

Working Paper

Case study on the governance of labour standards in
Bangladesh's garment industry

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Fathema Zhura Khatoon and Sabeth Hasnain Ahmed Munrat, working with the Bangladesh Rural Advancement Committee (BRAC), supported field work of the case study in Dhaka, Bangladesh.



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Abstract

Bangladesh's garment industry is a key driver of the country's economy and development, employing around four million people and accounting for over 80 percent of the nation's export earnings (ILO, 2016a). At the same time, a series of fatal factory incidents has highlighted the sector's deplorable working conditions and has exposed international retailers and fashion brands for exploiting the country's poor labour and safety standards to produce at cheap cost. This paper summarises the findings of a case study on the governance of labour standards in Bangladesh's garment sector that was undertaken as part of the EU-funded research project "GLOBAL VALUE"[1]. Its aim was to assess the current system of governance, i.e. the multitude of existing institutional arrangements which govern responsible business conduct (here: labour standards) in Bangladesh's garment sector. In order to evaluate the system's effectiveness in influencing buyer and supplier practices, its enablers and barriers as well as its shortcomings, qualitative interviews were undertaken with selected stakeholders in Dhaka, Bangladesh. The case study concludes with recommendations for policy makers, businesses and civil society.

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1. Introduction

Global supply chains have linked developing countries to international markets, offering opportunities for income, employment and export-led development. Certain multinational businesses may also explicitly employ responsible business practices or possibly even sustainable business models when operating in developing countries or sourcing from the Global South, fostering an environmentally sound and socially fair production of goods and services.

At the same time, multinational corporations (MNCs) have been exposed repeatedly for deliberately exploiting lax or poorly enforced standards in production countries, contributing to environmental degradation, exploitative working conditions and human rights abuses. International fashion brands and retailers have also been criticised for driving a “race to the bottom” in which production chains are continuously relocated to where production costs are the lowest, perpetually lowering labour, social and environmental standards (Kinley & Joseph, 2002; Madsen, 2009; Mauro, 2008).

Multinational businesses thus play a critical role in realising the UN Sustainable Development Goals (SDGs), and many have called for greater responsibility of the business sector with regard to the welfare and sustainable development in developing countries. Against this backdrop, SDG 12.6 foresees to “encourage companies, especially large and transnational companies, to adopt sustainable practices and to integrate sustainability information into their reporting cycle”.

Addressing this debate, the EU-funded research project “GLOBAL VALUE”¹ looked into ways and means of improving governance for responsible business conduct. As part of the project, several case studies were conducted on selected issues, industries and countries, including labour standards in the garment sector in Bangladesh. This paper summarises the findings of the latter.²

¹ The GLOBAL VALUE project is funded through the EU's 7th Framework Programme (Grant Agreement number 613295). See more at www.global-value.eu

² This paper is an abridged, anonymised version of the original case study.

2. Research questions and methods

The objective of this case study was to analyse the exogenous “system of governance” for responsible business conduct specific to labour in the garment sector in Bangladesh.

The concept of exogenous governance follows an understanding that companies are embedded in social and economic institutions and act within systems of norms, rules, mechanisms, discourses and expectations. The system for governance here is explicitly geared towards improving corporate performance and impacts pertaining to labour standards in the garment sector in Bangladesh, either by supporting or pressuring businesses into more sustainable practices. By analysing systems of governance we may gain further insight on how political, social and business actors can actively influence businesses in changing their practices.

Systems of governance are comprised of various “elements” on local, national³ and international level which are shaped by multiple actors, e.g. policy-makers, the business sector, civil society, consumers and communities. They include interrelated sets of formal and informal norms and rules which regulate collective matters in a given issue area. Norms are standards of behaviour, expressed in rights and obligations (Jepperson, Wendt, & Katzenstein, 1996; Krasner, 1982, p. 186). A norm may state that “business enterprises should respect human rights”⁴. Rules are the resulting, more specific prescriptions or proscriptions for action (Krasner, 1982, p. 186). For instance, rules may require MNCs to “avoid causing or contributing to adverse human rights impacts through their own activities, and address such impacts when they occur”⁵. Norms and rules can be operationalised by both mandatory and voluntary instruments including legal requirements, standards, codes of conduct, management systems, certification schemes etc. Implementation of instruments in turn may be supported by governmental or private compliance mechanisms. The case study focused on the latter two, namely instruments and implementation of the same.

Systems of governance influence businesses, inter alia, by regulating, dis-/incentivising, standardising, allocating roles and resources and stimulating interaction within networks. We can consider a system to be effective if a change in practices and/or impacts is achieved. If ineffective, it may not contribute to “solving” the issue, i.e. improve performance and impact, or even lead to counter-effects. Systems of governance may also have unintended and undesirable side-effects.

