



THE POLITICAL ECONOMY OF PRIVATE AND PUBLIC REGULATION IN POST-RANA PLAZA BANGLADESH

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How do public and private labor governance regimes intersect in global supply chains and with what effects? Based on fieldwork in Bangladesh, including interviews with garment industry stakeholders, this article examines the main public and private regulatory reforms instituted in post-Rana Plaza Bangladesh: the Sustainability Compact and the Bangladesh Accord, respectively. Despite the Accord's substantial achievements in improving workplace safety, particularly relative to the progress achieved under the Compact, findings show that government and industry actors in Bangladesh have resisted the Accord's efforts to empower workers for fear that improved labor standards would threaten managerial control over one of the global garment industry's largest and cheapest labor forces. Rather than being an example of complementarity between private and public governance, or an effective substitution of one by the other, post-Rana Plaza Bangladesh represents an undermining of effective private regulation by a state opposed to pro-labor reforms.

Much of the debate about how best to arrest a race to the bottom in labor standards has centered on the relative merits of public versus private regulation. Should efforts focus on improving the enforcement capacity of governments or on compelling businesses to change their practices? Recently, however, the research frontier has advanced beyond this either-or framing to instead theorize the interaction between public and private modes of regulation. How and when do different levels of governance “layer” and with what effects? Can the introduction of transnational governance regimes that involve private-sector stakeholders reinforce or even stimulate public regulation, or are such efforts more likely to substitute instead of complement state efforts?

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Bangladesh presents a unique opportunity to examine the interaction between public and private governance. On April 24, 2013, the Rana Plaza factory complex collapsed, killing 1,134 workers and injuring more than 2,500. Global clothing companies sourcing from Bangladesh feared the reputational damage of being associated with the catastrophe, and—facing a major campaign by unions and nongovernmental organizations (NGOs)—within a month of Rana Plaza, several major brands and retailers signed on to an ambitious initiative called the Accord on Fire and Building Safety in Bangladesh (hereafter Accord) affecting some two million workers.

The Rana Plaza tragedy also put pressure on the government of Bangladesh, which relies on garment exports for around 80% of the country's export revenue. State officials worried that foreign buyers would abandon Bangladesh and that importing-country governments would withdraw market access. Consultations between representatives of the European Union—Bangladesh's single-largest market—and Bangladeshi officials began in the months after Rana Plaza, facilitated by the International Labour Organization (ILO). This process led to a second initiative, announced in July 2013, the Compact for Continuous Improvements in Labour Rights and Factory Safety in the Ready-Made Garment and Knitwear Industry in Bangladesh (or Compact, as it became known).

As an industrial agreement between brands and global union federations to improve worker safety, the Accord is an example of private governance. As an intergovernmental initiative to improve labor standards via regulatory reform and enhanced enforcement, the Compact represents a public governance approach. What can we learn about the effectiveness of private and public regulation, and the relationship between the two, through the analysis of these two programs? Drawing on data gathered from extensive fieldwork that includes interviews with industry actors, government officials, trade union representatives, and labor activists in Bangladesh and abroad, we examine what the Accord and the Compact have achieved since Rana Plaza, and, relatedly, the interactions between the two initiatives.

We make two main arguments. First, we argue that the Accord was more successful in pursuing its objectives than was the Bangladesh government in fulfilling its commitments under the Compact. The Accord carried out an extensive inspection, remediation, and safety-training program, which involved 2,000 factories and millions of workers. By contrast, although the government of Bangladesh has made progress on the safety front, it has fallen short in increasing protection of core labor rights.

Initially, the Accord's superior performance might be attributed to its narrower mandate—to improve health and safety in garment factories—as opposed to the Compact's goal of improving labor standards enforcement more broadly. However, the Accord and Compact share key similarities. Both initiatives entailed factory inspection and remediation efforts, and both acknowledged the relationship between increasing worker safety and ensuring labor rights. Despite this acknowledgment, the government failed

to take measures under the Compact to empower workers so they can advocate for their own safety. Moreover, together with the country's powerful cadre of factory owners, the government resisted and thwarted elements of the Accord's mandate that might increase worker voice and thus threaten managerial control.

This brings us to our second argument, which pertains to the relationship between the Accord and the Compact. Rather than an example of complementarity between private and public governance, or an effective substitution of one by the other, post-Rana Plaza Bangladesh represents an undermining of effective private regulation by a state opposed to pro-labor reforms. Note that private governance initiatives are not new in the Bangladesh garment export sector. For more than two decades, buyers used a range of auditing programs to assess supplier conduct, and unlike the Accord, these private governance schemes did not face resistance from the Bangladeshi government or factory owners. The difference lies in the nature of the Accord as a unique experiment in *co-governed* private regulation that includes global union federations in addition to foreign brands. It is precisely the Accord's potential to challenge the relations of power between labor and employers that provoked resistance from government and industry elites.

Labor Governance in Global Supply Chains

Scholarship on labor standards in contemporary industries frequently focuses on the global supply chains through which many goods and services are produced and delivered (Mosley 2011; Berliner et al. 2015). Excessive and compulsory overtime, wage theft, and safety hazards are common problems in buyer-driven chains such as apparel, electronics, and horticulture, in which lead firms subcontract production to independent suppliers that are mostly located in developing countries (Gereffi 1994; Barrientos and Smith 2007). Labor protections are weak in law or practice in many such countries, either because governments lack the capacity to regulate or because they fear that enforcement will increase labor costs and therefore decrease international competitiveness (Graham and Woods 2006; Bartley and Kincaid 2016).

