

The Post-Rana Plaza Regime: Multi-level labour regulation in Bangladesh's RMG sector

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Following the Rana Plaza tragedy, two private institutional regulation initiatives, the Accord and Alliance, emerged to address ready-made garment workers' safety in Bangladesh, alongside the public National Initiative. These three initiatives constitute multi-level regulation with vertical and horizontal layering. Employing this governance framework, this qualitative study analyzes these initiatives using interviews (N=41) and archival data. Our findings suggest an effective vertical flow of private institutional regulation but reveal significant horizontal challenges. We also examine the power dynamics during implementation and in negotiating international regulation after the expiration of the Accord and Alliance, in the absence of a legal basis for international labour regulation. This research contributes to the debate among policy makers and scholars over how to improve workers' safety in globally dispersed production networks.

Keywords: Bangladesh; RMG industry; international labour regulation; multi-level governance; worker safety; qualitative study

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Introduction

Literature on international labour regulation has extended our understanding of the management of working conditions in global value chains (GVCs). However, because of the lack of a global regulatory framework, new transnational institutional arrangements and a global private regime of labour governance (e.g., codes of conduct and international framework agreements) have emerged (Marginson, 2016; Pike, 2020). In developing countries with weak public regulation and questionable compliance records, several new private institutional initiatives have been implemented. These include, for example, the Accord on Fire and Building Safety in Bangladesh (the Accord) and the Alliance for Bangladesh Worker Safety (the Alliance). These new private multi-stakeholder initiatives engage a range of actors, including the ILO, global union federations, local workers and unions, lead sourcing corporations, local manufacturers, and consumer activist groups. Although these initiatives are institutional innovations designed to address worker safety and rights in factories where global production takes place, they are only a “fragmented and polycentric patchwork of regulatory initiatives and hybrid forms of governance” (Reinecke and Donaghey, 2015: 721).

These new forms of labour regulation that run alongside developing nations’ public regulation with their additional layers of labour governance, complicate an analysis of their impact (Bair, Anner, and Blasi, 2020: 23; Josserand and Kaine, 2016; Marginson, 2016). We expect that a significant portion of the complexities and challenges of labour governance arise from the simultaneous implementation of these private initiatives and public regulation to ensure the same or similar labour outcomes. Thus, instead of examining the effectiveness of these new multi-stakeholder initiatives in isolation, a holistic analysis of both private and public regulation is warranted. A multi-level governance framework offers just such a useful framework (for details on multi-level labour governance, see Keune and Marginson, 2013; Marginson, 2016; Marks and Hooghe, 2004). Using this framework, we undertake a qualitative analysis of post-Rana Plaza multi-stakeholder private labour regulation (the Accord and the Alliance) and public regulation (National Initiative [NI], which covers factories not included in the Accord or the Alliance) of Bangladesh’s ready-made garment (RMG) sector. The factory safety agenda of the Accord and Alliance that was determined by international actors created a vertical layering of regulation, whereas the implementation of the Accord and Alliance alongside the existing government-led NI created a new horizontal layering of governance (Marginson, 2016: 144–145; Peetz, 2021: 78–79). The simultaneous implementation of these initiatives, with their multi-layering of governance, impacted their effectiveness. Furthermore, in the absence of a legal basis for international regulation, the power-play between the key actors created challenges during their implementation and influenced the continuity of limited-term, institutional private regulation,

that is, the Accord and the Alliance (Bair, Anner, and Blasi, 2020: 23), as well as shaped the nature of future international regulation in GVCs.

In a diverse theoretical landscape of international labour regulation, an inductive research approach is appropriate to capture nuanced understandings of and hidden insights about this regulation. To this end, we drew on 41 semi-structured interviews with stakeholders from the Bangladesh RMG sector who were involved with or had closely observed on the ground the implementation of these public and private initiatives, to address the following research questions: How effective were the Accord, the Alliance, and the NI in addressing worker safety in Bangladesh's RMG sector? What enabled and constrained the implementation of these initiatives? What would be an adequate form of labour regulation after the expiration of the Accord and Alliance?

This research makes several contributions. An examination of the effectiveness of public and non-public institutional regulation that operated simultaneously to improve factory workers' safety broadens our understanding of international labour regulation, given their experience of regulation implementation. While post-Rana Plaza literature has extended our understanding of international labour regulation, it is focused almost exclusively on the Accord and Alliance, excluding the NI (Anner and Bair, 2016; Donaghey and Reinecke, 2018; Labowitz and Baumann-Pauly, 2015; Reinecke and Donaghey, 2015; Scheper, 2017), largely because its inspection and remediation reports are not available (unlike the reports of the Accord and Alliance). Second, in the absence of the legal enforceability of international regulation and the varied ability of key actors to exert power, the future form of non-public labour regulation after the expiration of the Accord and Alliance remains unclear. Our investigation offers a nuanced understanding of the power dynamics at play in the negotiation of the form and extent of post-Accord and Alliance regulation in Bangladesh's RMG sector. Finally, this research explores the strengths and shortcomings of these three initiatives, particularly of their implementation. A discussion of the factors that enabled or hindered the achievement of the goals of these initiatives is surprisingly absent in the literature, given that it has significant implications for both scholars and policy makers.