Specifying our definition of system of governance above, we follow a wide understanding of governance according to which governance refers to the different modes of coordinating individual actions, or basic forms of social order (Mayntz, 1998). These modes include, most prominently, the ideal types of hierarchy, competition, negotiation and solidarity (cf. O. E. Williamson, 1996), albeit a clear distinction cannot always be made and hybrid elements exist:

- Hierarchical governance describes centralistic forms of coordination which are based on ‘command and control’. Ideal-typically, they work in constellations where target groups are unilaterally dependent on the governing actor. Approval procedures between a subsidiary and a parent company are an example of a private hierarchical mechanism, while a host country’s domestic regulations that legally bind MNCs are public hierarchical mechanisms.
- Market-based governance describes decentral forms of coordination in which (monetary as well as non-monetary) incentives and disincentives are employed to influence the voluntary behaviour of actors. For example, certification schemes foresee premium prices for compliance with certain sustainability standards.

³ National can hereby refer to the ‘home countries’ of MNCs or the ‘host country’ Bangladesh.

⁴ Art. 11, UN Guiding Principles on Business and Human Rights

⁵ Art. 13(a), UN Guiding Principles on Business and Human Rights

- Network-based governance either works through the cooperation of interdependent actors who seek to realise shared interests (e.g. multi-stakeholder dialogues) or solidarity-based on joint norms and values (e.g. charity activities)

In order to analyse the system, its mechanisms of influence and its effectiveness, the following research questions were addressed:

- What are the (most) relevant elements within the system of governance?
- (How) Do these elements induce change in business practice?
- (How) Do these changes impact labour standards in Bangladesh?
- Which factors enable or hinder the system of governance?
- What gaps exist within the systems of governance?

At first, the research team identified major elements of the system of governance and mapped relevant stakeholders by reviewing research papers, grey literature and publications of NGOs, development actors and other stakeholders. The stakeholder mapping was used to select key experts and stakeholders for a total of eight interviews.

Interviews were conducted to verify initial findings and gain further insights into the system of governance. Different types of stakeholders were chosen in order to obtain their personal views on how the system of governance is thought to influence business practices and labour standards in the garment sector in Bangladesh. For the interviews semi-structured interview guidelines for businesses and other stakeholders were used. The interviews were conducted in Dhaka by local NGO BRAC, allowing for interviews to be held in English and Bengali. Interviews were summarised in writing and recorded where consent was given by the interviewees. A breakdown of the interviews conducted is shown below:

Table 1: List of interviewed stakeholders

Type	Reach	Number of interviews
Garment retailer (MNC)	International	1
Garment factories (suppliers)	National	3
International organisations	International	1
International development organisations, embassies	International	2
NGOs	National	1
Industry initiative	National	1
Total		9

3. Labour standards in the garment sector in Bangladesh

Bangladesh's ready-made garments (RMG) sector accounts for 80 percent of the country's export revenues. It provides employment to around 4 million people and is a major driver of growth, contributing 12 percent to the country's GDP (Rahman & Siddiqui, 2015; Stotz, 2013). As of 2016, there are 4,328 registered garments factories in the country, according to the Bangladesh Garments Manufacturers and Exporters Association (BGMEA, 2016).

The industry started out in late 1970s and enjoyed steady growth due to international agreements including the Multi-Fiber Agreement, which granted it special export access to North American and European markets. Although the MFA was phased out in 2004, Bangladesh's apparel exports have continued to grow in the last decade. In 2015-2016, RMG exports stood at USD 28 billion (BGMEA, 2016). Furthermore, with rising costs and wages in China – currently the leading global apparel exporter – Bangladesh could attract even more business in the future (Berg, 2012).

At the same time, the industry remains characterised by exploitative employment conditions including low wages, long working hours, precarious safety standards and anti-union activities.

The Rana Plaza incident, in particular, brought widespread international attention to the poor labour standards in the industry. The multi-storied factory building collapsed in April 2013 due to structural failure, killing more than 1,000 workers and injuring many more. Several garment factories housed inside the building remained open despite warnings of the building's structural weakness and evacuations by other occupants (Economist, 2013). The incident highlighted how the global fashion trade was supported by lax safety standards and poor working conditions, urging the Government of Bangladesh and MNCs sourcing from Bangladesh to take action.