In the late 1980s and 1990s, a series of sweatshop scandals involving high-profile US and European companies led unions and civil society groups to call for enhanced regulation of working conditions in export factories in the global South (Rodríguez-Garavito 2005; Bair and Palpacuer 2012). The brands and retailers targeted by this activism responded by creating new systems of private governance, framed primarily as exercises in corporate social responsibility. Soon, most global companies sourcing from overseas factories had their suppliers audited to assess compliance with a set of prescribed standards, or code of conduct (Gereffi, Garcia-Johnson, and Sasser 2001; O'Rourke 2006).

The results of compliance auditing have been disappointing, with the bulk of research suggesting that such regimes do not meaningfully reduce labor violations and are particularly ineffective in securing workers' associational rights (Anner 2012; Lebaron and Lister 2015). Disillusionment with private regulation contributed to a pendulum-like shift in the scholarship on labor governance back toward the role of the state (Piore and Schrank 2008; Locke 2013; Bartley 2014). While some scholars emphasize the state's unique mandate as the appropriate guarantor of labor rights (Seidman 2007), others call for a more flexible, problem-solving approach on the part of public regulators (Piore and Schrank 2018) or criticize the state's active complicity in outsourcing regulation to private governance regimes (Mayer and Philips 2017).

A recent wave of scholarship argues that rather than debating the relative merits of private or public governance, we should instead examine the intersections between differing modes of regulation. Scholars note that although private regimes such as compliance auditing are often framed as interventions to address a governance deficit (Mayer and Gereffi 2010), rarely do they operate in a complete regulatory vacuum, even if public regulations are weak or unenforced (Bartley 2011; Mayer and Phillips 2017). The observation that private regimes are often layered over public ones leads us to consider under what conditions private governance might complement or reinforce, as opposed to substitute or crowd out, state efforts (Kolben 2007; Amengual 2010; Esbenshade 2012; Eberlein et al. 2014).

Matthew Amengual and Laura Chirof's study of supply chain auditing in Indonesia is one example of this emergent research frontier (2016; see also Locke, Rissing, and Pal 2013; Fransen and Burgoon 2017; Bartley 2018). They asked how the introduction of the ILO's Better Work factory monitoring program affected the enforcement of domestic labor law in Indonesia's garment industry. The authors found that the disclosure of noncompliance did not necessarily change the behavior of local manufacturers. Rather, identifying violations of labor standards had consequences only when the issues flagged by Better Work audits corresponded to problems around which Indonesian workers and their trade unions had already mobilized.

Amengual and Chirof's research complements other comparative studies that find uneven and issue-specific outcomes resulting from "different interactions between state and private enforcement efforts" (Locke et al. 2013: 531; also O'Rourke 2006; Distelhorst, Locke, Pal, and Samel 2015). In the case of Indonesia's garment industry, complementarity between transnational supply chain governance and public regulation was contingent on two factors: the efforts of unions, which complemented and reinforced Better Work's monitoring, and the willingness of the Indonesian state to support institutions that constrain the power of employers. To what degree is complementarity possible when such conditions do not exist—that is, when worker agency is repressed and/or when government officials lack

the ability or, given the political and economic power of industry elites, even the inclination to constrain the power of employers?

The Bangladesh RMG Sector: A Failure of Labor Governance

Mass casualty incidents in Bangladesh's ready-made garment (RMG) industry began to attract international attention following the Spectrum Sweater factory collapse that killed 64 workers in 2005 (Miller 2013).¹ Yet prior to Rana Plaza, neither public nor private actors mounted a concerted response to the demonstrated crisis in worker safety. Most major US and European brands sourcing from Bangladesh conducted audits to examine basic occupational health and safety issues (e.g., inspection for blocked aisles, presence of fire extinguishers, and so forth), but they generally did not (and do not today) address other aspects of factory safety, such as whether stairwells are enclosed and the building is structurally sound. Thus, the dominant mode of private governance prior to Rana Plaza was not compensating for the failures of public regulation.

In 2010, following a garment factory fire that killed 29 workers, an alliance of labor advocacy organizations from the United States and Europe, and the Brussels-based federation IndustriAll Global Union (hereafter IndustriALL), began meeting with a number of Western brands. The labor groups urged brands to sign a proposed memorandum of understanding (MoU) that committed them to develop and implement a concrete program addressing workplace safety (Reinecke and Donaghey 2015). This document was the basis for what became, after Rana Plaza, the Bangladesh Accord on Fire and Building Safety. Although two brands signed the MoU in March 2012, it never went into effect because a minimum of four company signatories was needed to trigger implementation.

On the public regulation side, the first major response to the worker safety crisis came in November 2012. After a fire at Tazreen Fashions that killed 117 garment workers, the government convened a tripartite commission with representatives from the Ministry of Labour, the Bangladesh Garment Manufacturers and Exporters Association (or BGMEA, the main RMG industry association), and trade unions to discuss a plan for fire safety. With assistance from the Dhaka office of the ILO, the government announced a plan of action for fire safety in March 2013. One month later, on April 24, the Rana Plaza complex located on the outskirts of Dhaka collapsed. More than half of the approximately 5,000 garment workers employed in the complex's three garment factories were killed or injured.