Labour Regulation in a Globalized Economy

Labour laws and collective bargaining are locally and nationally distinctive, which makes it easy for global corporations to bypass the labour market regime of their home country by transferring their production to distant locations where their products are produced, often developing countries. Deregulation, influenced by neoliberal ideology, has further weakened

developing countries' capacities to regulate labour (Crouch, 2011). As growing internationalization of economic activity has increasingly put pressure on the capacity of national institutions to regulate work and employment (Barrientos *et al.*, 2011: 300), managing working conditions in GVCs remains a significant concern for researchers, practitioners, and policy makers (Reinecke and Donaghey, 2021b). Persistent calls by scholars, consumer groups, and labour rights NGOs to address the well-being of supplying-country workers has led to a shift in the regulation approach of national and international actors where production is distributed across GVCs (Meardi and Marginson, 2014: 1034). However, in the absence of a global legal regulatory framework, a range of new transnational institutional arrangements and private regimes of labour governance, such as codes of conduct, international framework agreements, and multi-stakeholder initiatives, have emerged (Marginson, 2016; Pike, 2020).

In the 1990s, several global brands and retailers implemented monitoring tools to improve labour standards, which were initially focused on corporate compliance with national regulations overseeing various business practices (Bair, Miller, and Dickson 2014). These monitoring efforts have been increasingly directed at compliance with lead corporation-specific codes of conduct, as they apply to health, safety, and environmental standards of supplier factories in developing countries. These corporate social responsibility (CSR) monitoring programs undertaken by brands and retailers often substitute or complement public regulation (Bartley, 2011; Locke, Rissing, and Pal, 2013). However, given the weak public labour regulation of developing nations, sourcing corporations' self-imposed codes of conduct and monitoring programs are inadequate to ensure standard working conditions (Bair, Miller, and Dickson, 2014; Egels-Zanden and Merk, 2014; Lund-Thomsen and Lindgreen, 2014; Reinecke and Donaghey, 2021a, 2015). The Rana Plaza collapse, where more than 1,100 people died, and the Tazreen Fashion fire, where 112 people died, are two prime examples of the failure of both public and corporation-led private monitoring to ensure basic workplace safety of Bangladesh RMG workers.

The growing debate on effective forms of transnational labour governance has prompted new institutional forms of regulation at the international level, involving new and established actors, including global union federations and the ILO (Marginson, 2016). The international framework agreements negotiated between lead corporations and global union federations have emerged as a new form of joint regulation (mostly in European countries) as an alternative to codes of conduct and CSR activities of multinational corporations (Helfen and Fichter, 2013: 554). The effectiveness of international framework agreements in ensuring adequate employment conditions depends on the full involvement of local unions in the development and implementation of the agreements (Helfen and Fichter, 2013: 560). However, in most developing

countries, workers' unionization is insignificant, and buyers often choose such production sites because of low labour costs. For example, in Bangladesh's RMG sector, unions have less than 5 % density, which is insufficient to legitimize unions' input (Reinecke *et al.*, 2018).

In developing countries that have weak unionized representation and are part of a GVC, new forms of multi-stakeholder initiatives are emerging, involving the ILO, global union federations, local workers and unions, lead sourcing corporations, local manufacturers, and consumer activist groups, often in countries with questionable compliance records with local laws (Amengual and Chirot, 2016; Donaghey *et al.*, 2014; Marginson, 2016; Reinecke and Donaghey, 2015). For example, in the wake of the Rana Plaza tragedy, in addition to the public NI, the Accord and the Alliance, two five-year private factory inspection and remediation programs were implemented to improve structural, electrical, and fire safety in RMG factories. The legally binding Accord was signed in 2013 by more than 200 retailers and brands from Europe, North America, Asia, and Australia, two global union federations and their local counterparts. Four NGOs and the ILO also participated in its governance. Through a well-designed implementation and compliance mechanism, qualified Accord inspectors inspected factories of different tiers (determined by production volume) to identify the level of remediation required. A substantial part of the Accord dealt with governance and implementation, and incorporated two components, a steering committee and binding arbitration, based on the New York Convention. This provision was unprecedented in other labour regulation programs within GVCs. This is the main reason why large North American brands such as Walmart and Gap refused to sign the Accord, fearing undefined legal liabilities. Several US brands, led by Walmart and Gap, subsequently announced an alternative five-year initiative, the Alliance, also with the intent to improve the safety of RMG factories. Member compliance with this agreement was monitored by a committee comprising independent board members. The Alliance involved local unions only in an advisory capacity through a board labour committee, and they had no formal voice in decision making. Therefore, its only legally binding option was to make a claim against a signatory for non-compliance. The Accord is based on principles of industrial democracy in that it included workers' voices in its governance structure through unions, whereas the Alliance adhered to a traditional CSR approach (Reinecke and Donaghey, 2021b).

The development of hybrid and fragmented regulatory initiatives in Bangladesh and other countries with little or no evidence of an upgradation of social and economic conditions of workers, diversifies the scholarship of international regulation (Morris, Jenkins, and Donaghey, 2021; Reinecke and Donaghey, 2015). The complexity and intricacies of these new forms of labour regulation, which operate simultaneously with public regulation on the ground, are yet to be explored (Josserand and Kaine, 2016). In this

context, scholars and activists are convinced that private regulation or local government are inadequate on their own (Morris, Jenkins, and Donaghey, 2021; Walters *et al.*, 2016) and have shown an interest in other types of regulation approaches in GVCs, such as multi-layering private and public regulation (Bair, Anner, and Blasi, 2020; Bartley, 2011).