Table 2: Overview on labour standards in the garment sector in Bangladesh

Issue

Freedom of association; right to collective bargaining	The Bangladesh constitution guarantees the right of freedom of association and the right to collective bargaining. In practice, however, only an estimated 10 percent of Bangladesh's 4,500 registered garment factories are unionised (Kamal 2013). Union leaders and members are also faced with intimidation, physical assault, dismissal and false criminal complaints by factory officials (Montera Vena, 2013).
Prohibition of child labour	The minimum legal age for employment in Bangladesh is fourteen. Significant efforts have been undertaken by the government to reduce child labour in the garment sector and fewer cases of child labour get reported in exporting factories. However, child labour is said to remain rampant in smaller factories which often form part of the informal sector and may indirectly supply to international fashion brands and retailers (Moulds, 2016).
Prohibition of forced labour	Forced labour is prohibited by the Constitution of Bangladesh and, according to the Fair Wear Foundation (2013), stakeholders generally agree that garment workers are not forced into employment in Bangladesh. However, it is frequently reported that workers are forced into involuntary overtime.
Prohibition of discrimination	Discrimination on the basis of sex is the most frequent form of discrimination in the garment industry in Bangladesh (GIZ, 2015a). According to Paul-Majumder and Anwara (2000), factories deliberately choose young, unmarried women from rural areas with little education for they are considered more obedient. Discrimination against women includes sexual harassment and the non-provision

	of maternity leave.
Working hours	National labour laws prescribe a 48-hour working week and a maximum of 60 working hours per week when the resulting overtime is being paid additionally (Kamal, 2013). Excessive overtime nonetheless remains widespread in the garment sector due to internal and external causes including tight deadlines, delays in the supply of raw materials, poor planning and insufficient training of workers (Montera Vera, 2013).
Fair remuneration; social security	The current minimum wage, at about EUR 60 per month, was introduced in 2013 and is one of the lowest minimum wages in the world. Workers will oftentimes work a significant amount of overtime to earn an additional income. The 2013 minimum wage law is also yet to be implemented fully, with a substantial share of factories currently not paying its workers minimum wages for regular hours and overtime. In smaller, subcontracted factories, workers often do not receive minimum wages and have no access to social security (FWF, 2013).
Health and safety	
- Fire safety	The reported causes for factory fires include poorly kept flammable materials, damaged and overloaded electrical systems, absent or inadequate fire extinguishing equipment, non-existent or unimplemented emergency evacuation plans, and the workers' unawareness of how to exit the building. Following Rana Plaza, it was also alleged that workers were often locked in during their shifts, unable to leave the premises in case of an emergency (Kamal, 2013).
- Machinery safety	Injuries caused by workplace machinery are common in garment factories in Bangladesh, including needle injuries and finger cuts from machines. Reasons include inadequate fencing of machinery, insufficient provision of personal protective equipment and insufficient training of workers (Alamgir and Lung-Chan, 2015).
- Building safety	With the rapid expansion of the garment industry, factories were oftentimes built swiftly with the use of substandard materials, and unsuitable buildings were converted into factories. For example, additional floors were added beyond the safe capacity of the building. Other widespread safety problems include faulty electrical circuits, inadequate fire escapes and the operation of heavy machinery on upper floors (Clean Clothes Campaign, 2012).
- Physical stress	Workers in the garment industry often work long hours in awkward postures without taking adequate breaks. This has reportedly led to a high prevalence of chronic health issues among garment workers. The lack of adequate supply of drinking water during working hours further adds to the physical stress endured by workers (GIZ, 2015a).
- Exposure to hazards	Workers handling or disposing of hazardous substances, i.e. chemicals used in textile processing, without adequate personal protective gear or training may suffer a variety of conditions and diseases in the short and long term. These can include skin irritation, respiratory problems, infections and cancer (Ahmed et al, n.d.).

4. Analysis of the system of governance⁶

The global garments and apparel trade is characterised by a buyer-driven supply chain in which labour intensive processes take place in low-cost countries and producers are bound to the decisions of international buyers (Stotz, 2013). Thus, when analysing the system of governance regarding labour standards in the context of Bangladesh's garment sector, elements within the system may either address MNC and/or supplier practices.

As previously outlined, we differentiate three levels of governance, albeit a clear distinction cannot always be made and hybrid elements exist:

- Hierarchical governance describes centralistic forms of coordination which are based on 'command and control'
- Market-based governance describes cooperation arising out of voluntary, price-based exchange
- Network-based governance either works through the cooperation of interdependent actors who seek to realise shared interests (e.g. multi-stakeholder dialogues) or solidarity-based on joint norms and values (e.g. charity activities)

4.1. Elements of the system of governance

According to the interviewees, public/media awareness and commitment by management constitute the main drivers for MNCs to engage in responsible business practices and demand suppliers to adhere to certain labour standards. Public awareness is influenced especially by the media, NGOs and other expert stakeholders, who investigate, uncover and report on labour issues.