¹The Spectrum fire was not the first mass casualty incident in the industry. A factory fire at Saraka Garments that killed 27 people in December 1990 led to protests from workers demanding compensation for the victims and their families (Khanna 2011). Ashraf and Prentice (2019: 97) noted that the Saraka fire was an important moment in the emergence of "independent labor activism" in the RMG sector, which nevertheless "has been suppressed through legal restrictions and violence and intimidation against workers attempting to unionize."

As television crews broadcast images of the devastation, brands and retailers were confronted with a decision: Would they continue to place orders with local manufacturers and run the risk of another mass casualty incident, or would they cease to source from Bangladesh? Factory owners and government officials feared the exodus that might occur if buyers decided to shift their orders elsewhere (Greenhouse 2013a). Given the RMG sector's importance to the national economy, as the major source of export revenue and manufacturing employment, the political and economic implications of a massive industry contraction would have been far-reaching (Kabeer 2004). In this context of acute uncertainty, international and domestic industry stakeholders crafted their responses to Rana Plaza, resulting in the Bangladesh Accord, as the principal private governance initiative, and the Sustainability Compact, as the overarching public governance framework for post-Rana Plaza reforms.

Numerous studies report on developments in Bangladesh's RMG sector since Rana Plaza; most focus on the Accord, with the Compact receiving less attention (though see Khan and Wichterich 2015; Vogt 2017).² This Bangladesh-specific literature parallels the broader scholarship on labor governance described above regarding the debate about public and private regulation. In their analysis of the Accord, Donaghey and Reinecke described the agreement as an industrial democracy model of labor governance that is distinct from conventional approaches, such as compliance auditing. Unlike most factory monitoring programs, the Accord puts "democratic worker voice at the core of safety processes" and takes a "proactive role in including workers in safety management and protecting them from retaliation" (Donaghey and Reinecke 2017: 28). They go so far as to suggest that the Accord's approach to private governance permits Western brands to substitute for the state in securing the rights of Bangladeshi workers. Given the "consistent failure of the state to enforce effectively worker rights . . . brands, rather than states, have become the ultimate enforcer in employment relations" (2017: 15).

Tim Bartley offers a less sanguine interpretation of the Accord. Like Donaghey and Reinecke, Bartley (2018) observed that the Accord departs from traditional private governance initiatives by imposing enforceable commitments on global brands. However, the Accord's attempt to bypass the state in order to secure lead firm accountability concerns Bartley. Although he concurs that the Accord seeks to substitute for the state in the short-term, Bartley is pessimistic about the potential of this agreement to transform labor governance more broadly:

Because the Accord sets up a parallel private safety inspectorate, it is unlikely to push the Bangladeshi government to enforce its own labor laws. Nor is it likely

²For discussions of the Accord, see Rahman 2014; Donaghey and Reinecke 2017; Scheper 2017; Zajak 2017; Salminen 2018; and James, Miles, Croucher, and Houssart 2019.

to build state capacities that could outlast this transnational project and the spotlight now on Bangladesh. (Bartley 2018: 275)

These contending assessments of the Accord and the larger debate about public and private regulation provide the context for our analysis. We agree with Donaghey and Reinecke that the Accord is an innovative model of private governance with a substantial record of concrete progress in improving worker safety, but we also emphasize that the agreement's significant achievements were secured in a context of escalating tension between the Accord's signatories and domestic industry and government elites. As has become clearer in the years since their study was conducted, the Accord has *not* managed to substitute or bypass the state. At the same time, while our research largely confirms Bartley's skepticism about the long-term prospects of the Accord, we underscore the extent to which the Accord *has* sought to push the Bangladeshi government to advance labor rights, even if has not always succeeded in doing so.

Research Methods and Data

Our analysis draws from 61 semi-structured interviews carried out between 2014 and 2019 in Dhaka, Bangladesh,³ Geneva, and Washington, DC (see Table 1). Our interview protocol addressed four key topics: 1) the historical trajectory and current status of Bangladesh's RMG sector; 2) the causes of the safety crisis culminating in Rana Plaza; 3) the roles and responsibilities of various stakeholders in securing labor standards; and 4) the progress being made to improve worker safety and labor rights compliance, as well as obstacles confronting such efforts.

As detailed in Table 1, we spoke with signatories and staff of the Accord, including representatives of brands, global union federations, and local unions. We also interviewed stakeholders involved in the Compact, including officials from the two Bangladeshi government bodies most closely involved in post-Rana Plaza reforms—the Ministry of Labor and Employment, and the Department of Inspections for Factories and Establishments—and senior staff at the ILO. We met with industry officials and staff at the BGMEA and interviewed garment manufacturers who offered tours of their factories to show recently completed or pending safety upgrades. Table 1 also lists interviews with staff and consultants from another private factory inspection regime created shortly after the Accord, the Alliance for Worker Safety in Bangladesh, although we do not report on Alliance-specific findings in this article.⁴

³Most interviews were conducted during two rounds of fieldwork in June 2015 and March 2017.

