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Pitfalls of Industry-Led Private Governance Regimes in Promoting CSR in Global Supply Chains: Evidence from the RMG Industry and Impact of COVID-19

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Abstract

This article examines the effectiveness of industry-led private governance regimes in promoting CSR in global supply chains. Focusing on the ready-made garments industry in Bangladesh, it proposes that new governance models in the form of corporate codes of conduct and multi-stakeholder initiatives might overestimate the role MNCs play in promoting CSR and are overly dependent on their altruism. By reflecting on the impact of the coronavirus (COVID-19) outbreak on the CSR policies of MNCs in relation to global supply chains, it suggests that the business responses to the pandemic have also raised serious concerns about the deficiencies in private governance regimes.

Introduction

The world is facing an unprecedented challenge due to the coronavirus (COVID-19) outbreak. Societies are in turmoil, and economic activity has been brought to a near-standstill as countries imposed necessary protection measures to stop the spread of the virus. The scale of humanitarian crisis is equally matched with economic disruption. It is expected that the COVID-19 pandemic will plunge most countries into recession in 2020. Advanced economies are projected to shrink 7 per cent¹ and unemployment is soaring in many countries.² The International Labour Organization (“ILO”) has predicted that almost 25 million jobs could be lost worldwide.³ A drastic drop in demand, as a result of many consumer countries going into lockdown and closing down retail shops, has hit the global supply chains in the ready-made garments (“RMG”) industry particularly hard.

The pandemic has also renewed focus on the social role of business as an economic actor and on corporate accountability.⁴ It has highlighted the need to rethink the

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¹ The World Bank, 'The Global Economic Outlook During the COVID-19 Pandemic: A Changed World' (8 June 2020) <<https://www.worldbank.org/en/news/feature/2020/06/08/the-global-economic-outlook-during-the-covid-19-pandemic-a-changed-world>> last accessed 22 June 2020.

² See OECD, 'OECD Economic Outlook' (June 2020) <<https://www.oecd.org/economic-outlook/>> last accessed 26 June 2020.

³ International Labour Organization, 'Almost 25 million jobs could be lost worldwide as a result of COVID-19, says ILO,' (18 March 2020) <https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_738742/lang--en/index.htm> last accessed 22 June 2020.

⁴ For example, see discussions in Polman, P., 'Comment: It is time to redesign traditional capitalism and put focus on values' *The Telegraph* (18 May 2020) <<https://www.telegraph.co.uk/business/2020/05/18/time-redesign-traditional-capitalism-put-focus-values/>> last accessed 21 July 2020; Conference Report, European Corporate Governance Institute, 'The Covid-19 Crisis and its Aftermath: Corporate Governance Implications and Policy Challenges' (16 April 2020) <https://ecgi.global/sites/default/files/gcgc_global_webinar_0.pdf> last accessed 21 July 2020; He, H. and Harris, L. 'The impact of Covid-19 pandemic on corporate social responsibility and marketing philosophy' (2020) 116 *Journal of Business Research* 176; Hinks, G., 'No more

fundamental structure of companies and the significance of corporate purpose in shaping the response of businesses to the pandemic. Managers of corporations are continuously facing the inescapable challenge of balancing investor's demands, consumer expectations and the welfare of various stakeholder groups. One of the vital features of globalization has been the development of global supply chains that are mostly coordinated and controlled by corporations based in developed economies.⁵ When addressing governance and extraterritorial issues, the regulatory approach has faced significant challenges. These include deciding on the extent to which companies should be accountable for human rights violations, whether this accountability should be applicable beyond the territorial boundary of the state, and whether government regulation is sufficient in itself to capture the vastness of corporate affairs.⁶ Governments do not always have the willingness or capacity to regulate the social and environmental externalities of global business activities. Consequently, the number of schemes using non-state authority to govern business conduct overseas has increased substantially in the last decade. An increasing portion of business regulation originates from the private sector, civil society, multi-stakeholder and hybrid public-private institutions that function in a dynamic, transnational regulatory space rather than from conventional state and interstate institutions.⁷ In these new governance models, multinational companies ("MNCs") undertake regulatory roles through their Corporate Social Responsibility ("CSR") practices and policies. The objective of this article is to examine the effectiveness of industry-led private governance regimes in global supply chains and explore the extent to which it can be an alternative to obligatory regulatory frameworks. Furthermore, the article aims to demonstrate that the business responses to the pandemic in relation to global supply chains and its impact on the CSR policies of MNCs have highlighted the deficiencies in private governance regimes even further. Particular emphasis is given to the RMG industry in Bangladesh. It is anticipated that examining the CSR practices of MNCs in Bangladesh following the Rana Plaza disaster⁸ and how MNCs responded to the COVID-19 crisis will shed light on the drawbacks of private transnational regulation. The situation in the RMG industry in Bangladesh might also be illustrative of the situation in other developing countries from which MNCs source goods or services. The article

business as usual: Professor Colin Mayer, Saïd Business School' *Board Agenda: Governance, Strategy, Risk, Ethics* (7 April 2020) <<https://boardagenda.com/2020/04/07/no-more-business-as-usual-professor-colin-mayer-said-business-school/>> last accessed 21 July 2020; Robitaille, M. and Kerrigan, S. 'COVID-19 Puts Social Purpose and Sustainability on the Boardroom Agenda: As Companies Seek to Thrive in the Next Normal' *Deloitte* (17 June 2020) <<https://www2.deloitte.com/global/en/blog/responsible-business-blog/2020/covid-19-puts-social-purpose-and-sustainability-on-the-boardroom-agenda.html>> last accessed 21 July 2020.

⁵ Soundararajan, V., Khan, Z. and Tarba, S., 'Beyond brokering: Sourcing agents, boundary work, and working conditions in global supply chains' (2018) 71 *Human Relations* 481, 482.

⁶ A. Begum, 'Corporate social responsibility: Reflecting Australian legal approaches to human rights' (2015) 36 *Company Lawyer* 279 at 280; see also K. Amaeshi, O. Osuji and P. Nnodim, 'Corporate Social Responsibility in Supply Chains of Global Brands: A Boundaryless Responsibility? Clarifications, Exceptions and Implications' (2008) 81 *Journal of Business Ethics* 223.

⁷ Eberlein, B., Abbott, K.W., Black, J., Meidinger, E. and Wood, S., 'Transnational business governance interactions: Conceptualization and framework for analysis' (2014) 8 *Regulation & Governance* 1, 1.

⁸ On 24 April 2013, the Rana Plaza building, which housed five garment factories, in Dhaka, Bangladesh collapsed. At least 1,134 people were killed in the incident and more than 2,500 were injured. See Safi, M. and Rushe, D., 'Rana Plaza, Five Years On: Safety of Workers Hangs in Balance in Bangladesh' *The Guardian* (24 April 2018) <<https://www.theguardian.com/global-development/2018/apr/24/bangladeshi-police-target-garment-workers-union-rana-plaza-five-years-on>> last accessed 25 June 2020.

contributes to the growing literature on CSR and supply chain governance by extending the debate on the efficacy of private governance regimes. By utilising recent examples of multi-stakeholder initiatives and analysing the impact of Covid-19, it demonstrates that even though voluntary initiatives are important means for promoting CSR, they have not brought about the expected improvements and might fail to create any real accountability to relevant stakeholders. Lastly, it highlights that since voluntary regulation has not led to sustainable business frameworks and fails to protect vulnerable stakeholders, there is a need for reform in the area.