Poor labour standards in the Bangladesh garment sector reportedly started to receive significant public attention in the 1990s, at a time when fatal accidents frequently occurred. The Rana Plaza building collapse in 2013 and the Tazreen factory fire the year before marked another turning point, substantially increasing pressure on the Government of Bangladesh and MNCs to improve safety standards and overall working conditions.

Table 3: Summary table on the system of governance

Elements in bold letters were named as particularly important by the interviewees

Sub-issue addressed \ Governance mechanism	Hierarchical elements (e.g. national / international law)	Market-based elements (e.g. certification schemes/ labels)	Network-based elements (e.g. multi-stakeholder initiatives)
Working conditions	National laws ILO conventions UN conventions OECD Guidelines for MNCs UN Guiding Principles for Business & Human Rights	Buyer standards BSCI SA8000 SMETA Fair Wear Foundation	Clean Clothes Campaign ILO RMGP Programme

⁶ The following sections are based on the interview findings where no other source is given

Health & safety	National laws National Tripartite Plan of Action ILO conventions OECD guidelines for MNCs UN Guiding Principles for Business & Human Rights	Buyer standards BSCI SA8000 SMETA Fair Wear Foundation OHSAS 18001	Bangladesh Accord for Fire and Building Safety Alliance for Bangladesh Worker Safety Clean Clothes Campaign ILO RMGP Programme
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Hierarchical elements

Following Rana Plaza several amendments were made to the Bangladesh Labour Act of 2006. Some of the notable amendments include sections on establishing emergency exits in factories, mandatory use of safety equipment by workers, formation of safety committees in factories and provisions for compensation due to worker death (ILO, 2013). In a bid to facilitate policy reform and action, the Government of Bangladesh also committed to adopt the National Tripartite Plan of Action, the Sustainability Compact, as well as the National Occupational Health and Safety Policy (Ministry of Labour and Employment, 2013).

With support from the ILO, the Government of Bangladesh moreover adopted the National Tripartite Plan of Action on Fire Safety and Structural Integrity (NTP) in 2013, bringing together government actors, factories and workers for comprehensive action on improving health and safety conditions in the garment sector. Under the NTP, the Government of Bangladesh developed and implemented a number of key measures, including a reform of the country's labour law and labour inspectorate (ILO, 2013).

On international level, both legally binding conventions and voluntary (business) principles were named by the interviewees. The following were said to be particularly important in steering responsible business conduct:

- ILO core labour standards
- UN conventions such as the 'Convention on the Elimination of All Forms of Discrimination against Women'
- OECD Guidelines for Multinational Enterprises

Market-based elements

MNCs require suppliers to adhere to mostly company-specific supplier code of conducts or buyer standards which often draw guidance from international standards (see also hierarchical elements), especially the ILO core labour standards. Buyer standards vary in scope and detail and will likely further evolve in future.

Buyers commonly enforce compliance with their standards through certification and auditing schemes which are offered e.g. by the Business Social Compliance Initiative (BSCI), Social Accountability International (SA8000), Sedex (Sedex Members Ethical Trade Audit, SMETA) and the Fair Wear Foundation (FWF). These in turn may be influenced by international standards such as OHSAS 18001. The ISO 45001 standard on occupational health and safety is also currently being developed and may become a measure of compliance in future.

Supplier requirements may also be accompanied by some form of “implementation guideline”, exchange of knowledge and capacity building activities. The latter may be implemented through business and/or multi-stakeholder initiatives (see also network-based elements).

Network-based elements

The Accord is a five-year, legally binding agreement between European clothing brands and retailers, trade unions and “witness” NGOs, aimed at ensuring safer working conditions and empowering workers in the garment sector. It includes independent inspection and corrective action programmes, the results of which are publicly disclosed, as well as worker trainings (Accord, 2017).

The Alliance for Bangladesh Worker Safety (Alliance) like the Accord is a five-year agreement aimed at creating a safer garment industry, involving major North American brands and retailers (Alliance, 2017).

The ILO Programme on Improving Working Conditions in the Ready-Made Garment Sector (RMGP Programme) has been developed to support the NTP and further commitments by the Government of Bangladesh to improve working conditions in the garment sector.

The Clean Clothes Campaign (CCC) brings together trade unions and NGOs to improve working conditions in the garment and sportswear industries.

4.2. Influence on business practices

A series of fatal accidents drew attention from NGOs, the media and subsequently the greater public, urging MNCs not only to acknowledge the country's apparent lack in safety standards but also to take corrective action, accordingly.

Many MNCs have set up (stricter) buyer standards over the past years which however vary significantly in scope and detail. MNCs have also implemented various structural and procedural changes such as restructuring or strengthening their sustainability departments, improving risk management processes, training procurement personnel and expanding their audits both in reach and scale.