A multi-level governance analysis of labour regulation in Bangladesh's RMG sector

Borrowing from Marks and Hooghe (2004), Keune and Marginson (2013) proposed a multi-level framework for analyzing the international labour regulation brought on by the emergence of the transnationalization of industrial relations. Marginson (2016) extended this perspective by reviewing the gradual changes in international regulation and the consequences of implementing these institutional regulatory initiatives at the national level, taking into account power relations between old and new actors. Conceptualizing multi-level governance as an intervention as well as an outcome variable, Keune and Marginson (2013: 479) observed that “the evolving multi-level governance framework presents actors with multiple options for regulatory interventions both horizontally (different combinations of private and/or public actors) and vertically (various levels).” There are four kinds of governance challenge, which have power implications for the actors and forge new institutional arrangements and forms of regulation at the international level (Keune and Marginson, 2013; Marks and Hooghe, 2004): coupling (interfaces between elements of multi-level governance on the vertical and horizontal axes), forum shifting (multiple regulatory spaces within multi-level governance arrangements), optionality (options in addition to national regulations), and status of regulation (the shift of regulation from harder toward softer forms) (Marginson, 2016: 1044–1050).

The application of a multi-level governance perspective in international labour regulation presumes that the ability to frame regulation is the same at the international level as at the national level. However, because of the absence of the equivalent of a sovereign state at the international level, there is no legal basis for international regulation (Marginson, 2016: 1049). In an effort to change this, the EU has proposed to introduce a legal instrument to facilitate the negotiation of transnational collective agreements, but these efforts have stalled (Ales and Dufresne, 2012).

A legally binding international mechanism is yet to appear (Morris, Jenkins, and Donaghey, 2021: 15). This legal vacuum underscores the contested nature of regulatory initiatives and power relations of actors at play in transnational regulation. It allows actors to form forums with multiple options of regulation arrangements based on interests and a shared vision among the key actors within a forum (Keune and Marginson, 2013; Marginson, 2016). In

Bangladesh, the emergence of the Accord and Alliance as two separate institutional initiatives with the same goal (i.e., to ensure RMG factory safety) and that incorporated brands and retailers of the same product group (and in many instances which source products from the same production facility) can be characterized as forum shifting and the optionality of international labour governance challenges. As Marginson (2016: 1048) noted, “[an] appropriate forum for regulation can itself become contested between employers and trade unions, as well as other actors, such as NGOs and social movements.”

Concrete experience suggests that neither the public nor the various forms of private regulation are perfectly equipped to remedy all wrongs. Nor is relying solely on the state or on different modes of private regulation simultaneously an option (Morris, Jenkins, and Donaghey, 2021). This situation calls for an intellectual understanding of the complexities and intricacies during the implementation of different forms of private regulation alongside public regulation in the host country. Despite the theoretical rhetoric, “internationally, different mechanisms of private and public regulation fail at the point of implementation” (Morris, Jenkins, and Donaghey, 2021: 3). Using the theoretical perspective of multi-level governance, we conducted a qualitative investigation to better understand the implementation of multi-level labour governance in Bangladesh’s RMG sector.

Method

Sample and research design

Our research questions and qualitative design lent themselves to selective rather than random sampling (Strauss and Corbin, 1998). However, given the broad research question involving multiple stakeholder groups with numerous individual actors in each group, selecting sample participants was challenging. As the objective was to present local voices, we sought to recruit participants from all key actor groups who had either first-hand experience of the implementation of the Accord, the Alliance and/or the NI or had directly observed it. First, we established a broad category of four participant groups: workers, employers, officials tasked with implementing the initiatives, and members of local think tanks/NGOs/others. Using the professional networks of the first author who had work experience in Bangladesh’s RMG sector, we recruited a set of participants from each group. Subsequently, we used a snowball approach to recruit the remaining participants. In recruiting factory workers and local union representatives, we selected participants who represented large, mid-sized, and small factories in the RMG-export sector that were subject to at least one of the three agreements. Several of

these factories were supplying multiple apparel products to multiple buyers, mostly from North America and Europe. A total of 41 interviews were conducted: worker and union representatives (N=11), factory owners, factory management staff, RMG employer association members (N=12), compliance enforcement officials (N=7), and relevant local think-tank and on-the-ground officials of other organizations (N=11) (See Table 1).

TABLE 1
Interview Participants

WORKERS	EMPLOYERS	INITIATIVE IMPLEMENTATION	LOCAL THINK TANKS/ OTHERS
Union federation leaders (2)	Factory owners (5)	Accord/Alliance engineers (2)	Local university professors and RMG researchers (3)
Factory union leaders (3)	Factory management (4): (factory manager, production manager, HR manager)	Government officials (2)	Independent RMG business consultants (2)
Worker participation committee members (3)	Employers' association members (3):	Factory compliance enforcement employees (3)	Labour advisor (1)
Safety committee members (3)	Bangladesh Garment Manufacturer Employers' Association (BGMEA)		Local and international media (RMG focus) (2)
	Bangladesh Knit Manufacturer Employers' Association (BKMEA)		ILO official (1)
	Bangladesh Employers' Association (BEF)		Local NGO officials (2)

We conducted semi-structured, open-ended interviews in two phases on site in Dhaka, Bangladesh. In the first phase, we contacted several participants from Toronto and prepared an interview schedule. The first author then visited Bangladesh in April 2018 to conduct one-on-one interviews with the people that had been contacted. After analyzing the data from 29 interviews, we decided to interview more participants to obtain data saturation. The first author again visited Dhaka in November 2018 to conduct another 12 interviews. All the interviews except two were conducted in Bangla, which ensured that participants could fully express themselves in the interviews. Interviews with workers, local union leaders, and some of the factory managers were conducted in coffee shops or restaurants outside of their workplace on weekends. Participants were compensated for their travel and time spent, as appropriate (some declined compensation). Other interviews were conducted in participants' offices. Interviews ranged in length from 35 to 80 minutes and were recorded with the consent of the interviewee.