1. CSR in Global Supply Chains

In the past several decades, the world economy has changed significantly in the realm of international trade and industrial organization. There are two key features of this contemporary economy. One is the globalization of production and trade which has instigated the growth of industrial capabilities in many developing countries and the other is the vertical disintegration of MNCs which allows them to focus on the highest value-added aspects of manufacturing and services and reduce direct ownership over volume production and generic services.⁹ Global supply chains can be defined as networks of vertically and horizontally connected firms involved in the production and distribution activities of MNCs.¹⁰ It improves competitive advantages of MNCs' through the cost and risk benefits of outsourcing and providing access to necessary resources and knowledge.¹¹ Powerful MNCs move their manufacturing sites to places where local laws are most hospitable for them, which enables to make maximum profit with minimum legal liabilities.¹² These advantages, however, are accompanied by various social and environmental issues in the manufacturing facilities of suppliers based in developing countries.¹³

MNCs gradually became aware of the social and environmental aspects of their business operations overseas as it became clear that their impact extends well beyond national borders. When powerful MNCs operate in developing nations, the governments of the host states might be very reluctant to confront these companies when they misuse their power and influence since their presence might be valuable for many reasons, such as investment and employment. In addition to that, there is a remedial gap in international law when it comes to regulating MNCs.¹⁴ International law largely creates liabilities for governments but fails to articulate the human rights obligations of corporations and to provide mechanisms for regulating corporate conduct in the field of human rights.¹⁵ Consequently, NGOs, lawmakers, and

⁹ Gereffi, G., Humphrey, J. and Sturgeon, T. 'The governance of global value chains' (2005) 12 *Review of International Political Economy* 78, 78-79.

¹⁰ Soundararajan, V., Brown, J. and Wicks, A., 'Can Multi-Stakeholder Initiatives Improve Global Supply Chains? Improving Deliberative Capacity with a Stakeholder Orientation' (2019) 29 *Business Ethics Quarterly* 385, 388.

¹¹ Gereffi, G., Humphrey, J. and Sturgeon, T. 'The governance of global value chains' (2005) 12 *Review of International Political Economy* 78.

¹² See Ratner, S. R., 'Corporations and Human Rights: A Theory of Legal Responsibility' (2001) 111 *The Yale Law Journal* 443.

¹³ Soundararajan, V., Khan, Z. and Tarba, S., 'Beyond brokering: Sourcing agents, boundary work, and working conditions in global supply chains' (2018) 71 *Human Relations* 481.

¹⁴ Shamir, R., 'Between Self-Regulation and the Alien Tort Claims Act: On the Contested Concept of Corporate Social Responsibility' (2004) 38 *Law & Society Review* 635, 637.

¹⁵ The Harvard Law Review Association, 'Corporate Liability for Violations of International Human Rights Law' (2001) 114 *Harvard Law Review* 2025, 2030.

academics demanded greater accountability and liability of corporations in international law as many times their increasing power and global operations over-commercialize the ways in which they make profits and pose serious threats to human rights conditions.¹⁶ As a result of the weakness of the regulatory environments and enforcement systems in developing countries, MNCs were under scrutiny for the social and environmental performance of their suppliers located there.¹⁷ The ethics of business activities became increasingly important, and more and more companies focused on their ability to not only make profits and meet customer needs but also the needs of their various stakeholders such as employees, suppliers, NGOs, the local community representatives and other interest groups. As a result of this development, companies embraced the discourse of CSR.¹⁸ For the purposes of this article, it will be useful to think of CSR as explained by Blowfield and Frynas: “an umbrella term for a variety of theories and practices all of which recognize the following: (a) that companies have a responsibility for their impact on society and the natural environment, sometimes beyond legal compliance and the liability of individuals; (b) that companies have a responsibility for the behaviour of others with whom they do business (e.g. within supply chains); and (c) that business needs to manage its relationship with wider society, whether for reasons of commercial viability or to add value to society.”¹⁹

2. The Proliferation of ‘New Governance’ Models

Ruggie has stated that:

*“the root cause of the business and human rights predicament today lies in the governance gaps created by globalization – between the scope and impact of economic forces and actors, and the capacity of societies to manage their adverse consequences. These governance gaps provide the permissive environment for wrongful acts by companies of all kinds without adequate sanctioning or reparation. How to narrow and ultimately bridge the gaps in relation to human rights is our fundamental challenge.”*²⁰

¹⁶ A. Begum, ‘Corporate social responsibility: Reflecting Australian legal approaches to human rights’ (2015) 36 *Company Lawyer* 279 at 279-280. Also see Ratner, S. R., ‘Corporations and Human Rights: A Theory of Legal Responsibility’ (2001) 111 *The Yale Law Journal* 443.; Shamir, R., ‘Between Self-Regulation and the Alien Tort Claims Act: On the Contested Concept of Corporate Social Responsibility’ (2004) 38 *Law & Society Review* 635

¹⁷ Locke, R., Amengual, M., and Mangla, A., ‘Virtue out of necessity? Compliance, commitment, and the improvement of labor conditions in global supply chains’ (2009) 37 *Politics & Society* 319.

¹⁸ Pedersen, E. R. and Andersen, M., ‘Safeguarding corporate social responsibility (CSR) in global supply chains: how codes of conduct are managed in buyer-supplier relationships’ (2006) 6 *Journal of Public Affairs* 228, 229.

¹⁹ Blowfield, B. and Frynas, J. G., ‘Editorial. Setting new agendas: Critical perspectives on corporate social responsibility in the developing world’ (2005) 81 *International Affairs* 499, 503.

²⁰ J. Ruggie, ‘Protect, respect and remedy: a framework for business and human rights’ (2008), at p. 3, available at <<https://business-humanrights.org/sites/default/files/reports-and-materials/Ruggie-report-7-Apr-2008.pdf>> last accessed 25 June 2020.

Since states and global institutions have a limited capacity of setting and implementing regulations that work well in an international marketplace,²¹ the legal framework and instruments for this new discourse had to be tailored accordingly for MNCs operating in multiple jurisdictions. Hence, a wide range of regulatory initiatives addressing CSR in global supply chains emerged. These initiatives are usually categorised as either 'hard law' mechanisms of public regulation or 'soft law' mechanisms of private ordering.²² In other words, hard law is legally binding and enforceable through the courts and includes domestic statutes, common law, regulations and international treaties.²³ In addition to such hard law mechanisms, there was a proliferation of soft law mechanisms as MNCs tried to use soft law standards that are nonbinding and generally not enforced through government measures.²⁴ Furthermore, the soft law mechanisms can be divided into purely self-regulatory mechanisms, such as voluntary corporate codes of conduct drafted by MNCs themselves, and multi-stakeholder initiatives.