⁴The signatory brands of the Alliance are primarily US retailers. Though its factory inspection and mediation mandate is similar to the Accord's, the Alliance does not include labor cosignatories (see Reinecke and Donaghey 2015).

Table 1. Interviews

<i>Category</i>	<i># Interviews</i>	<i>Years</i>	<i># Individuals</i>
Accord staff	5	2015, 2016, 2017	4
Accord signatory brands	1	2015	5
Accord signatory unions	1	2015	1
Accord witness NGOs	8	2014, 2015, 2016, 2019	3
Bangladesh government	6	2015, 2017	6
ILO, Dhaka Office	2	2015, 2017	4
ILO, Better Work	3	2015, 2017	2
BGMEA	2	2015, 2017	4
International NGOs/Worker advocacy organizations	6	2015, 2016, 2017, 2019	7
Bangladesh unions	6	2015, 2017	6
Bangladesh NGOs	3	2015, 2016, 2017	2
Factory owners	5	2015, 2017	7
US government	2	2015	2
United Nations agencies	2	2015	2
Industry experts	4	2015, 2016	4
Alliance	5	2015, 2016, 2017	6
Total	61		65

Notes: BGMEA, Bangladesh Garment Manufacturers and Exporters Association; ILO, International Labour Organization; NGOs, nongovernmental organizations.

Finally, our findings are informed by attendance at several conferences on garment worker safety in both the United States and Bangladesh; a meeting at the European Parliament in Brussels to commemorate the second anniversary of Rana Plaza in April 2015; and a comprehensive review of relevant documents and online information. These include quarterly and annual reports from the Accord (which provide time-series data on remediation), progress reports from the European Commission on the implementation of the Compact, and statements from other relevant institutions and organizations, including the ILO and international labor solidarity organizations.

Post-Rana Promises: Public and Private Reform as the Response to Governance Failure

Rana Plaza created risk for three sets of actors: the government of Bangladesh, which had failed to respond to a series of deadly disasters in the RMG industry; Western brands, which had continued to source garments from Bangladeshi factories despite the mounting death toll; and Bangladeshi factory owners, who depend on a continuous stream of orders from foreign buyers. In the immediate aftermath of this focusing event (Schuessler, Frenkel, and Wright 2019), a sense of shared risk was sufficient to temporarily align the interests of these stakeholders, enabling the creation of the Accord and the Compact.

The Accord: Innovating Co-governed Private Regulation

In the days following Rana Plaza, the coalition of unions and NGOs that had been active in securing the aforementioned MoU intensified their efforts to secure enough brand signatories to make the agreement operative (Reinecke and Donaghey 2015). On May 15, 2013, the multinational clothing retailer H&M announced it would sign a revised version of the MoU, now called the Accord. Dozens more companies followed, including Carrefour and Tesco, respectively the world's second- and third-largest retailers; Inditex (the company behind the Zara brand); and Fast Retailing (Asia's largest retail group and owner of the brand Uniqlo).

The Accord is a bilateral labor–industry agreement, comprising, on the labor side, two global trade union federations—IndustriALL and UNI Global Union (UNI)—and eight Bangladeshi garment worker union federations, and on the industry side, more than 200 apparel brands and retailers. Two NGOs—the Clean Clothes Campaign and the Worker Rights Consortium—serve as witness signatories. Conceived as a five-year initiative, the original Accord extended through June 2018, though, as we later detail, a new agreement replaced the original instrument upon its expiration.

The Accord's remit is garment worker health and safety, with an emphasis on building safety. Under the agreement's terms, signatory brands committed to sourcing exclusively from factories that undergo inspection for electrical, fire, and structural safety standards. Each inspected facility is required to develop a corrective action plan (CAP) and to remediate identified hazards, such as fixing faulty wiring, adding fire escapes, or removing weight in excess of the building's load-bearing capacity. The CAP also specifies a time frame for completing each step in the remediation process, with Accord staff monitoring progress by way of follow-up inspections. In addition to factory inspection and remediation, the Accord requires the creation of factory health and safety committees, a worker safety-training program, and a complaint mechanism for workers to report safety hazards.

The Accord departs from prior private regulation models in three ways: content, governance, and enforcement. It addresses building safety, a hitherto neglected dimension of auditing programs and also requires lead firms to incorporate worker safety into their sourcing decisions. Specifically, signatory brands are required to cease sourcing from any supplier that refuses to undergo inspection, fails to develop a CAP, or does not make timely progress on remediation.

The Accord's governance structure reinforces this substantive content. The governing steering committee includes equal representation from labor and company constituencies, with an official from the ILO serving as the committee's non-voting chair. Consistent with long-standing demands on the part of anti-sweatshop activists, the Accord adheres to an unprecedented level of transparency. Inspection reports and CAPs are published online in English and Bangla and include the name and location of each factory and the remediation status of all hazards. Finally, the Accord's

unique model of enforcement includes a dispute resolution provision that enables signatories to enforce commitments through a process of final and binding arbitration.⁵

The Compact: A Blueprint for Public Reform of Labor Governance

The Rana Plaza disaster occurred in the context of ongoing efforts by civil society groups in Bangladesh's major export markets to address the safety crisis in the RMG sector. Activists targeted both the brands sourcing from Bangladesh and the Western governments whose trade laws regulated their imports. Pressure was particularly acute in Europe, which absorbs more than 60% of Bangladesh's garment exports. Unlike the United States, which is Bangladesh's second-largest import market, the European Union (EU) extends duty-free treatment to Bangladesh's RMG exports under the "Everything but Arms" program, part of the EU's Generalized System of Preferences (GSP) for developing countries. Preferences are conditional on the observance of core labor and human rights in the exporting country, and can be withdrawn in the event of "serious and systematic violations" of such rights (Vogt 2017: 81).