Some of the major open-ended questions asked were as follows: How do you evaluate RMG workers' safety and working conditions before and after the Rana Plaza tragedy? How do you evaluate the impact of the measures taken by the Accord, the Alliance, and the government-initiated NI factory inspections? How do you compare these three initiatives in terms of their activities and effectiveness? What are the major factors that made one initiative better than the other two? What are the shortcomings of each of these three initiatives? Given the expiration of the Accord and Alliance in 2018, what is your opinion about the continuity of Accord- and Alliance-like partnerships going forward? In order to achieve sustainable improvement of RMG worker safety and working conditions, what is your recommendation about a desirable approach going forward? Several probes were used throughout the interviews as appropriate.

Data analysis

Given the evolving nature of scholarship on international labour regulation, we determined that a qualitative, inductive approach to data analysis using grounded theory (Strauss and Corbin, 1998) was the most suitable. Seeking to discern patterns in data (Boyatzis, 1998) and following Strauss and Corbin's (1998) suggestion, we began with a tentative set of broad categories relevant to our research question based on international labour regulation literature. This analytical approach provided us with a supplemental validation of international labour regulation literature on post-Rana Plaza initiatives as well as helped us identify themes that diverged from established research themes (Strauss and Corbin, 1998). Each interview was recorded, translated and transcribed into English, and coded by the first author. Initially, we generated codes through open coding and, as themes began to emerge, we used them to influence the interview questions of subsequent interviews, consistent with the guidelines of theoretical sampling (Strauss and Corbin, 1998; Suddaby, 2006). After 29 interviews, most of the themes began to show data saturation. Nonetheless, we conducted another 12 interviews until full data saturation was reached.

Findings

Our analysis resulted in 13 major themes, which we combined into six categories: 1) regulation effectiveness 2) common factors contributing to the successful implementation of the three initiatives, 3) factors that made the Accord and Alliance more effective than the NI, 4) factors constraining the NI, 5) challenges of multiple regulations in the horizontal layer, and 6) continuity and form of labour regulation post-Accord and Alliance. Next, we discuss these major themes and their subthemes.

Regulation effectiveness

Safer RMG factories post-Rana Plaza disaster

Participants overwhelmingly indicated that the factory inspections and remediation follow-ups stipulated by the Alliance and Accord contributed significantly to improving factory safety (building, electrical, and fire). Together the Accord, Alliance, and NI were responsible for inspecting about 89 % of RMG factories (affecting 3.85 million workers in total), to ensure that they met Bangladesh's national building code (Anner and Bair, 2016: 11).

Several participants pointed out that because of the heightened safety standards, many owners of sub-standard factories either renovated or rebuilt their factory to meet code in order not to lose their sourcing relationship with the brands involved in the Accord and Alliance. As a result, several small factories that operated in a shared space (e.g., those that rented a floor in a shopping mall or on a roof-top) ceased operation. As a factory owner said, "because of stringent safety measures, big players are scaling up their production and small operations are being phased out. Today, you will not see RMG factories in shared or rented spaces anywhere."

Safety awareness among employers, supervisors, workers, and beyond the RMG sector

A noticeable area of improvement mentioned by many participants was safety awareness among employers, supervisors, workers, and beyond the RMG sector. Traditional quantitative progress reports about factory inspections often fail to capture this aspect of improvement. Participants believed that this was a significant improvement. As one factory manager said, "Now when we build something or install a machine or a generator, we first ask ourselves, is it safe?"

An increase in awareness training on fire safety and occupational safety and health (OSH) also contributed to safety awareness. All the participant workers reported that in recent years they had attended several training programs on fire safety and OSH, and occasionally participated in fire drills organized by their employers. Safety training programs were provided in 1,062 factories under the Accord, affecting more than 2.2 million workers (Accord, 2018). More than 1.4 million workers in 1,021 factories and 28,000 security guards were trained in basic fire safety under the Alliance (Alliance, 2017).

The varied impact of the Accord, Alliance, and NI

Of the three factory inspection initiatives, participants ranked the Accord first in respect to the scope and quality of inspections and remediation follow-up. This was based on the Accord's transparency, inclusion of global

and local unions in its structure, and greater worker coverage than the two other initiatives. One NGO official involved in RMG worker rights activism said that “the Accord has global and local union representatives in its structure, which makes their work more transparent and effective, plus they have inspected far more factories than the Alliance or the NI.”

According to a report by Anner and Bair (2016: 11), the Accord had in its ambit 42 % of an estimated total 3.85 million RMG workers, the Alliance 9 %, the Accord and the Alliance jointly 20 %, and the NI, 18 %. These numbers suggest significantly higher involvement of the Accord over the other two. The participants also believed the Alliance, although limited in terms of number of factories covered, was more effective than the NI in terms of the quality of its work.

Two participants (one from an employers’ organization and the other from the Department of Inspection for Factories and Establishments [DIFE]) asserted that the NI was effective but most participants were unsure about the extent of the impact of NI inspections. The lack of the NI’s transparency in reporting the inspection and remediation status of factories cast doubt among participants about the real impact of its work.

Shared factors contributing to the successful implementation of the three initiatives

A focus on specific issues with time-bound deliverables

Participants believed that the focus of the initiatives on specific components of factory safety and the time-bound remediation imposed on factory owners helped achieve the goals of the initiatives. Participants mentioned that teams of experts inspected factory buildings’ structural, electrical, and fire safety thoroughly and prescribed remediation to be completed by a deadline and, as a result, factory owners and management took the inspection seriously. This focus was in contrast to the traditional private monitoring by the auditors of individual brands who covered issues per their codes of conduct. Several workers and union representatives indicated that private monitoring had often been superficial and compromised by the pressure for brands to export fashion apparel in a timely manner. A factory safety committee member (a worker) stated:

When you monitor everything, you basically miss issues that are more important than others. We all know that before the Rana Plaza collapse, many brands’ audit teams certified the factories operating in a building. In a country like Bangladesh, we have countless issues of working conditions to improve, but one needs to prioritize what to attend first.