Self-regulatory mechanisms for MNCs include complying with codes of conduct, which is a common CSR tool employed by companies to institute and communicate their responsible business practices and built an ethical organizational culture,²⁵ and conducting audits aimed at monitoring the social and environmental conditions in their global supply chains. However, because these mechanisms have not always succeeded in producing the desired outcomes or in getting accepted by a wide range of global supply chain participants,²⁶ some MNCs, in particular those that are subject to heavy scrutiny, use multi-stakeholder initiatives in combination with other governance tools. This is primarily due to their comparatively wider acceptance.²⁷ Multi-stakeholder initiatives represent private governance mechanisms, that involves corporations, civil society organizations, governments, academia or unions, to tackle social and environmental issues.²⁸ Multi-stakeholder initiatives in global supply chains range from compliance-based paradigm in which suppliers are expected to comply with certain predefined standards by MNCs²⁹ to more collaborative-based initiatives in which social control guides participants into seeking multilateral benefits at the network instead of at the firm level.³⁰ Compliance with guidelines is monitored through

²¹ Gilbert, D. U. and Rasche, A., 'Opportunities and problems of standardized ethics initiatives—a stakeholder theory perspective' (2008) 82 *Journal of Business Ethics* 755; Abbott, K. W. and Snidal, D., 'Hard and soft law in international governance' (2000) 54 *International Organization* 421.

²² Frost, N., 'Transnational Corporations as Agents of Legal Change: The Role of Corporate Social Responsibility' (2016) 5 *Cambridge Journal of International and Comparative Law* 502.

²³ Yan, M., 'Corporate Social Responsibility versus Shareholder Value Maximization: Through the Lens of Hard and Soft Law' (2019) 40 *Northwestern Journal of International Law & Business* 47.

²⁴ Gilbert, D. U. and Rasche, A., 'Opportunities and problems of standardized ethics initiatives—a stakeholder theory perspective' (2008) 82 *Journal of Business Ethics* 755.

²⁵ Erwin, P. M., 'Corporate codes of conduct: The effects of code content and quality on ethical performance' (2011) 99 *Journal of Business Ethics* 535.

²⁶ Erwin, P. M., 'Corporate codes of conduct: The effects of code content and quality on ethical performance' (2011) 99 *Journal of Business Ethics* 535.

²⁷ Soundararajan, V., Brown, J. and Wicks, A., 'Can Multi-Stakeholder Initiatives Improve Global Supply Chains? Improving Deliberative Capacity with a Stakeholder Orientation' (2019) 29 *Business Ethics Quarterly* 385.

²⁸ Mena, S. and Palazzo, G., 'Input and output legitimacy of multi-stakeholder initiatives.' (2012) 22 *Business Ethics Quarterly* 527, 527-528.

²⁹ Lund-Thomsen, P. and Lindgreen, A., 'Corporate social responsibility in global value chains: Where are we now and where are we going?' (2014) 123 *Journal of Business Ethics* 11.

³⁰ Drake, M. J., & Schlachter, J. T. 2008. A virtue-ethics analysis of supply chain collaboration. *Journal of Business Ethics* , 82: 851–64.

social and environmental audits and suppliers that are not compliant are punished with either reduced orders or omission from the supply chain.³¹

In the 1990s, academic literature on CSR was concentrated on the normative justifications for and impact of such voluntary initiatives in comparison to the hard law regulatory frameworks.³² This new governance model based on soft-law mechanism is focused on increased involvement of non-state actors in the process of regulation and challenged the traditional view that regulatory power should reside with administrative agencies because of their superior knowledge.³³ Under the traditional regulatory model, industries are the objects of regulation. In the renewed governance model, there is a transition in the role of private entities and institutions from being the object of a regulator to taking a regulatory role itself. So instead of conceptualizing these private entities as passive objects of regulation whose role is restricted to whether or not they should comply with regulations, this model aimed to utilize the resources of private entities in setting standards and practices to improve the effectiveness of regulation.³⁴ These new regulatory initiatives were often considered to be the appropriate response to globalization and the failure of the traditional model to regulate MNCs effectively.³⁵ Two main characteristics of these new initiatives were highlighted by Abbott and Snidal. The first is the vital role that private actors such as NGOs and MNCs play in setting these regulatory norms through novel collaborations and the indirect role of the state. The second is the voluntary, instead of state-mandated, nature of these norms.³⁶ Under the new governance model of decentralized regulation, the state encourages private actors to draw on their greater resources and capacities in order to self-regulate and regulate others through different forms of private ordering. This decentralization mechanism works through various networks in which non-state actors are enlisted as partners in pursuit of public goals and are not mere objects of regulation. This softens the adversarial nature of old governance regulation in addition to reducing its social costs.³⁷

³¹ Soundararajan, V., Brown, J. and Wicks, A., 'Can Multi-Stakeholder Initiatives Improve Global Supply Chains? Improving Deliberative Capacity with a Stakeholder Orientation' (2019) 29 *Business Ethics Quarterly* 385, 388.

³² See Ratner, S. R., 'Corporations and Human Rights: A Theory of Legal Responsibility' (2001) 111 *The Yale Law Journal* 443.; Shamir, R., 'Between Self-Regulation and the Alien Tort Claims Act: On the Contested Concept of Corporate Social Responsibility' (2004) 38 *Law & Society Review* 635; Kinley, D. and Tadaki, J., 'From Talk to Walk: The Emergence of Human Rights Responsibilities for Corporations at International Law' (2004) 44 *Virginia Journal of International Law* 931.

³³ Orly Lobel, 'New Governance as Regulatory Governance' in David Levi-Faur (ed), *The Oxford Handbook of Governance* (OUP 2012), 66–67.

³⁴ Lobel, O. 'The Renew Deal: The Fall of Regulation and the Rise in Governance in Contemporary Legal Thought' (2004) 89 *Minnesota Law Review* 342, 376-377.

³⁵ Abbott, K. W. and Snidal, D., 'Strengthening International Regulation Through Transnational New Governance: Overcoming the Orchestration Deficit' (2009) 42 *Vanderbilt Journal of Transnational Law* 501.

³⁶ Abbott, K. W. and Snidal, D., 'Strengthening International Regulation Through Transnational New Governance: Overcoming the Orchestration Deficit' (2009) 42 *Vanderbilt Journal of Transnational Law* 501, 505-07.

³⁷ Abbott, K. W. and Snidal, D., 'Strengthening International Regulation Through Transnational New Governance: Overcoming the Orchestration Deficit' (2009) 42 *Vanderbilt Journal of Transnational Law* 501., 525-26.