In June 2013, President Barack Obama announced that the United States would suspend Bangladesh's GSP preferences because the government was "not taking steps to afford internationally recognized worker rights to workers in that country" (Greenhouse 2013b). Although this action was nominally framed as the administration's response to a petition submitted by the AFL-CIO back in 2007, Rana Plaza was the clear precipitating cause of the move.⁶ The suspension was mostly symbolic; the US GSP does not include apparel, so the RMG sector was unaffected by the suspension. The move had symbolic resonance as a public rebuke, however, and raised fears that the European Union, which had publicly announced that it was considering similar action, might follow suit.

Concerned about the potential loss of preferential access to the European market, Bangladeshi officials met with EU representatives to discuss a plan to improve conditions in the RMG sector. These deliberations resulted in the Compact, which was announced on July 8, 2013. Two government commitments are at the core of the Compact: improving worker health and safety by expanding the government's under-resourced inspectorate and ensuring the inspection of all RMG factories, and reforming the labor code. In announcing the Compact, EU Trade Commissioner Karel De Gucht emphasized the need for regulatory reforms to the "Bangladesh Labour Law

⁵Labor signatories twice initiated arbitral proceedings against brands for failing to comply with their obligations under the agreement. See <https://www.theguardian.com/business/2018/jan/22/bangladesh-textile-factory-safety-unions-settlement>.

⁶The 2007 petition was related to massive protest rallies in May 2006, when workers took to the streets to protest the death of a fellow worker who had been shot by police during a strike action (Siddiqi 2016).

to strengthen workers' rights—in particular regarding freedom of association and the right to collective bargaining” (European Commission 2013).

Implementing Reforms, Assessing Progress: The Accord and Compact

To assess the effectiveness of, and the relationship between, private and public regulation in post-Rana Plaza Bangladesh, we examine progress in three areas: 1) factory inspections and remediation; 2) labor law reform; and 3) safety committees and worker empowerment. This analysis reveals that the Accord and the Compact, rather than being parallel projects of private and public regulation, intersect in complex and consequential ways.

Factory Inspections

Under the Compact, the Bangladeshi government committed to creating a registry of all RMG facilities in the country and to ensuring that each factory undergoes a safety inspection. By the time the Compact was signed, two private factory inspection regimes were already getting underway: the Accord, and the Alliance, which included more than two dozen North American brands and retailers. Consequently, the government-run inspection program, referred to as the National Initiative, was responsible only for factories that did not supply Accord or Alliance brands. This category represented 1,500 factories, less than half of the 3,800 registered factories in the RMG sector at the time.

The Accord is the largest of the factory inspection programs created after Rana Plaza.⁷ As of April 2019, nearly two million Bangladeshi workers were employed in 1,674 factories producing for Accord signatory brands.⁸ Counting both initial and follow-up inspections and verification visits, Accord staff completed more than 35,400 separate inspections between the beginning of the program in 2014 and the end of March 2019. These inspections identified 142,970 individual fire, electrical, or structural safety hazards, some of which were exceedingly common. For example, 77% of factories inspected over the life of the program had an inadequate fire detection and alarm system, and in more than 50% of cases, the factories as built were inconsistent with building plans and drawings (Accord 2019). This incidence of hazards reflects a systemic failure on the part of public authorities in Bangladesh to effectively enforce its own building code.

This lack of government enforcement can be attributed, at least in part, to regulatory capture, understood as the process by which an industry “captures” the agencies designed to regulate it (Stigler 1971). An estimated 10 to 30% of Bangladeshi Parliamentarians are also garment factory owners

⁷Alliance brands sourced from approximately 660 factories, some of which also supplied Accord brands.

⁸This number is smaller than the number of factories ever covered by the Accord since some factories closed, others were terminated, and still others ceased to supply signatory brands.

(Taplin 2014; *Daily Sun* 2018). Moreover, the main industry association has long played a quasi-regulatory role, with the government delegating to the BGMEA the authority to issue customs documents relating to the import of fabric and other materials used in garment exports and to conduct investigations following fatal workplace incidents involving its members (Rahman 2013; Rubya 2015).

Initial remediation of the many hazards identified by the Accord's inspectors was slow going. As of December 1, 2015, more than two years into the Accord's initial five-year mandate, only two factories had fully completed the remediation process; the overall remediation rate—the percentage of hazards that had been reported or verified as corrected—was just over 50% (Accord 2016). The Accord responded by ramping up enforcement, resulting in a sharp increase in the number of factories terminated for noncompliance. Whereas only seven suppliers were declared ineligible to supply Accord brands in 2015, 19 more were terminated in the first four months of 2016. Thereafter, the rate of remediation accelerated.