Collective/multi-stakeholder approach

Participants mentioned that a collective institutional approach, as opposed to private audits by individual brands, helped mobilize teams of experts to inspect RMG factories rigorously with a unique set of safety requirements. Participants believed that the presence of multiple actors in the initiatives and having expert professionals on the inspection teams strengthened the initiatives in that conflicting code requirements by individual buyers were eliminated. Several factory participants, from managers to workers, mentioned that this collective approach eliminated “audit fatigue” (repeat audits by individual buyers several times a year), while at the same time made factory owners accountable to meet remediation requirements.

Factors that made the Accord and Alliance more effective than the NI

The Accord's and Alliance's expertise and resources

Participants believed that the Accord's and Alliance's ability to mobilize expertise with adequate funding (which the NI lacked) enabled them to undertake timely inspections and remediation operations. A factory worker (safety committee member) stated:

Our factory was inspected by both the Accord's and the Alliance's team of experts. Their engineers are thorough and methodical in their inspections. They are very serious about the remediation deadline and follow up progress in a timely manner and provide feedback to factory management accordingly. We have learned a lot from them.

Participants also mentioned that the progress of inspection and remediation was regularly updated publicly on the Accord's and Alliance's websites, evincing their transparency and competency.

The effective exercise of sanctions for noncompliance

Participants mentioned that the factory owners' fear of being delisted or losing a sourcing relationship with signatory brands and retailers made them comply with the remediation prescriptions provided by the Accord and Alliance inspectors. As one factory production manager said: “Due to the high cost of remediation works, there was resistance from factory owners at the beginning. However, fear of being delisted from the brands' supplier list compelled them to remediate their factories.” Since the implementation of the Accord, the sourcing relationships with signatory companies of more than 100 factories have been terminated by the Accord because of their failure to remediate as prescribed (Accord, 2018). As of 2017, the Alliance has suspended 162 factories for not complying with remediation recommendations (Alliance,

2017). These rates are one of the main reasons the Accord and Alliance are more effective than the NI.

Factors constraining the NI

Participants, in their comments about the NI, described it as having more limitations than strengths. These shortcomings included a lack of resources and expertise, a lack of transparency, and most importantly, a lack of punitive measures for noncompliance. A local RMG researcher stated:

After the incident [Rana Plaza collapse], it was expected that the government would make a massive action plan to address the situation. I was surprised that in the budget speech in June 2013, two months after the Rana Plaza accident, there was no mention of Rana Plaza and what to do—no guideline or action plan was presented. No revenue allocation to hire and train factory inspectors.

According to the DIFE (2018), as of March 2016, the NI had inspected only 1,549 factories. Out of 745 factories that were being followed up by the DIFE, only 218 factories had remediated more than 50 % of noncompliance items identified in their corrective action plan. Out of 150 factories listed by the review panel, 39 had been closed.

Challenges of multiple regulations in the horizontal layer

Differences in Accord and Alliance remediation recommendations for the same factory

A number of employers reported that the Accord's and Alliance's inspection teams differed in their remediation prescriptions for the same compliance issue in the same factory, each insisting on their own prescriptions. This contestation between the Accord and Alliance as two horizontally operated regulation initiatives created confusion and delay in remediation work by factory owners.

As the factories under NI supervision were different from that of the Accord and Alliance, no such conflict was mentioned by participants.

Attitudinal contestation between non-public and public regulatory team members

Our analysis of participant responses also revealed attitudinal contestation between the personnel involved in the implementation of the private and NI initiatives. An Accord engineer's response reflected such an attitude:

I do not need to tell you about the government and the NI's [in]ability to ensure factory safety. If they would have done their job properly, Bangladesh would not need Accord- or Alliance-like initiatives. You cannot compare the quality of our work with theirs.

On the other hand, some of the responses from the DIFE and employers' association officials reflected a more favourable evaluation of the NI. One example is the response of a DIFE official:

We know we have several limitations, such as a shortage of trained experts and budget to conduct the required number of inspections and follow-up visits on time. But the factories we were supposed to inspect were much weaker than the factories inspected by the Accord and the Alliance. Anticipating the inability to bear the high cost of remediation many of the factory owners closed down on their own. Although not enough, we also have good inspection teams comprising trained local experts. Given these circumstances, our progress is unnoticed.

Burden of remediation cost on factory owners

Several factory owners and employers' association officials, including an RMG business consultant, mentioned the financial burden of complying with the remediation prescriptions of the Accord and Alliance. Many of them noted that often RMG employers had to comply with remediation items they deemed unnecessary. These respondents complained that when the Accord and Alliance were first initiated, factory owners were led to believe that they would receive necessary financial support for remediation work, but never did. Here is a response from a factory owner: "The Accord and the Alliance did not arrange for the financial support they had initially indicated. So far, whatever improvement has been achieved, is at the cost of factory owners."

Continuity and form of labour regulation post-Accord and Alliance regimes

One of the key foci of our investigation was to understand the participants' views on the ongoing safety improvement arrangements after the expiration of the five-year agreements of the Accord and Alliance. Participants' responses were clustered around several themes.