3. RMG industry in Bangladesh and the Aftermath of the Rana Plaza Disaster

Among the variety of regulatory initiatives, this article will now consider the effectiveness of voluntary practices of CSR, especially multi-stakeholder initiatives, in which non-state actors exercise significant authority to perform regulatory functions, alone or with state actors by considering the RMG industry in Bangladesh. Relying on its large population of low-waged workers, Bangladesh embraced garment assembly as a form of export-led growth in the last decade³⁸ and is now the second-largest garment exporter after China.³⁹ The RMG industry has played an enormous role in the economic growth and societal development of the country.⁴⁰ It accounts for more than 83 per cent of the country's exports and contributes approximately 16 per cent to the GDP, with around 4,000 factories employing four million workers.⁴¹ However, this development has come with significant concerns. MNCs bolster their price competitiveness by working with Bangladeshi suppliers and make more profits by reaping the benefits of the poor safety standards and low wages in the country.⁴² The supply chains are part of the 'fast fashion' production model in which Western companies adopted a quick response model of production that was designed to reduce inventory and dramatically reduce the time spent between initial design of garments and their eventual arrival in retail outlets. Consequently, suppliers are put under a lot of pressure to meet strict delivery deadlines in addition to strong cost mandates.⁴³ The MNCs' desire for cheap products combined with the socio-economic conditions in Bangladesh leads to constant abuse of human rights in this sector. A key characteristic of the industry is the indirect sourcing or subcontracting through purchasing agents in a manner that is not transparent to regulators. This provides a way to increase profit margins and production capacity while keeping the cost of production low.⁴⁴ However, the suppliers have to satisfy specific requirements for the products along with maintaining various social standards. Hence, the MNCs gain a higher share of the final value than the suppliers as the value associated with the quality is passed to the MNCs, but the risk and cost are passed down the chain to the workers.⁴⁵ In the absence of an effective regulatory framework, the dominance of indirect sourcing

³⁸ Taplin, I. M., 'Who is to blame? A re-examination of fast fashion after the 2013 factory disaster in Bangladesh' (2014) 10 *critical perspectives on international business* 72, 73.

³⁹ Bradsher, K. (2013), 'After Bangladesh, seeking new sources' *The New York Times* (15 May 2013) <<https://www.nytimes.com/2013/05/16/business/global/after-bangladesh-seeking-new-sources.html>> last accessed 23 June 2020.

⁴⁰ Hassan, F. 'RMG industry of Bangladesh: Past, present and future' (*Dhaka Tribune* 19 September 2014) <<http://www.dhakatribune.com/long-form/2014/09/15/rmg-industry-of-bangladesh-past-present-and-future/>> last accessed 22 June 2020.

⁴¹ Uddin, M., 'The next chapter for our RMG sector' *The Daily Star* (1 June 2018) <<https://www.thedailystar.net/opinion/perspective/the-next-chapter-our-rmg-sector-1584409>> last accessed 22 June 2020.

⁴² ter Haar, B. and Keune, M. 'One Step Forward or More Window-Dressing? A Legal Analysis of Recent CSR Initiatives in the Garment Industry in Bangladesh' (2014) 30 *The International Journal of Comparative Labour Law and Industrial Relations* 5, 6-7.

⁴³ Taplin, I. M., 'Who is to blame? A re-examination of fast fashion after the 2013 factory disaster in Bangladesh' (2014) 10 *critical perspectives on international business* 72, 73.

⁴⁴ Acona (2004) 'Buying Your Way into Trouble? The Challenge of Responsible Supply Chain Management'. London: Insight Investment Management Ltd. <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwiX-cOKsKXqAhVdQkEAEHkCQUQFjAAegQIAxAB&url=https%3A%2F%2Fcarncstone.com%2Fdownload%2FInsightFile%3Finsight%3D4&usq=AOvVaw2ko4toUETsMRZactfJd_u> last accessed 22 June 2020.

⁴⁵ Barrientos, S., 'Contract Labour: The 'Achilles Heel' of Corporate Codes in Commercial Value Chains' (2008) 39 *Development and Change* 977, 982.

strategies means that supply chains are driven by the pursuit of lowest nominal costs. This results in increased risks for suppliers and workers by undermining wages and working conditions.⁴⁶ Thus, an incident such as the Rana Plaza disaster was expected.

On the 24 April 2013, the collapse of the Rana Plaza, an eight-storey building that housed five garment factories located in the industrial outskirts of Dhaka, Bangladesh, killed around 1,134 people and injured about 2500 people. It can be considered to be the world's worst industrial accident in 30 years. On the day before the collapse, cracks appeared in walls and the building was briefly evacuated, but the workers were later allowed back in or told to return by the factory owners.⁴⁷ These workers were making garments for MNCs originating in Europe, the United States and Australia.⁴⁸ After the incident, the international outcry addressing unsafe working conditions in garment factories in Bangladesh resulted in three initiatives taken to make factories safe: the Accord on Fire and Building Safety in Bangladesh ("Accord"), the Alliance for Bangladesh Worker Safety ("Alliance") and the National Initiative covering the remaining export-oriented factories with the technical assistance of ILO.⁴⁹

Both the Accord and the Alliance are multi-stakeholder initiatives, as explained in the previous section, to improve safety in factories in the RMG industry in Bangladesh. The Accord is a legally binding agreement between global brands, IndustriALL Global Union, UNI Global Union and eight of their Bangladeshi affiliated unions to work towards creating a safe garment industry in Bangladesh. It comprises an entirely independent inspection programme that also involves the workers and trade unions. The signatories of the Accord include apparel brands, retailers and importers from countries in Europe, North America, Australia and Asia.⁵⁰ The Alliance is a similar

⁴⁶ Labowitz, S. and Baumann-Pauly, D., 'Business as Usual is Not an Option: Supply Chains and Sourcing after Rana Plaza' (2014), Centre for Business and Human Rights, Stern School of Business, New York University <http://www.stern.nyu.edu/sites/default/files/assets/documents/con_047408.pdf> last accessed 22 June 2020.

⁴⁷ See Safi, M. and Rushe, D., 'Rana Plaza, Five Years On: Safety Of Workers Hangs In Balance In Bangladesh' *The Guardian* (24 April 2018) <<https://www.theguardian.com/global-development/2018/apr/24/bangladeshi-police-target-garment-workers-union-rana-plaza-five-years-on>> last accessed 25 June 2020; Labowitz, S. and Baumann-Pauly, D., 'Business as Usual is Not an Option: Supply Chains and Sourcing after Rana Plaza' (2014), Centre for Business and Human Rights, Stern School of Business, New York University <http://www.stern.nyu.edu/sites/default/files/assets/documents/con_047408.pdf> last accessed 22 June 2020.; BBC, 'Bangladesh factory collapse toll passes 1,000' (2013) <<http://www.bbc.co.uk/news/world-asia-22476774>> last accessed 25 June 2020; The Editorial Board'Editorial, 'One Year After Rana Plaza', *The New York Times* (27 April 2014) <<https://www.nytimes.com/2014/04/28/opinion/one-year-after-rana-plaza.html>> last accessed 23 June 2020.

⁴⁸ Ali, M. M. and A. Medhekar, 'A poor country clothing the rich countries: case of garment trade in Bangladesh' (2016) 12 *Economy of Region* 1178 at 1179.

⁴⁹ Clean Clothes Campaign, International Labor Rights Forum, Maquila Solidarity Network, and Worker Rights Consortium. 'Bangladesh Government's Safety Inspection Agencies: Not Ready to Take Over Accord's Work' (1 April 2019) <https://www.workersrights.org/wp-content/uploads/2019/04/Bangladesh_RCC-report-4-1_3.pdf> last accessed 25 June 2020.