Just one month before the scheduled expiration of the Accord's five-year mandate on May 31, 2018, the remediation rate stood at 84%. More costly reforms, typically involving structural safety, were among those most likely to be outstanding. At the two poles of (non)compliance, 128 factories had fully completed CAPs, and 109 factories had been declared ineligible to supply signatory brands (Accord 2018).

The government-run inspection program, meanwhile, started at a glacial pace. Inspectors for the National Initiative had conducted structural assessments of only 178 of the 1,549 factories under the government's jurisdiction by June 20, 2014—the date by which, according to the Compact, all factories were to have undergone initial inspection. This milestone was not reached until early 2016. Nearly a third of these factories (531) closed following inspection, while others relocated; more than 100 began producing for an Accord or Alliance signatory brand, causing them to be transferred to one of the private-sector programs. Consequently, the number of active factories under the jurisdiction of the National Initiative has fallen over time. As of April 2018, it was responsible for 809 factories, of which only five had approved CAPs. The average remediation rate for National Initiative factories stood at 29% as compared with 84% for the Accord and 91% for the Alliance (European Commission 2018: 29–30).⁹

There are two reasons for the comparatively slow pace of remediation in the National Initiative factories. First, the government's inspection body, the Department for Inspections of Factories and Establishments (DIFE) lacked resources, including in-house staff with the requisite expertise. Particularly

⁹In October 2019, the remediation rates for National Initiative factories stood at 38% (structural), 39% (electrical), and 34% (fire). At that time, the government announced what it promised would be a final extension of up to six months for factories to remediate any outstanding hazards. It had already extended the original deadline for remediation completion from April 30, 2018, to December 2018 (*New Age* 2019).

in the early phase of its work, faculty from the Bangladesh University of Engineering and Technology conducted many of the government inspections, with financial support from the ILO. Under the Compact, the government committed to expanding the labor inspectorate, which increased from 180 inspectors in 2013 to 312 as of April 2018 (European Commission 2018: 20).

Second, the National Initiative program differs fundamentally from the Accord and Alliance in that there is no brand involvement and therefore no commercial leverage over factories. Under the private-sector programs, factories that want to produce for signatory companies must undergo inspection and remediate hazards. By contrast, government inspectors have little knowledge of, and limited communication with, a factory's clients. A government review panel created after Rana Plaza has the authority to close a factory when serious hazards pose an imminent risk to worker safety, but such closures have been rare; in general, the desire is to keep factories operating and workers employed.

Among the three areas of progress we examine, factory safety best approximates a dynamic of parallel regulatory regimes—one private, one public—carrying out similar tasks but focusing on dissimilar sets of factories. Factory inspection is also an area in which the modeling of competent practice by well-resourced private-sector experts has positively affected public regulation. Breaking with past practice, the National Initiative has improved its inspections by mirroring elements of the Accord's inspection protocol, including the public disclosure of relatively user-friendly reports documenting safety hazards. As the Accord's dramatically higher rate of remediation suggests, it has been more successful than the National Initiative in spurring safety upgrades. Despite being constrained by limited resources and leverage, however, the government has nevertheless broadly complied with its commitments under the Compact regarding factory inspection.

Labor Law Reform

The Compact obligated the Bangladesh government to strengthen worker rights in law and practice. Although Bangladesh ratified the ILO conventions regarding Freedom of Association (87) and Collective Bargaining (98) in 1972, it receives poor scores on labor standards indicators, both in terms of the degree to which the labor code provides legal protection to workers' rights, and the degree to which such protections are enforced (Mosley 2011; Berliner et al. 2015). The Compact provided a missed opportunity for Bangladesh to reverse this pattern.

Immediate indications were promising: On July 13, 2013, the Bangladeshi Parliament approved Labor Law Bill 2013, which included amendments to 87 sections of the 2006 Bangladesh Labor Act. However, the government delayed issuing the regulations required to put the law into effect, which severely delayed implementation. In fact, the implementing

regulations were not promulgated until September 2015, more than two years after the Labor Law was amended, and they left unaddressed some of the concerns that EU officials had raised.

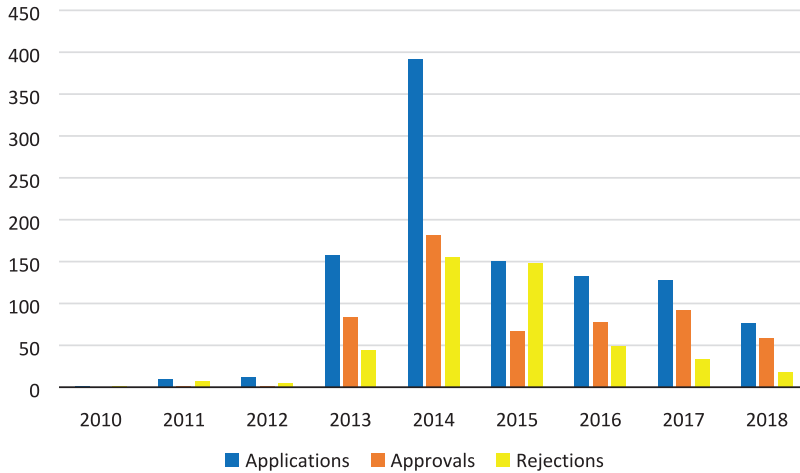
First, the amendments did not lower the membership threshold required for union recognition, which remained 30% of the workforce. Given that many large factories in Bangladesh employ well over 1,000 workers, this threshold has contributed substantially to the extremely low level of unionization in the RMG sector, estimated to be no greater than 3%.¹⁰ Second, the government did not remove the prohibition on trade unions in the country's Export Processing Zones (EPZs), which employ approximately 10% of the country's garment workers.