The need for continued effort by all the key actors

The majority of participants including some employers expressed concern that, with the discontinuation of the Accord's and Alliance's inspection activities, the situation would deteriorate as Bangladesh would not be able to sustain the momentum of the five years the initiatives were in effect. These participants felt that it was very important that key stakeholders be included in all safety improvement efforts. As a worker said,

The question is, are we in a situation now where factories will provide safe working conditions out of their goodwill? I do not think so. If not, then irrespective of whether the Accord or the Alliance should continue their operations or not, there must be some mechanism to ensure that factory owners stay compliant. Is government prepared to ensure that without the Accord and the Alliance? These are the questions we should ask.

Many participants cited the poor track record of the governmental Remediation Coordination Cell (RCC), established in May 2017 to take over the work of the Accord and the Alliance under public supervision, in ensuring RMG workers' safety. These responses suggest that operations of the Accord and Alliance should be extended beyond their expiration, and brands and other actors such as the ILO, global union federations, and NGOs should continue to have an active role in all future efforts. Khan and colleagues' (2018) study to evaluate the ILO's Decent Work Country Programme in the RMG sector of Bangladesh also observed the need of greater co-operation between national and international actors to ensure the long-term sustainability of the Bangladesh RMG sector.

The power of local RMG employers in the Bangladesh government matters

Several participants feared that the Bangladesh Garment Manufacturer Employers' Association (BGMEA) with its influence on government would not allow the Accord to extend its operations. An independent RMG business consultant stated,

I think our government should have allowed the Accord and requested the Alliance to continue their operations so that the pressure is there on the factory owners. Unfortunately, the BGMEA somehow has convinced the government that we did not need the Accord and the Alliance anymore. They argue that these programs are unnecessarily increasing production costs and hampering industry growth. Government is more pro-owner than pro-worker. Personally, I want the Accord and the Alliance to continue their operations. They brought some real changes in building and fire safety. The RCC is not prepared to take over their work. It will take time.

The RMG employers' influence on the government was also noted by several participants. A university professor who often contributed publicly to the discussion on social issues, including ones pertaining to the RMG sector, said,

Ideally a government should be an independent body that looks after both workers and owners without discrimination. But unfortunately, the government is not able to play an indifferent role. The BGMEA is a well-oiled and influential organization. It influences the government in the way it wants. The BGMEA is the strongest lobbyist in Bangladesh, irrespective of the political parties. There exists a huge power imbalance between RMG workers and employers.

Despite the Accord's interest in continuing beyond its initial five-year term, its operations could not be extended because of political opposition by local employers and the Bangladesh government (UNI Global Union, 2019).

Resistance to the Accord and Alliance

A few participants, whether employer or government official, did not want the Accord and Alliance to be extended after the expiration of their five-year terms; they supported the RCC's immediate takeover of Accord and Alliance activity. One government labour department official asked, "How long will you depend on foreigners? We must do our job. The Accord and the Alliance did their part. It's time to move on our own." These participants argued that taking responsibility would strengthen Bangladesh's home-grown capability to deal with workers' safety issues even if there were initial hiccups. They further pointed out that even if the Accord's and Alliance's inspections discontinued, brands would strengthen their individual audits of factories. Several participants responded that the government would need to take a leadership role in ensuring factory safety and protecting the rights of RMG workers if sustainable improvement was to be achieved.

Overall, irrespective of the form of future regulation intervention, the majority of participants felt that in the short term it was important that the momentum achieved should be continued by including all key international stakeholders and actors. While participants emphasized the importance of public involvement, they were adamant that significant external pressure by international actors on both government and RMG employers was needed if they were to ensure workers' safety.

Discussion

Effective vertical but challenging horizontal layering

While our findings indicated the effectiveness of the vertical flow of institutional regulation, it also revealed some significant challenges during the implementation of the institutional initiatives in the horizontal flow. Participants believed that the institutional intervention approach focusing on select safety issues with time-bound deliverables, expertise and resources, and an effective exercise of sanctions for noncompliance made the Accord and Alliance more effective than corporation-led private monitoring. Tremendous diversity exists in corporations' private audits, which are largely motivated by the lead corporations' goals to oversee select aspects of their codes of conduct using various audit protocols (Locke, Rissing, and Pal, 2013: 523). These characteristics, along with the pressure for sourcing departments

to meet shipping deadlines, tend to make these monitoring efforts superficial and driven by the desire to make them manageable at the factory level. Our findings support Donaghey and Reinecke's (2018: 36) conclusion that the collective approach of the Accord and Alliance has been successful in overcoming some of the limitations of previous audit-based monitoring. However, most of the participants did not think the NI had been effective, mainly because of its lack of resources and transparency in progress reporting, and its "softness" in punishing noncompliance.

The operations of the Accord, Alliance, and NI were marked by complexity and contestation in the horizontal layer, such as differences in remediation recommendations, conflicting attitudes between non-public and public regulatory team members, and frustration at the burden of remediation costs being shifted to the factory owners. Although the Accord and Alliance together addressed 20 % of the total factories inspected, there were still some factories that were inspected by both. It can be argued that the differences in remediation recommendations would not have taken place had the signatory members of the Alliance joined the Accord in the first place. But scholars have observed that the democratic considerations of multilevel governance have the potential to enhance governance capacity by maximizing the participation of different actors and allowing experimentation with having multiple governance units at any given level (Keune and Marginson, 2013; Marks and Hooghe, 2004). Yet again, the transaction costs of operating multiple units may well outweigh the advantages of enhanced capacity due to scale inefficiency (Regalia, 2006). This trade-off between democratic consideration and scale efficiency in multi-level labour regulation offers opportunities for future research.