⁵⁰ See Accord on Fire and Building Safety in Bangladesh, 'About the Accord' <<http://bangladeshaccord.org/about/>> last accessed 22 June 2020; Accord on Fire and Building Safety in Bangladesh, 'Signatories' <<http://bangladeshaccord.org/signatories/>> last accessed 22 June 2020. The full list of the signatories can be accessed on this website.

undertaking⁵¹ and its members represent the majority of North American imports of RMG from Bangladesh.⁵² The Alliance concluded its activity in December 2018⁵³ and the Accord continued its work as a Transition Accord until June 2020 when the functions of the local office of the Accord transitioned to the RMG Sustainability Council (“RSC”). The RSC is a newly established national organisation with equal representation from RMG manufacturers, global apparel companies, and trade unions and is a permanent safety monitoring and compliance body.⁵⁴

4. Effectiveness of ‘New Governance’ Models: Reflection on the Accord and the Alliance

It has been argued that the ability of the Accord and the Alliance to regulate issues of workers’ safety and protect human rights as a new form of CSR merits serious consideration. Through these industry-led private initiatives, MNCs can be perceived as actively making a contribution to the institutionalisation of human rights in Bangladesh, but doing so through non-formal, non-binding, voluntary impositions of human rights standards.⁵⁵ This argument resonates with assertions by new governance theorists on the effectiveness of public-private, multi-actor collaborative regulation which claim that voluntary regulatory initiatives such as the Accord and the Alliance are more instrumental in information sharing and learning in comparison to state-centred, old governance regulatory mechanisms.⁵⁶ New governance allows policies to be tailored to the specific needs and local conditions instead of imposing uniform rules on different circumstances. Private actors like MNCs collaborate with NGOs in multi-stakeholder arrangements which allows to pursue complementary goals and combine interrelated competencies.⁵⁷ Abbott and Snidal provided an example of collaboration between NGOs that support high labour standards and companies that want to accept higher standards but favour self-regulation. This

⁵¹ It should be noted that there are critical differences between the two undertakings. The Accord is an agreement between the global brands and retailers and the global and local representatives of their suppliers’ employees to coordinate factory safety. It is based on a dedicated governance contract. However, the Alliance is a commitment between the global brands and retailers to coordinate safety efforts in the factories of their suppliers. The Alliance includes explicit noncommittal language which the Accord doesn’t. For more information on the structural differences see Salminen, J. ‘The Accord on Fire and Building Safety in Bangladesh: A New Paradigm for Limiting Buyers’ Liability in Global Supply Chains?’ (2018) 66 *American Journal of Comparative Law* 411.

⁵² See Alliance for Bangladesh Worker Safety ‘About the Alliance for Bangladesh Worker Safety’ <<http://www.bangladeshworkersafety.org/who-we-are/about-the-alliance>> last accessed 22 June 2020; Alliance for Bangladesh Worker Safety ‘Membership’ <<http://www.bangladeshworkersafety.org/who-we-are/membership>> last accessed 22 June 2020. The full list of the members can be accessed on this website.

⁵³ Clean Clothes Campaign, International Labor Rights Forum, Maquila Solidarity Network, and Worker Rights Consortium. ‘Bangladesh Government’s Safety Inspection Agencies: Not Ready to Take Over Accord’s Work’ (1 April 2019) <https://www.workersrights.org/wp-content/uploads/2019/04/Bangladesh_RCC-report-4-1_3.pdf> last accessed 25 June 2020.

⁵⁴ Accord on Fire and Building Safety in Bangladesh, ‘Transition to The RMG Sustainability Council (RSC)’ <<https://bangladeshaccord.org/updates/2020/06/01/transition-to-the-rmg-sustainability-council-rsc>> (1 June 2020) last accessed 25 June 2020.

⁵⁵ Frost, N., ‘Transnational Corporations as Agents of Legal Change: The Role of Corporate Social Responsibility’ (2016) 5 *Cambridge Journal of International and Comparative Law* 502.

⁵⁶ Frost, N., ‘Transnational Corporations as Agents of Legal Change: The Role of Corporate Social Responsibility’ (2016) 5 *Cambridge Journal of International and Comparative Law* 502.

⁵⁷ Abbott, K. W. and Snidal, D., ‘Strengthening International Regulation Through Transnational New Governance: Overcoming the Orchestration Deficit’ (2009) 42 *Vanderbilt Journal of Transnational Law* 501, 525-527.

collaboration might result in a joint standard that is implemented more effectively than a purely NGO scheme as the MNCs have more business expertise and management capacity. On the other hand, it will be more sincere than an industry code because it will have the NGO's commitment, independence and normative expertise.⁵⁸ Frost suggests that initiatives such as the Accord and the Alliance should be considered as a type of legal transplant that reaches the receiving state through CSR practices adopted by the MNCs that are signatories of the Accord and the Alliance and are accepted with the assistance of local citizenry as a result of transparency and cooperation. Hence conceptualising of CSR as a legal transplant leads to understanding that human rights regimes can be formed through the commercial activity of MNCs as well.⁵⁹

Despite the fact that there are certain advantages of multi-stakeholder regimes such as the Accord and the Alliance and that it can be important vehicles in improving standards in the supply chains, many challenges remain. Even though these initiatives seemingly adopted a collaborative approach, it has not been entirely successful in yielding sustained improvements. For example, less than three years after the Rana Plaza disaster, a fire broke out in a Bangladeshi factory that was producing goods for major clothing brands and retailers and most of these brands were participating in multi-stakeholder initiatives including the Alliance.⁶⁰ Furthermore, the Accord has been criticized for only covering a portion of factories in Bangladesh and not addressing some of the most serious safety violations.⁶¹ A lot of challenging and expensive fire safety and structural renovations remain outstanding at a considerable number of factories.⁶²

One of the major obstacles in making improvements is who bears the financial responsibility to make sure that buildings are structurally sound or to install fire doors in an industry that is driven by decisions based on low prices and maximum profits.⁶³ Section 22 of the Accord reads: "In order to induce Tier 1 and Tier 2 factories to comply with upgrade and remediation requirements of the program, participating brands and retailers will negotiate commercial terms with their suppliers which ensure that it is financially feasible for the factories to maintain safe workplaces and comply with upgrade and remediation requirements instituted by the Safety Inspector. Each signatory company may, at its option, use alternative means to ensure factories have the financial capacity to comply with remediation requirements, including but not

⁵⁸ Abbott, K. W. and Snidal, D., 'Strengthening International Regulation Through Transnational New Governance: Overcoming the Orchestration Deficit' (2009) 42 *Vanderbilt Journal of Transnational Law* 501, 525-527.

⁵⁹ Frost, N., 'Transnational Corporations as Agents of Legal Change: The Role of Corporate Social Responsibility' (2016) 5 *Cambridge Journal of International and Comparative Law* 502.

⁶⁰ Timmons, H. 'Another major factory fire in Bangladesh shows "industry safeguards" are failing' *Quartz* (2 February 2016) <<https://qz.com/608698/another-major-factory-fire-in-bangladesh-shows-industry-safeguards-are-failing/>> last accessed 22 June 2020.

⁶¹ Bain, M. 'The international effort to fix Bangladesh's deadly factories has a basic math problem' *Quartz* (5 July 2017) <<https://qz.com/1018430/the-international-effort-to-fix-bangladeshs-deadly-factories-has-a-basic-math-problem/>> last accessed 22 June 2020.

⁶² Clean Clothes Campaign. 'The Bangladesh Accord continues to operate but its independence may be at risk' (15 June 2019) <<https://cleanclothes.org/news/2019/the-bangladesh-accord-continues-to-operate-but-its-independence-may-be-at-risk>> last accessed 22 June 2020.