The European Commission responded by observing that these reforms were insufficient to address long-standing concerns about associational rights in the country's RMG sector. It cited an April 2016 report prepared by an ILO High-Level Tripartite Mission to Bangladesh, which noted "alleged close links between factory owners on the one hand and Government members, Parliamentary members and local political figures on the other hand, often resulting in further intimidation and harassment of workers, as well as interference in trade union affairs" (ILO 2016: 1; see European Commission 2016). In May 2018, the government of Bangladesh announced that it would lower the membership requirement for unionization from 30% to 20% of workers. The European Commission reacted to this announcement in its November 2018 update on the Compact, noting that "the proposed threshold . . . remains unrealistically high in view of the large size of many garment factories" (European Commission 2018: 3).

Similar developments can be observed with regard to labor reforms affecting the EPZs, which are regulated not by the Labor Code, but by a piece of legislation called the EPZ Labour Act. Reiterating its position that prohibiting trade unions in EPZs is a violation of ILO Convention 87 on the right to organize, the European Commission encouraged the government of Bangladesh to either incorporate EPZs into the Bangladesh Labor Code, or alternatively to revise the EPZ Labour Act "to provide rights and protections at least commensurate with the national labour law and to be fully compliant with core labour rights" (European Commission 2015: 11). The government of Bangladesh pursued the second option, drafting a new version of the EPZ Labour Law, which continues to prohibit trade unions, but does permit alternative bodies called Workers' Welfare Associations to bargain collectively (European Commission 2018).

The government's actions regarding trade union recognition provide further evidence of lackluster commitment to reform. Again, initial indications were promising. In the first year and a half of the Compact, the number of registered trade unions increased noticeably. Between the middle of 2013

¹⁰Though precise data regarding union density are lacking, a recent study conducted by a Bangladesh research institute, the Center for Policy Dialogue, found that 97.5% of factories had no union presence (*Daily Sun* 2018).

Figure 1. Union Registration Activity, 2010 to 2018

Source: Bangladesh Labor Ministry data as compiled by AFL-CIO Solidarity Center, 2019.

and the end of 2014, more than 220 new unions were recognized. In the second quarter of 2014, however, the pace of new union recognitions slowed as the rate of rejections increased sharply. One local union official reported in 2015 that his labor federation had submitted seven applications for new union registration in the previous six months; the Ministry of Labour rejected all of them. Another reported that each of the nine applications he submitted in the previous seven months were rejected. He explained this as a dimming of the spotlight that shone on the industry right after the tragedy:

Why were there hundreds of new unions registered? After Rana Plaza and the GSP suspension, the governments wanted unions, they wanted to use unions to show things have changed. But registrations are getting more difficult to get. The government says, “you need to slow down.” They are actually going back to the 1990s. It’s been two years already [since Rana Plaza], so now there’s a forgetting of these incidents. (Authors’ interview 2015)

The high rate of rejections combined with the vague reasons given for these decisions caused the European Commission to observe that “transparency relating to the approval process for unions remains an issue” (European Commission 2015: 14). Following its High-Level Tripartite Mission in 2016, the ILO also noted concerns about the arbitrariness of the union registration process, given the Labor Ministry’s “broad discretionary powers” (ILO 2016: 14). The government responded by developing standard operating procedures for the registration of trade unions, which were disseminated by the Ministry of Labour and Employment in May 2017 (European Commission 2018). Figure 1, which shows union registration activity between 2010 and 2018, suggests that the new procedures have not appreciably increased the number of applications or the approval rate.

Despite the modest growth in registered unions since Rana Plaza, the number of unionized workers in the RMG sector remains low. Of the approximately 3% of factories that have some union presence, many are small—in part, because the historically high threshold has made the task of organizing large factories especially daunting. An ILO official reflected on the status of unions in the Bangladesh RMG industry:

There is no mechanism to improve conditions at the factory level. It's a chicken and egg problem: in order for the trade union to grow, we need labor friendly policies. . . . But to influence policy, you need a strong labor movement! (Authors' interview 2017)

Given the lack of union presence in the vast majority of factories, the primary mechanism for worker representation is the factory-level bipartite participation committees (PCs) that are required under the Labor Code. The 2013 amendments to the Code specify that the worker representatives to the PCs should be nominated by the trade union or, in the more typical case where there is no trade union, elected by the workers. This amendment is an improvement over the prior version of the Labor Law, which did not specify the process for selecting worker representatives to the PCs. The election process is flawed, however, because the employer forms the election committee and is able to name not only the two employer representatives on the election committee but also the three worker representatives. Moreover, the factory owner is chair of the PC, and in such capacity, presides over the committee's meetings. This gives management further control. The status of the PCs is particularly important because in most cases their members, in turn, decide who serves on the factory-level safety committees being created in workplaces following Rana Plaza.