Contesting attitudes among non-public and public regulatory team members were found to be another challenge in the horizontal layer during the implementation of these initiatives. Such attitudinal contestation between the officials on the ground was likely transmitted to the upper levels of government as well as local RMG employer groups, creating the opportunity for RMG employers to lobby government to ease the Accord and Alliance measures, through their significant collective power.

Complaints from employers and factory management about bearing the full cost of factory remediation prescribed by these initiatives point to another tension in the multiple layering of regulation. These participants described how the apparel sourcing price paid by companies remained the same in the post-Rana Plaza regime, meaning that, while the brands advocated compliance, they also pushed to keep prices low to compete in the fast-fashion industry (Reality Check, 2018). Given how simple it is to manufacture RMGs, the number of RMG producers within and beyond the current supplying countries has been increasing over the years, resulting in further reductions in

profit margins. This is an important area for future research: Are factory owners burdened with the cost of safety remediation? Are buyers compensating for these costs through higher apparel prices paid, and are local factory owners benefiting?

Power implications in the absence of a legal basis for international labour regulation

By indicating their lack of confidence in Bangladesh's public agencies to ensure the safety of RMG workers, most participants emphasized the need to maintain the same level of oversight by all concerned actors after the expiration of the Accord and Alliance. This was also expressed by international actors including the signatory brands, retailers, global union federations and the EU (European Commission, 2018). However, while the perception about the lack of national capacity of labour regulation led to international institutional intervention only in 2013, the proposal to extend the Accord beyond its expiration has been opposed without much change in the perception of the national capacity among the international actors as well as study participants. Although the Accord is credited with taking industrial democracy into account by including workers' voices, the failure to negotiate its extension underscores its lack of a legal basis and the presence of power imbalances in international labour regulation. The inability to extend the Accord until national agencies are ready to take over its work reflects the inability of international actors to exert adequate legal pressure (including a supra-national authority, e.g., the EU).

The ability of employer groups to resist oversight through the Bangladesh government can be understood in light of two major facts. First, 82 % of Bangladesh's export earning comes from the RMG sector (World Bank, 2017), and second, a significant percentage of parliamentary members are directly or indirectly engaged in RMG businesses (Yardley, 2013). This makes it almost impossible for the government to challenge RMG employers. Immediately after the Rana Plaza accident, the government and local RMG business owners were concerned about the future of RMG businesses in Bangladesh and could not effectively resist the Accord or Alliance. However, once the initial shock subsided and global apparel companies continued their business as usual, RMG employers and the government realized that the country would no longer face adverse economic consequences. Thus, their resolve to improve working conditions weakened (Vogt, 2017: 85). Bangladesh's RMG sector has not faced big enough economic penalties to compel the government to take RMG workers' rights seriously.

The RMG employers' ability to oppose the Accord's extension was strengthened by the significant increase in total garment exports from USD 20 billion in 2013 to more than USD 30 billion in 2018. In order to compel the government

to take RMG workers' rights seriously, an effective exercise of sanctions using the EU's and the US's generalized system of preferences benefits may be necessary (Vogt, 2017: 85) until a legal instrument can be established (if ever). However, it is likely that the inability of international actors to exert adequate pressure on the government and RMG employers will result in a softer form of RMG regulation in the coming years. This indicates that the power relationship between private actors and the state matters. The diverse roles of the state and corporations are an important component in the politics of transnational industrial relations, which may continue to evolve in GVCs (Bair, Anner, and Blasi, 2020; Fine and Bartley, 2019; Morris, Jenkins, and Donaghey, 2020).

Phasing in international regulation requirements

While most participants saw the need for buyers and other international actors to continue their active involvement in regulation after the expiration of the Accord and Alliance, many participants, including employers, indicated a preference for changing the intervention arrangement. These participants opined that the dependency on external actors cannot be the ultimate solution. Few of them believed that after the expiration of the Accord and Alliance, buyers and other international actors would work as strategic partners to develop national regulation capacity. These responses further indicate that the magnitude of external regulation and the extent of the involvement of non-public actors should be assessed based on the current regulatory state. This finding points to the phasing in of a regulation arrangement in a specific country or sector. Depending on contextual variables, such as working conditions and the national regulatory capacity, the phasing in of international regulation can be conceptualized. Based on the sourcing country's position in the continuum of "high dependency (on international regulation) to self-sufficiency (national regulation)," the extent of the need for international regulation can be assessed in a continuum of "harder regulation to softer regulation." We believe that such a temporal assessment of external regulations will more effectively address international labour regulation in developing countries.

Limitations

There are several limitations to our research. First, the interview participants were not proportionately representative of the groups we targeted. Given the broad scope of our research topic that involved several stakeholder groups, achieving representative sampling was challenging. As we intended to present local views, we recruited workers, employers, people involved in compliance, and key local observers, who were directly involved or had experienced the impact of post-Rana Plaza initiatives on the ground.

Second, the accuracy of the number of factories affected by safety regulations, based on secondary literature, is questionable. In addition to the ones reported on, there were many factories that subcontracted work and were not regulated under the inspection and remediation initiatives (Realty Check, 2018). Researchers need to accurately count the number of factories and evaluate safety measures based on all factories. In this regard, our findings suggest that many smaller factories closed down because of stringent safety inspection and remediation. It is possible that some of them reinvented themselves and subcontracted garment manufacturing to other factories or home workers, thus falling outside the scope of formal regulation. This is an area for future research. Finally, we believe that our theoretical framework of analysis can be utilized in other similar settings in global supply chains; however, due to the qualitative nature of the study, we suggest that the generalizability of the findings should be exercised with caution.