⁶³ Bain, M. 'The international effort to fix Bangladesh's deadly factories has a basic math problem' *Quartz* (5 July 2017) <<https://qz.com/1018430/the-international-effort-to-fix-bangladeshs-deadly-factories-has-a-basic-math-problem/>> last accessed 22 June 2020.

limited to joint investments, providing loans, accessing donor or government support, through offering business incentives or through paying for renovations directly.”⁶⁴ Hence, the funding for the building improvements is open to negotiation, and the brands and retailers should make it financially feasible for suppliers to improve their factories. Some factory owners in Bangladesh have expressed concerns that there is an unfunded mandate to improve safety. The brands and retailers commit to paying for some orders in advance or to maintaining their orders and are required to pay for the inspections, but not for the improvements. The Alliance had set up a fund to provide low-cost loans for these upgrades, but in the end the suppliers must bear the cost for the remediation of their factories. MNCs that frequently change suppliers or even countries to source their products from to find the lowest cost are not keen to invest in making improvements in the factories that produce their products.⁶⁵ Therefore, suppliers who could not fulfil the new requirements had to shut down their facilities and the suppliers who could do so had to accept lower profit margins.

This correlates to one of the major criticisms aimed at multi-stakeholder initiatives that supply-chain participants embrace commitments to certain standards but then do not make the necessary effort to fulfil those commitments. It has been argued that labour standards and practices recommended by multi-stakeholder initiatives should be determined through a deliberative process in which the different parties can offer arguments and persuade others to reach democratic consensus regarding acceptable behaviour. Instead, they are decentralized, and the deliberation process seems to be political. Hence the ability of all participants to engage in the process is questionable.⁶⁶ The extent to which the suppliers in Bangladesh were part of the deliberation process for both the Accord and the Alliance is unclear and whether their voices were truly heard is doubtful. Many cases have shown how participants, which includes MNCs and NGOs, sometimes exclude others from the deliberation process or utilize their bargaining power to force solutions.⁶⁷ Therefore, if participants are more focused on their interests and are not very concerned about the interests of other participants, and if all participants do not fully commit to a process of deliberation to identify mutual interests and acknowledge the need for all parties involved to participate voluntarily, then the effectiveness of multi-stakeholder initiatives are hindered by major structural governance barriers.⁶⁸ MNCs perceive their suppliers as interchangeable, grant them short-term spot contracts and have very little concern for

⁶⁴ Accord on Fire and Building Safety in Bangladesh (13 May 2013) <<https://bangladesh.wpengine.com/wp-content/uploads/2018/08/2013-Accord.pdf>> last accessed 22 June 2020.

⁶⁵ Spinello, R. (2019) *Business Ethics: Contemporary Issues And Cases*. 1st ed. United States of America: SAGE Publications, 417.

⁶⁶ Soundararajan, V., Brown, J. and Wicks, A., ‘Can Multi-Stakeholder Initiatives Improve Global Supply Chains? Improving Deliberative Capacity with a Stakeholder Orientation’ (2019) 29 *Business Ethics Quarterly* 385. Also see Locke, R., Amengual, M. and Mangla, A. ‘Virtue out of necessity? Compliance, commitment, and the improvement of labor conditions in global supply chains’ (2009) 37 *Politics & Society* 319 and Schouten, G., Leroy, P. and Glasbergen, P., ‘On the deliberative capacity of private multi-stakeholder governance: the roundtables on responsible soy and sustainable palm oil’ (2012) 83 *Ecological Economics* 42.

⁶⁷ Soundararajan, V., Brown, J. and Wicks, A., ‘Can Multi-Stakeholder Initiatives Improve Global Supply Chains? Improving Deliberative Capacity with a Stakeholder Orientation’ (2019) 29 *Business Ethics Quarterly* 385.

⁶⁸ Soundararajan, V., Brown, J. and Wicks, A., ‘Can Multi-Stakeholder Initiatives Improve Global Supply Chains? Improving Deliberative Capacity with a Stakeholder Orientation’ (2019) 29 *Business Ethics Quarterly* 385.

the individual suppliers from which they source their products. On the other hand, suppliers view MNCs as demanding, fickle and fixated on the lowest price. Hence, the suppliers and MNCs have little trust, if any at all, in one another.⁶⁹ In the absence of relationships based on trust, it is very difficult to pivot suppliers towards long-term sustainable practices. Also, in order for multi-stakeholder initiatives in global supply chains to be effective, key suppliers need to believe that their continued participation is beneficial and they are gaining a reasonable share of the economic value.⁷⁰ Since the interests of the suppliers and their financial capacity are not fully taken into account, suppliers will continue to try to manipulate the system and cut corners to pass the safety inspections somehow. As a result, more accidents are inevitable.

5. Impact of COVID-19: CSR in times of crises

The impact of COVID-19 has been devastating for supply chains in the RMG industry. There are 40 million workers in garment supply chains around the world who now face destitution.⁷¹ As stores have been shut down due to lockdowns in the developed economies, many global brands' and retailers' immediate reaction was to cancel or postpone production orders. In many cases, they refused to pay for clothes supplier factories had already produced or were in the process of being manufactured.⁷² Millions of factory workers have been sent home, many without legally mandated pay or severance.⁷³

European companies have cut an estimated \$1.5 billion USD in orders from 1,089 garment factories in Bangladesh⁷⁴ and it is estimated that across Bangladesh, companies have cancelled orders worth \$3.5 billion USD.⁷⁵ For example, Primark, taking a hard-line approach, disavowed their contractual obligations to the suppliers

⁶⁹ Bird, R.C. and Soundararajan, V., 'The Role of Precontractual Signals in Creating Sustainable Global Supply Chains' (2020) 164 *Journal of Business Ethics* 81, 82.

⁷⁰ Soundararajan, V., Brown, J. and Wicks, A., 'Can Multi-Stakeholder Initiatives Improve Global Supply Chains? Improving Deliberative Capacity with a Stakeholder Orientation' (2019) 29 *Business Ethics Quarterly* 385.

⁷¹ See Kelly, A., 'Garment workers face destitution as Covid-19 closes factories' *The Guardian* (19 March 2020) <<https://www.theguardian.com/global-development/2020/mar/19/garment-workers-face-destitution-as-covid-19-closes-factories>> last accessed 25 June 2020.

⁷² European Center for Constitutional and Human Rights (ECCHR), 'Garment Supply Chains in Intensive Care? Human Rights Due Diligence in Times Of (Economic) Crises: Policy Paper' (April 2020)

<https://www.ecchr.eu/fileadmin/Publikationen/ECCHR_PP_SUPPLYCHAINS_COVID_EN.pdf> last accessed 29 June 2020.

⁷³ Anner, M., 'Abandoned? The Impact of Covid-19 on Workers and Businesses at the Bottom of Global Garment Supply Chains,' *Penn State Center for Global Workers' Rights* (March 2020)

<https://www.researchgate.net/publication/340460592_Abandoned_The_Impact_of_Covid-19_on_Workers_and_Businesses_at_the_Bottom_of_Global_Garment_Supply_Chains> last accessed 29 June 2020.

⁷⁴ Worker Rights Consortium. 'Covid-19 Tracker: Which Brands Are Acting Responsibly toward Suppliers and Workers?' <<https://www.workersrights.org/issues/covid-19/tracker/#AboutTracker>> last accessed 29 June 2020.