Buyer standards are found to be heavily influenced by international frameworks including and foremost the ILO core labour standards, certain UN conventions (e.g. Convention on the Rights of the Child and Convention on the Elimination of All Forms of Discrimination against Women), the OECD Guidelines for Multinational Enterprises and the UN Guiding Principles on Business and Human Rights. These frameworks have helped establish a shared understanding, define minimum standards on health and safety, working conditions and worker representation and determine the responsibilities and duties MNCs hold in ensuring the same.

Multi-stakeholder initiatives influence business practices in multiple ways. The ILO and initiatives such as BSCI and FWF help define and sharpen (sector) standards on labour issues and provide additional information and guidance on implementing these standards. Especially smaller retailers and clothing brands with limited financial and human resources may benefit from such support.

Many of the initiatives also aim at facilitating exchange between MNCs, suppliers, trade unions and other relevant stakeholders and host and coordinate activities, accordingly. Another focus of organisations and initiatives such as ILO, BSCI and Accord lies in building capacity on the ground, e.g. by advising the government or providing worker and manager trainings. In the case of Accord, it was positively highlighted that companies financially contribute to the implementation of measures.

Alliance in contrast was criticised for being less stringent than the Accord and lacking legally binding commitments by company signatories to pay for safety improvements.

Verification and certification schemes such as BSCI, FWF and SA8000 monitor compliance with standards and certify supplier practices. They may equip MNCs and suppliers with adequate (risk) management systems. Accord and Alliance also monitor compliance by undertaking large-scale inspection programmes and providing a complaint mechanism.

Lastly, several initiatives aim at increasing transparency within the sector. CCC, for example, is asking MNCs to disclose their suppliers as part of their campaign “Follow the Thread” (CCC, 2017), while Accord and Alliance publish all factory inspection reports and corrective action plans.

Table 4: Mechanisms of influence

The system of governance influences business practices by...

Mechanism	Example
... shaping sector expectations	Building a shared understanding of labour issues
... providing technical information and/or infrastructure	Guidance on implementation of standards
... facilitating knowledge exchange and learning	Organisation of multi-stakeholder events
... creating transparency	Public disclosure of audit reports
... building capacity	Worker trainings
... regulating corporate practices by defining standards or prohibiting certain practices	Setting minimum standards which are binding to signatories/members
... monitoring compliance	Audits, certifications
... providing complaints mechanism	Complaint mechanism for factory workers

4.3. Impact on labour standards

All interview partners agreed that significant improvements have been made in regard to labour and, in particular, health and safety standards over the past decades. More recently, the Rana Plaza building collapse and other fatal incidents forced the Government of Bangladesh to initiate a series of reforms and MNCs to address poor working conditions and safety standards in supplying factories.

Health and safety

Following heightened pressure by the media and public, the Government of Bangladesh, together with international organisations such as ILO and GIZ, has undertaken significant efforts to reform the garment's sector health and safety standards and increase compliance with the same (ILO, 2016a). These comprise:

- Adoption of National Occupational Safety and Health Policy in 2013
- Major reform of the Department of Inspections for Factories and Establishments, including almost 400 new inspector positions, comprehensive training and formulation of an inspection strategy
- Intensive training and capacity building efforts, e.g. through ILO, GIZ etc. providing financial and technical assistance to the government, companies, labour unions, NGOs and other stakeholders

- Inspection of more than 3,000 registered factories either under the Accord, Alliance or NTP by December 2015; a total of 39 factories were closed and another 40 partially closed.

However, despite the revision and specification of legal revisions pertaining to occupational health and safety, laws reportedly remain “*routinely flouted due to the lack of enforcement by the relevant agencies, which appear to be corrupt, weak and ineffective*” (Kamal, 2013: p. 36). Fatal or otherwise grave incidents have nevertheless significantly decreased in number over the past years, according to most interview partners.

Accord was named by the interviewees as the most influential initiative bringing about an increased “scrutiny of implementation” and “enforcement culture” and improving compliance with existing standards through their large-scale inspection programmes. With all factory reports being disclosed publicly, suppliers are pressured to improve safety conditions in order to avoid the risk of being disengaged.⁷ Additionally, Accord has helped bring smaller producers into greater focus, including those which don't hold a direct contractual relationship but indirectly supply to MNCs.

Since both Accord and other initiatives strongly focus on building and fire safety, there is little information available as to which extent conditions pertaining to physical stress and exposure to hazards have been sufficiently addressed and improved. In addition, workers reportedly oftentimes do not receive their rightful compensation when a factory is closed down, either because the factories lack resources or the factory owners are unwilling to pay.

Buyer standards, accompanied by audits, were named as another influential instrument in changing supplier practices and began playing a major role in the 1990s. Since they demand suppliers to adhere to certain (stricter) standards, suppliers will have to adjust and improve their safety practices in order not to be disengaged and secure future business.

