are now some arrangements for part time child work, but tied to school facilities and other social services, often provided by NGOs. One interviewee claims that the development of Industriall and global alliances of unions is a sign that foreign unions can create a boomerang effect for improving working conditions around the developing world; however there is no evidence of this yet. On the other hand, all interviewees noted the crucial role of media pressure, which was vital to the post-Rana Plaza arrangements, but tends to have rather fleeting effects. Several noted the role of NGOs who have developed ties to companies and are working towards better ethical systems.

It is also hard to see consumers playing a significant role in the foreseeable future. As one interviewee put it, “they state in surveys that they are very concerned about ethics, but they don’t act upon this concern.” Another noted that consumer boycotts send a message but tend to have a highly limited economic impact. In regard to fair trade movements, the suggestion would be towards creating a label for certifying products are ethically produced. One survey in the US found that 86% of those polled would be willing to pay an extra dollar on a $20 garment if they knew it was made under safe working conditions. Another found that 76% would be willing to pay 25% more (O’Rourke 2005, 117). Yet willingness is not the same as opportunity or action upon intentions. Indeed, there are also constraints beyond setting market standards for fair trade, such as the lack of uniform standards and inadequate resources for monitoring (Author 2007).

The fair trade market is still quite limited. Dickson (2014) points out that while numerous polls show the vast majority of consumers indicating preference for ethically produced goods, they do not demonstrate consistent behaviour along these lines in ways that would influence companies, at least so far. Others argue that the central problem is a lack of signaling information about the
ways that the clothing is made (Robinson, Meyer and Kimeldorf 2014). Companies have the ultimate power to make or break the contracts, however, they are concerned about being undercut on prices, both at the wholesale and retail levels. As Mutersbaugh argues (2005) in regard to fair trade and organic production, producers within the countries legitimately fear competitive disadvantage as compliance requires higher costs and a more limited market. Another interviewee suggests that the pressure for long-term change can also come from socially-responsible investors. Unlike the successful anti-fur campaigns of PETA, in this case verification of compliance with ethical production is extremely difficult. As laudable as consumer awareness efforts are, therefore, our analysis suggests ultimately the pressure for change and true enforcement must come from changes in politics in developing countries through improving workers’ bargaining power and representation in government. As one interviewee put it, “As outsiders, we can only do so much.” My suggestions are summarised in the final graph:
Acknowledgements
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