⁷⁵ Chapman, B., "They just don't care": Millions of garment workers facing destitution as Britain's high street billionaires fail to honour contracts' *The Independent* (6 May 2020)

<<https://www.independent.co.uk/news/business/analysis-and-features/coronavirus-clothes-workers-bangladesh-high-street-shut-a9500111.html?fbclid=IwAR3hcufdS4gayOeO9qHkGw8lTHqM3qHPKZyvNGZpxDuB8HjISJQ1mV4G6w8>> last accessed 25 June 2020.

at the bottom of their supply chain⁷⁶ and later partially backtracked due to bad publicity.⁷⁷ Some retailers, such as H&M and Zara came forward and agreed to honour existing contracts. However, many retailers are refusing to do the same. This includes Philip Green's Arcadia Group, which owns brands including Dorothy Perkins, Topshop, and Miss Selfridge. A supplier in Bangladesh mentioned that Arcadia demanded in a few lines of text that items already shipped would be subject to a 30 per cent discount. This would wipe out the supplier's mark-up of between 5 and 10 per cent.⁷⁸ For an industry that runs on very small margins and mainly on credit, this is disastrous.⁷⁹ A survey of suppliers in Bangladesh revealed that more than one million garment workers in Bangladesh already have been fired or furloughed.⁸⁰ Even though many brands have responsible exit policies, in which they commit to help factories in mitigating adverse impacts to workers if they decide to exit, 80.4% of the dismissed workers were sent home without their severance pay.⁸¹ Furthermore, responses showed that 98.1% of the buyers did not contribute to the cost of paying the partial wages to furloughed workers.⁸² In the factories where production has not stopped, the workers are not guaranteed their right to safe working conditions as the essential safety precautions are not implemented.⁸³ This data illustrates the immense power

⁷⁶ Worker Rights Consortium. 'Covid-19 Tracker: Which Brands Are Acting Responsibly toward Suppliers and Workers?' <<https://www.workersrights.org/issues/covid-19/tracker/#AboutTracker>> last accessed 29 June 2020.

⁷⁷ Chapman, B., 'They just don't care': Millions of garment workers facing destitution as Britain's high street billionaires fail to honour contracts' *The Independent* (6 May 2020) <<https://www.independent.co.uk/news/business/analysis-and-features/coronavirus-clothes-workers-bangladesh-high-street-shut-a9500111.html?fbclid=IwAR3hcufdS4gayOeO9qHkGw8ITHqM3qHPKZyvNGZpxDuB8HjISJQ1mV4G6w8>> last accessed 25 June 2020.

⁷⁸ Chapman, B., 'They just don't care': Millions of garment workers facing destitution as Britain's high street billionaires fail to honour contracts' *The Independent* (6 May 2020) <<https://www.independent.co.uk/news/business/analysis-and-features/coronavirus-clothes-workers-bangladesh-high-street-shut-a9500111.html?fbclid=IwAR3hcufdS4gayOeO9qHkGw8ITHqM3qHPKZyvNGZpxDuB8HjISJQ1mV4G6w8>> last accessed 25 June 2020.

⁷⁹ Chapman, B., 'They just don't care': Millions of garment workers facing destitution as Britain's high street billionaires fail to honour contracts' *The Independent* (6 May 2020) <<https://www.independent.co.uk/news/business/analysis-and-features/coronavirus-clothes-workers-bangladesh-high-street-shut-a9500111.html?fbclid=IwAR3hcufdS4gayOeO9qHkGw8ITHqM3qHPKZyvNGZpxDuB8HjISJQ1mV4G6w8>> last accessed 25 June 2020.

⁸⁰ The survey was administered between March 21 and March 25, 2020. It was completed by 316 suppliers and the findings present the most in-depth evidence to date on crisis in the RMG industry in Bangladesh. See Anner, M., 'Abandoned? The Impact of Covid-19 on Workers and Businesses at the Bottom of Global Garment Supply Chains,' *Penn State Center for Global Workers' Rights* (March 2020) <https://www.researchgate.net/publication/340460592_Abandoned_The_Impact_of_Covid-19_on_Workers_and_Businesses_at_the_Bottom_of_Global_Garment_Supply_Chains> last accessed 29 June 2020.

⁸¹ It should be noted that the government of Bangladesh had pledged to cover the workers' wages for up to one month.

⁸² Anner, M., 'Abandoned? The Impact of Covid-19 on Workers and Businesses at the Bottom of Global Garment Supply Chains,' *Penn State Center for Global Workers' Rights* (March 2020) <https://www.researchgate.net/publication/340460592_Abandoned_The_Impact_of_Covid-19_on_Workers_and_Businesses_at_the_Bottom_of_Global_Garment_Supply_Chains> last accessed 29 June 2020.

⁸³ European Center for Constitutional and Human Rights (ECCHR), 'Garment Supply Chains in Intensive Care? Human Rights Due Diligence in Times Of (Economic) Crises: Policy Paper' (April 2020)

imbalances that exist between global brands and retailers and their suppliers which allow MNCs to unilaterally establish terms that have severe consequences for workers and suppliers. Challenged with the crisis, MNCs are utilizing their supply chains for exactly what they are designed for which is outsourcing economic risk, externalizing costs, and lastly, shifting the responsibility for workers' social rights to suppliers. The crisis is putting CSR policies of the MNCs to test, and they are simply ignoring their CSR promises as well as human rights obligations.⁸⁴ Garment exporting countries worldwide are in similar situations.⁸⁵ Some governments, such as in Sri Lanka and Pakistan, have taken measures to ban dismissals and to mandate that workers receive part of their wages, but these programs are struggling. For example, factories on the edge of bankruptcy in Sri Lanka are expected to cover part of these expenses but are unable to do so. In Pakistan, these measures fail to assist informal workers who make up a significant part of the industry.⁸⁶

The current crisis has revealed how concerned certain companies are about their sense of social purpose. The way in which certain MNCs have responded has once again highlighted their lack of commitment, resources, and transparency to both voluntary codes of conduct and multi-stakeholder initiatives based on a compliance-focused model of private voluntary regulation. This shows improvements achieved through these industry-led private governance regimes are extremely unstable as it is very heavily reliant on the benevolence of MNCs. Even though MNCs are also facing a dire financial outlook, the way they have managed the situation is far worse for their suppliers and workers who make their products. Due to decades of squeezing down on prices and remediation costs incurred in the aftermath of the Rana Plaza, many

<https://www.ecchr.eu/fileadmin/Publikationen/ECCHR_PP_SUPPLYCHAINS_COVID_EN.pdf> last accessed 29 June 2020.

⁸⁴ European Center for Constitutional and Human Rights (ECCHR), 'Garment Supply Chains in Intensive Care? Human Rights Due Diligence in Times Of (Economic) Crises: Policy Paper' (April 2020)

<https://www.ecchr.eu/fileadmin/Publikationen/ECCHR_PP_SUPPLYCHAINS_COVID_EN.pdf> last accessed 29 June 2020.