Audits and inspections themselves have reportedly also changed and nowadays more frequently involve workers or worker representatives. According to factory representatives that were interviewed, current audits especially focus on properly marked fire exits and properly functioning fire safety equipment; load limits of floors; ventilation on floors; machinery safety; medical facilities; emergency plans and safety training of workers as well as regular safety checks.

Other labour issues

While the legislative environment overall has improved and there has been good headway in enhancing the safety of factories in Bangladesh, progress on working conditions and worker representation has been slower and more challenging.

Women have reportedly benefitted from a change in practices, with more women obtaining managerial positions and supervisory roles in garment factories. According to the interviewees, paid maternity leave is also commonly paid in larger factories. By obtaining better positions and better pay, women are said to have gained greater financial independence and decision-making power at home, e.g. with regards to decisions pertaining to their children's education or child marriage. Other sources however suggest that most garment workers, the majority of which are women, remain employed under highly exploitative conditions, working long hours and receiving little pay (Kamal, 2013).

Meanwhile, child labour also remains rampant in the Bangladesh garment sector, according to ILO, Unicef and SOMO. Children often complete arduous tasks such as dyeing and cutting the fabric or moving and packing garments. In smaller workshops they also take over more intricate tasks such

⁷ While inspections have been concluded for many of the country's registered factories, progress on follow-up action currently varies.

as embroidering, sequinning or mocking (Moulds, 2016). While cases of child labour are rarely reported in exporting factories, children often work in the sector's smaller, unregistered factories. According to Save the Children, it was *"implausible to believe that there isn't significant pollution of the value chains of large-scale, Western companies"* (ODI, 2016).

Forced labour is currently not reported as an issue in the garment sector of Bangladesh. However, excessive working hours and involuntary overtime along with a failure to pay wages on time or in full, inadequate breaks, physical and verbal abuse, denial of (paid) maternity leave and the non-provision of clean drinking water remain common, according to Human Rights Watch (2015).

The revised Bangladesh Labour Act includes provisions easing the registration of trade unions and, according to ILO (2016b), the number of trade unions in the garment sector has grown from about 100 in 2012 to 400 in 2015. In addition, ILO, GIZ and other donor agencies have conducted outreach activities and have built the capacity of labour unions and worker representatives through technical and financial assistance. The revised act nevertheless falls short in meeting ILO Conventions pertaining to freedom of association and collective bargaining and further efforts need to be undertaken in order to facilitate the registration and work of trade unions.

There also remains widespread distrust towards trade unions by employers and fewer than 10 per cent of garment factories in Bangladesh are said have trade unions representing their workers. According to Human Rights Watch, anti-union tactics remain common and *"many workers who try to form unions to address such abuses face threats, intimidation, dismissal, and sometimes physical assault at the hands of factory management or hired third parties"* (HRW, 2015). For workers to voice their concerns and obtain the right to unionise is essential on its own but also plays a crucial role in preventing future deadly incidents.

In summary, existing laws remain insufficiently enforced and good visibility is often limited to tier-1 suppliers. While buyer standards usually cover many if not all aspects of fair labour practices, enforcement and capacity building efforts of the more influential initiatives remain focused on health and safety issues or have failed to bring the desired change, as is the case for worker representation.

Third-party or MNC-led audits may also face difficulties in assessing potential risks where no tangible evidence can be provided, e.g. discrimination. In addition, even where strict buyer standards are in place work may get subcontracted to smaller factories in the informal sector without the buyer's knowledge. The informal sector is invisible to regulators and its working conditions almost always do not meet national and international standards. Workers in the informal sector also lack representation by trade unions entirely (Labowitz and Baumann-Pauly, 2015). More information on the practice of illegal subcontracting can be found in chapter 4.5.

Several interview partners further pointed out that factories located inside Bangladesh's Export Processing Zones (EPZ) are exempt from complying with (certain) labour laws.

4.4. Enablers and barriers

Interviewees were also asked to name external factors which may have hindered or enabled the effectiveness of the system of governance. The following enablers and barriers were named.⁸

Public/media awareness

⁸ Company-internal factors were not further analysed but interviewees repeatedly referred to the importance of senior management being committed to sustainability issues (here: labour standards).

The Rana Plaza building collapse and its aftermath led to a spike in media attention and increased pressure on international fashion brands and retailers to change their procurement practices. While buyer standards oftentimes existed before the incident, their implementation and enforcement reportedly significantly improved. Findings of this case study also suggest that in absence of a strong public debate, progress is slower and more challenging. Reference was made to labour issues other than health and safety as well as environmental issues.⁹

The Government of Bangladesh and national legislation

The state's role was seen as ambivalent. The existence of an adequate legal framework – even when insufficiently enforced – was named as an important factor in providing legitimacy to the actions of MNCs. The absence of adequate national laws, in turn, was seen as a barrier in shaping MNC actions and influencing supplier practices. The government was also described as relatively transparent and cooperative when compared with the governments of other garment production countries.