Conclusion

The globalization of the production of goods necessitates arrangements for international labour governance that create additional layers of institutional intervention alongside public regulation. While the new forms of regulation, the Accord and Alliance, showed promise, the layering created because of multiple institutional regulations created challenges. In the absence of a common legal basis, and differential power resources of the actors involved, Bangladesh's RMG sector may experience revised regulation arrangements after the expiration of the Accord and Alliance, adding to the ever-evolving forms of international labour regulation. This research offers important insight for the public oversight authority of developing nations as well as contributes to the debate among policy makers and scholars over how best to improve workers' safety in globally dispersed production networks.

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SUMMARY

In the wake of the Rana Plaza tragedy, the Accord and the Alliance were launched as two separate private initiatives alongside the National Initiative (NI) to improve the workplace safety of ready-made garment (RMG) workers in Bangladesh. Together, these three initiatives created multi-level labour regulation with both vertical and horizontal layering. From a multi-level governance perspective, we conducted qualitative research by means of interviews (N = 41) and archival data to analyze the post- Rana Plaza labour regulation experience of Bangladesh's RMG sector.

While our findings indicate the effectiveness of the vertical flow of institutional regulation, they also reveal significant horizontal challenges during implementation of the private initiatives alongside the public NI. Participants believed that the Accord and the Alliance were more effective than individual corporation-led private monitoring because they both approached intervention with a focus on select safety issues with time-bound deliverables, expertise and resources and with effective exercise of sanctions for noncompliance. In contrast, most of the participants saw the NI as much less effective, deploring its insufficient resources, lack of transparency in reporting progress and “softness” in punishing noncompliance. Horizontal operations of the Accord and the Alliance along with those of the NI created some complexities, such as differences in remediation recommendations, an oppositional attitude among non-public and public regulatory team members and a burden of remediation costs on factory owners.

In the absence of a legal basis for international labour regulation, these findings will help provide a nuanced understanding of the power dynamics involved in negotiating the revised form and extent of international regulation after the expiration of the Accord and the Alliance, thus shedding light on the ever-evolving forms of international labour regulation. This research will contribute to debate among policy makers and scholars on how best to improve workers’ safety in globally dispersed production networks.

RÉSUMÉ

À la suite de la tragédie de l'édifice du Rana Plaza, l'Accord et l'Alliance ont été lancés en tant que deux initiatives privées distinctes, parallèlement à l'Initiative nationale (IN), afin d'améliorer la sécurité au travail des ouvriers du secteur du prêt-à-porter au Bangladesh. Ensemble, ces trois initiatives ont formé une réglementation du travail à plusieurs niveaux, comportant une stratification verticale et horizontale. Dans une perspective de gouvernance à plusieurs niveaux, nous avons mené une recherche qualitative au moyen d'entretiens (N = 41) et de données d'archives afin d'analyser la réglementation du travail dans le secteur du prêt-à-porter au Bangladesh après l'effondrement du Rana Plaza.

Si nos résultats indiquent l'efficacité du flux vertical de la réglementation institutionnelle, ils révèlent également des défis horizontaux importants quant à la mise en œuvre des initiatives privées parallèlement à l'IN publique. Les participants ont estimé que l'Accord et l'Alliance étaient plus efficaces que la surveillance privée menée par des sociétés individuelles, puisque ces deux initiatives comportent des interventions axées sur des questions de sécurité précises accompagnées d'échéanciers, d'expertise et de ressources. De plus, ces initiatives prévoient des sanctions en cas de non-conformité. En revanche, la plupart des participants ont considéré que l'IN était beaucoup moins efficace, déplorant ses ressources insuffisantes, son manque de transparence dans le suivi des progrès accomplis et son manque de rigueur dans l'application des sanctions en cas de non-conformité. Les opérations horizontales de l'Accord, de l'Alliance et de l'IN ont créé certaines complexités, comme des divergences concernant les recommandations des mesures

de remise en état, des oppositions entre les membres des équipes de réglementation publique et privée, ainsi qu'un fardeau financier pour les propriétaires d'usines devant payer les coûts associés aux mesures de remise en état.

En l'absence d'un fondement juridique pour la réglementation internationale du travail, ces résultats aideront à fournir une compréhension nuancée de la dynamique du pouvoir impliquée dans la négociation de la révision et de l'étendue de la réglementation internationale après l'expiration de l'Accord et de l'Alliance, mettant ainsi en lumière la constante évolution de la réglementation internationale du travail. La présente recherche contribuera au débat entre les décideurs politiques et les universitaires sur la meilleure façon d'améliorer la sécurité des travailleurs dans les réseaux de production établis partout dans le monde.

PRÉCIS

Suite à la tragédie du Rana Plaza, en tant que deux initiatives privées distinctes, l'Accord et l'Alliance, ont été lancés parallèlement à l'Initiative nationale (IN), afin d'améliorer la sécurité au travail des ouvriers du secteur du prêt-à-porter au Bangladesh, formant une réglementation du travail à plusieurs niveaux. Nous avons mené une recherche qualitative au moyen d'entretiens (N = 41) et de données d'archives afin d'analyser cette réglementation dans le secteur du prêt-à-porter au Bangladesh après l'effondrement du Rana Plaza. Si nos résultats indiquent l'efficacité du flux vertical de la réglementation institutionnelle, ils révèlent également des défis horizontaux importants quant à la mise en œuvre des initiatives privées parallèlement à l'IN publique en l'absence d'un fondement juridique pour la réglementation internationale du travail. Ces résultats aideront à comprendre les dynamiques de pouvoir impliquée dans la négociation de réglementations internationales.

Mots clés: Bangladesh; Industrie du prêt à porter; réglementation internationale du travail; gouvernance multi-niveaux; sécurité des travailleurs; étude qualitative.