⁸⁵ See Anner, M., 'Abandoned? The Impact of Covid-19 on Workers and Businesses at the Bottom of Global Garment Supply Chains,' *Penn State Center for Global Workers' Rights* (March 2020)

<https://www.researchgate.net/publication/340460592_Abandoned_The_Impact_of_Covid-19_on_Workers_and_Businesses_at_the_Bottom_of_Global_Garment_Supply_Chains> last accessed 29 June 2020; Chua, J. M., '10,000 Cambodian Garment Workers, 27 Factories Caught in Covid-19 Chaos' (16 March 2020) *Sourcing Journal*

<<https://sourcingjournal.com/topics/sourcing/coronavirus-cambodia-factories-garment-workers-covid-19-china-raw-materials-200582/>> last accessed 23 June 2020; Chua, J. M., 'Central American Factories Accused of Exploiting Workers During Covid-19 Crisis' (26 March 2020) *Sourcing Journal*

<<https://sourcingjournal.com/topics/labor/honduras-el-salvador-garment-workers-coronavirus-maquiladoras-factories-202209>> last accessed 23 June 2020; and Russell, M., 'Myanmar's Garment SMEs Feeling Covid-19 Impact' (16 March 2020) *Just-Style* <https://www.just-style.com/news/myanmars-garment-smes-feeling-covid-19-impact_id138317.aspx> last accessed 23 June 2020.

⁸⁶ European Center for Constitutional and Human Rights (ECCHR), 'Garment Supply Chains in Intensive Care? Human Rights Due Diligence in Times Of (Economic) Crises: Policy Paper' (April 2020)

<https://www.ecchr.eu/fileadmin/Publikationen/ECCHR_PP_SUPPLYCHAINS_COVID_EN.pdf> last accessed 29 June 2020; See Clean Clothes Campaign, 'March 2020: Coronavirus and garment workers in supply chains' <<https://cleanclothes.org/news/2020/march-2020-covid19-blog>> last accessed 25 June 2020.

suppliers are left with minimal capital and growing debt.⁸⁷ The unfair allocation of harms and benefits throughout the network is one of the primary challenges associated with multi-stakeholder initiatives in global supply chains. When some participants within the network notice this unfairness, they might search for ways to punish the participants in the network that they perceive as taking advantage of them.⁸⁸ In order to find overlapping value through multi-stakeholder initiatives in global supply chains, participants, especially key suppliers, need to perceive that they are obtaining a positive ratio of economic value and are benefitting from their continued cooperation. If this does not happen, relationships between the various supply-chain participants are threatened, particularly when sustainability initiatives are expensive and time-consuming.⁸⁹ If suppliers in Bangladesh were not already convinced that they are not receiving a positive ratio of economic value and benefitting from their cooperation in the multi-stakeholders initiatives, they would surely believe that now in light of how the MNCs they work with have responded during the crisis. The crisis has also shown the extent to which CSR is reliant on governments to enforce certain standards and ensure its effectiveness. In these challenging times, both in developed and developing countries, people are looking to the government, not corporations, to safeguard jobs and protect citizens. This also questions the reliance on private governance mechanisms as opposed to obligatory regulatory frameworks imposed by governments.

Conclusion

In this article, the emphasis has been to assess the effectiveness of private governance regimes in promoting CSR. Evidence from the RMG industry in Bangladesh, considering both the aftermath of the Rana Plaza disaster and the impact of COVID-19, raises serious concerns about the dangers of over-reliance on private actors in maintaining CSR standards and practices in global supply chains. Analysis of the industry suggests that new governance models in the form of corporate codes of conduct and multi-stakeholder initiatives might overestimate the role MNCs can play as regulators of human rights through their CSR practices. These new initiatives in which MNCs draw on their resources and capacities to regulate themselves and their suppliers through different forms of private ordering are too dependent on the altruism of MNCs. This has been highlighted further in the manner in which MNCs have reacted to the pandemic which has clearly heightened existing inequalities and posed new challenges to the CSR agenda. The situation in Bangladesh is representative of supply chains in other developing countries.

⁸⁷ Anner, M., 'Abandoned? The Impact of Covid-19 on Workers and Businesses at the Bottom of Global Garment Supply Chains,' *Penn State Center for Global Workers' Rights* (March 2020) <https://www.researchgate.net/publication/340460592_Abandoned_The_Impact_of_Covid-19_on_Workers_and_Businesses_at_the_Bottom_of_Global_Garment_Supply_Chains> last accessed 29 June 2020.

⁸⁸ Soundararajan, V., Brown, J. and Wicks, A., 'Can Multi-Stakeholder Initiatives Improve Global Supply Chains? Improving Deliberative Capacity with a Stakeholder Orientation' (2019) 29 *Business Ethics Quarterly* 385. Also see Behnam, M. and MacLean, T. L., 'Where is the accountability in international accountability standards? A decoupling perspective.' (2011) 21 *Business Ethics Quarterly* 45; Bosse, D. A., Phillips, R. A. and Harrison, J. S., 'Stakeholders, reciprocity, and firm performance' (2009) 30 *Strategic Management Journal* 447.

⁸⁹ Soundararajan, V., Brown, J. and Wicks, A., 'Can Multi-Stakeholder Initiatives Improve Global Supply Chains? Improving Deliberative Capacity with a Stakeholder Orientation' (2019) 29 *Business Ethics Quarterly* 385.

The decisions MNCs make now are likely to be remembered by their suppliers, employees, customers, and the general public for years to come and this will affect the effectiveness of any multi-stakeholder initiatives in the future as the success of these initiatives rely heavily on trust between participants. If some MNCs continue to abandon responsible purchasing practices, it will be extremely detrimental to their reputation and also create substantial difficulties for their supply chains to recover when conditions begin to improve. MNCs need to take a more responsible approach and find ways to access lines of credits or other forms of support from the government to fulfil their obligations to their suppliers to enable them to pay their workers.⁹⁰ It is also essential to re-evaluate the dependence on private governance regimes and reform purchasing practices for both social and environmental sustainability. With the availability of abundant suppliers and goods being standardized, MNCs continue to shift frequently from one supplier to another on the basis of the best price offered in the open market.⁹¹ Without pricing mechanisms that will support the cost of sustainable production from paying living wages to workers and assisting suppliers with remediation efforts along with tax revenues that will enable governments to build sufficient social safety nets,⁹² any real change is implausible.

⁹⁰ Anner, M., 'Abandoned? The Impact of Covid-19 on Workers and Businesses at the Bottom of Global Garment Supply Chains,' *Penn State Center for Global Workers' Rights* (March 2020) <https://www.researchgate.net/publication/340460592_Abandoned_The_Impact_of_Covid-19_on_Workers_and_Businesses_at_the_Bottom_of_Global_Garment_Supply_Chains> last accessed 29 June 2020.

⁹¹ Bird, R.C. and Soundararajan, V., 'The Role of Precontractual Signals in Creating Sustainable Global Supply Chains' (2020) 164 *Journal of Business Ethics* 81, 82.

⁹² Anner, M., 'Abandoned? The Impact of Covid-19 on Workers and Businesses at the Bottom of Global Garment Supply Chains,' *Penn State Center for Global Workers' Rights* (March 2020) <https://www.researchgate.net/publication/340460592_Abandoned_The_Impact_of_Covid-19_on_Workers_and_Businesses_at_the_Bottom_of_Global_Garment_Supply_Chains> last accessed 29 June 2020.