At the same time, the government was seen as corrupt, bureaucratic and weak in enforcing national laws. Certain interview partners also mentioned the role of security forces (police, national intelligence) in suppressing protests of workers and hindering the work of NGOs. Bangladesh's Export Processing Zones being exempt from (certain) labour laws in order to attract business and stimulate growth was seen as another barrier but no estimate could be given as to how many exporting factories operate in these zones.

Corporate and national competitiveness

Being non-compliant with buyer standards and/or standards set up by multi-stakeholder initiatives can cause suppliers to lose contracts or be excluded from initiatives. For example, signatories to the Accord and Alliance – comprising most major retailers both in Europe and North America – are not allowed to do business with suppliers which have repeatedly failed inspections and subsequently been excluded from the list of compliant suppliers.

Thus, responsible business practices, in particular with regards to health and safety issues, appear crucial for remaining competitive and serve to the survival of the garment industry in Bangladesh. Some interviewees also mentioned that improving social responsibility may help the Bangladesh garment sector to eventually overcome the “cheap labour” label. However, a reverse shift in developments could take place if fashion brands and retailers from other countries (e.g. China) become the dominant buyers and apply less strict standards.

Suppliers meanwhile face a major challenge in the increasing pressure on prices and margins. While international buyers demand compliance with ever-stricter standards, they usually only pay a higher unit price when the cost of material increases (e.g. by use of organic cotton), whereas they don't compensate for higher wages, reduced working hours, increased safety etc. Audits and corrective actions resulting thereof normally also have to be paid for by the suppliers. Consequently, margins for the suppliers decrease when adhering to better standards, making production less economically attractive.

Lack of management capacities

Another challenge lies in the suppliers' lack of management capacities. Middle management is of particular relevance since it oversees factory operations and compliance with standards. Poor management of available resources and production deadlines are seen as a decisive factor in ille-

⁹ A stronger public debate on environmental issues (e.g. water consumption; use and discharge of hazardous chemicals) in the garment sector has only developed more recently and environmental practices of suppliers remain less in focus both for buyers as well as major multi-stakeholder initiatives operating in Bangladesh.

gal subcontracting to smaller factories. Several interviewees stated that finding well educated and trained personnel for middle management presents a big challenge.

4.5. Gaps in the system of governance

Besides proving ineffective in improving performance and impacts, a system of governance may also fail to address certain sub-issues, lack certain forms of governance or be deficient in other ways. The interview partners mentioned three gaps to be of particular relevance. A full list of the system's current gaps can be found in the summary table below.

Weak enforcement of national laws

Many health and safety issues are comprehensively covered by Bangladeshi laws but enforcement of the same often remains inadequate. Improvements in compliance are also seen to be driven mainly by multi-stakeholder initiatives such as Accord and Alliance, leading interviewees to question how the enforcement of standards will evolve should these (temporary) initiatives cease to exist.

Labour issues other than health and safety

As outlined above, several major initiatives in the garment sector in Bangladesh currently focus on health and safety and less on other labour issues, e.g. working hours, living wages and discrimination. The issue of living wages, in particular, remains insufficiently addressed. While initiatives such as the FWF have launched efforts to help companies set a target wage and achieve payment of living wages, few MNCs seem to make such a commitment.

Limited reach of buyer standards

Buyer standards were named as an influential instrument on supplier practices. Commonly, buyers not only seek compliance from their direct suppliers but also ask for requirements to be passed on to suppliers further up the value chain. However, compliance checks are usually limited to the former.

In addition, an estimated 25 to 50 percent of all garment factories in Bangladesh are believed to belong to the country's informal sector. Workers in the informal sector are especially vulnerable since they remain invisible to regulators and their employers operate on slimmer margins. They often form a subset of indirect suppliers which are illegally subcontracted. According to Labowitz and Baumann-Pauly (2015), *"this kind of subcontracting also artificially depresses prices because it does not account for the full cost of producing in accordance with minimum labour standards"*. Buyer standards as well as initiatives hence only encompass a share of Bangladesh's garment factories. Subcontracting is driven, inter alia, by poor management of production capacities as well as pressure on suppliers by MNCs to meet unrealistic targets and tight deadlines.

Table 5: Gaps in the current system of governance

Category	Gap
Sub-issues	There has been a strong focus on the implementation and enforcement of health & safety standards, whereas other labour issues and, in particular, living wages have been insufficiently addressed and/or enforced.
Form of governance	There are no laws within the home country (Germany) which adequately govern responsible business practices in the supply chain.

Stakeholders	International NGOs dominate within the system as opposed to local NGOs and civil society organisations other than labour unions.
Implementation deficits	National laws remain insufficiently enforced. Buyer standards remain insufficiently enforced /monitored.
Other	Garment producers in the informal sector are not addressed by the current system of governance.

5. Conclusion and recommendations

Bangladesh's garment industry is a key driver of the country's economy and development, employing around four million people and accounting for over 80 percent of the nation's export earnings (ILO, 2016a). While the sector has benefitted the country's economy, a series of fatal factory incidents highlighted its deplorable working conditions and brought the sector to a critical juncture. Public pressure on MNCs significantly increased, demanding businesses to ensure their garments were not sourced from factories with poor safety standards and exploitative working conditions.

In reaction to this, many MNCs have set up (stricter) supplier code of conducts or buyer standards which seek to ensure that suppliers apply fair and safe labour practices. These standards vary in scope and detail but are found to be heavily influenced by international frameworks including and foremost the ILO core labour standards, which have helped establish a shared understanding, define minimum standards and determine the responsibilities and duties MNCs hold in ensuring the same.

In addition, several multi-stakeholder initiatives were founded, the most important being the Accord on Fire and Building Safety in Bangladesh (Accord), according to the interviewees of this case study. The initiative brings together MNCs, suppliers and trade unions with the aim to monitor compliance with existing labour laws by undertaking large-scale inspection programmes and to build capacity through worker and manager trainings.

Other multi-stakeholder initiatives such as the Business Social Compliance Initiative (BSCI), Far Wear Foundation (FWF) and Clean Clothes Campaign (CCC) have also helped define and sharpen (sector) standards, provide additional guidance to businesses and increase overall transparency within the sector. Verification schemes are used to monitor compliance with standards and certify supplier practices.

Most interviewees stated that health and safety practices have indeed significantly improved over the past decades. The Government of Bangladesh undertook several legal and institutional reforms to set stricter standards and ensure compliance with the same. However, lack of personnel and corruption remain major barriers to enforcing existing laws.

Progress on working conditions (wages, working hours, worker representation etc.) has also proven significantly more challenging. Both the Government of Bangladesh and several influential initiatives have focussed on health and safety issues and, in particular, fire and building safety, leaving other issues insufficiently addressed. Both individual and collective efforts eventually are also limited in their reach. Buyer standards and/or (third-party) audits are usually limited to suppliers in a direct contractual relationship with the buyer. Suppliers further up the supply chain thus remain less visible to buyers.

In addition, a large share of the garment sector forms part of the country's informal economy which is invisible to MNCs and regulators and unaddressed by initiatives. MNCs oftentimes prohibit suppliers from subcontracting yet factories in the informal sector are believed to form a subset of indirect suppliers. Alleged reasons for illegal subcontracting include weak (middle) management at the supplying companies as well as unrealistic targets and tight deadlines set by international buyers.

Based on the above findings, we make the following recommendations to further improve business practices and labour standards in Bangladesh's garment sector.

Joint action:

- The Government of Bangladesh, businesses and civil society should rethink their current approach towards subcontracting. By deeming it illegal a large share of factories is excluded from existing initiatives, training programmes etc. The Government should also find ways to incentivise subcontractors to formalise themselves.
- Consumers need to be better made aware on how their consumption patterns affect workers in sourcing countries.

The Government of Bangladesh:

- Should continue and increase its efforts in ensuring compliance with national laws, e.g. by strengthening regulatory bodies in funding and personnel.
- Must ensure fair and impartial governance and policing. Police intervention during worker protests has repeatedly been linked to cases of harassment and the detention of workers and labour union leaders.

Governments in home countries:

- Voluntary efforts by the private sector have proven insufficient in bringing about the required change in business practices and labour standards in Bangladesh. Governments in the MNCs' home countries should thus legally mandate MNCs to source responsibly.¹⁰
- Governments should make use of ODA and other instruments to fund and support capacity building programmes. These should be aligned with and complement existing programmes.

Multinational corporations:

- Acknowledging the leverage they hold over their suppliers, MNCs should continue to demand compliance with the ILO core labour standards at a minimum but also financially support individual and collective efforts to improve health, safety and working conditions at supplying factories in Bangladesh.
- MNCs should employ fair contractual terms (e.g. fair prices, realistic deadlines) to prevent exploitative working conditions and mitigate the risk of illegal subcontracting.

¹⁰ Examples of recently passed laws include the UK Modern Slavery Act and the French Duty of Vigilance.

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