Safety Committees and Worker Empowerment

Controversy over the constitution of worker safety committees provides a particularly clear example of the tension between public and private regulation in post-Rana Plaza Bangladesh. On the one hand, both the Accord and the Compact acknowledged a role for workers in the implementation of health and safety standards in the RMG sector. On the other hand, the Accord's architects and the government of Bangladesh had sharply different visions about how to pursue this principle.

The package of Labor Law reforms that the government submitted after signing the Compact called for the formation of a safety committee in any garment factory employing more than 50 people. There was little progress on this front in the first two years after Rana Plaza because details regarding the composition and selection of the committee were not available until the implementation rules were issued. When finally released in September 2015, the regulations called for safety committees with six to twelve members (depending on factory size) and equal numbers of employer and

worker representatives. In the minority of unionized factories, members of the safety committee are chosen by the union. In non-union factories, however, the factory owner or manager names the chair of the committee, as well as the employers' representatives, with the workers' representatives to the safety committee nominated by the workers' representatives to the PC.

The safety committee rules provide another example whereby the government, tasked with reforming labor regulations after Rana Plaza, opted for an approach that maintains managerial control as opposed to one that might have provided workers with a greater degree of independent voice. They also posed a dilemma for the Accord, as Article 17 of the Accord states that "Worker members [of the Health and Safety Committee] shall comprise no less than 50% of the committee and shall be chosen by the factory's trade union, if present, *and by democratic election among the workers where there is no trade union present*" (Accord 2013; emphasis added). How could the Accord proceed in a manner consistent both with Bangladeshi law, which called for safety committee members to be appointed by the PC, and the Accord's own requirement that workers' representatives be elected? Moreover, the Accord's labor signatories pointed out that the central role that the Bangladeshi Labor Code afforded the PCs with regard to the safety committee was especially worrisome, given that the same labor law made possible managerial interference in, or perhaps even control over, the election of workers' representatives to the PCs.

As they began to facilitate the creation of safety committees in factories with PCs as opposed to unions, Accord staff found it was often difficult to assess how the PCs had been constituted, whether there was management interference in the election process, and therefore how genuinely the PCs could safeguard the interests of workers in nominating representatives to the safety committee. Though this challenge was not fully resolvable, the Accord dealt with it by developing a seven-session training program for safety committee members. Once the training was completed, Accord staff members observed the first meeting of the safety committee to assess if it is working properly.

The Accord's efforts to adapt to the government's rules while still trying to ensure meaningful worker participation in safety committees reveals how the Accord, as an exercise in private regulation, is layered over the Bangladesh Labor Code as the governing context within which RMG actors are embedded. The example of safety committees also suggests why the Accord's seemingly narrow mandate around health and safety implicates broader questions of labor governance; in this case, the Labor Code's provisions regarding the PCs—an issue of worker representation seemingly outside the Accord's domain—had direct implications for the constitution of the safety committees, and thus of worker safety, which is the central concern of the agreement.

That the Accord had to develop an approach toward working with safety committees that reconciled its policies with the government's regulations

suggests that the Accord has not supplanted the state as “the ultimate enforcer in employer relations” (Donaghey and Reinecke 2017: 15). Bangladeshi labor law continues to provide the overarching framework of public regulation that limits what the Accord can do. Within its health and safety mandate, however, the Accord has served as a resource for workers. In addition to sharing the results of the Accord’s factory inspections with the workers’ representatives to the safety committees and keeping them informed about remediation—knowledge that empowers them to advocate for their safety—the Accord has intervened multiple times in cases in which workers were dismissed subsequent to reporting or organizing around safety concerns. This “information and the shadow of protection provided by the Accord” provides support that an embattled labor movement can draw on to build strength (Zajak 2017: 1023).

The Accord’s potential to empower workers reflects its unique status as a form of private regulation co-governed by global unions as well as international brands. As this potential became clearer, the Accord met with increasing resistance from industry and government officials. In part, this resistance reflected disappointment on the part of Bangladeshi manufacturers that Accord brands were not carrying through on their promises. The Accord included language obligating signatory companies to “negotiate commercial terms with their suppliers which ensure that it is financially feasible for the factories to maintain safe workplaces and comply with upgrade and remediation requirements” (Accord 2013: 6). Manufacturers and BGMEA officials we interviewed in 2015, however, complained that not only were most brands not providing financial support to help defray the costs of remediation, many were continuing to push for lower prices, even as factory owners were expected to implement safety upgrades.¹¹

As inspections progressed and the remediation costs that suppliers would have to bear mounted, factory owners began to express more frustration toward the Accord (Scheper 2017). Government officials, who have long regarded the health of the RMG sector as an “issue of vital national interest” (Siddiqi 2016: 62), also expressed discontent. In a private but widely reported meeting with BGMEA officials in June 2015, the government’s Finance Minister characterized the post-Rana Plaza factory inspection and remediation efforts as a “noose around the neck of Bangladesh” that could suppress export growth (*Daily Star* 2015).¹² Delivered two years into the Accord’s five-year mandate, the Minister’s comments foreshadowed growing tension between the Accord and the government.

¹¹In other work, we have found empirical support for these claims in the form of declining unit values for apparel imports from Bangladesh. See Anner, Bair, and Blasi (2013).

¹²In his comments, the Minister criticized both of the private factory inspection regimes that were created after Rana Plaza, though relations were less strained with the Alliance than with the Accord. In part this is because the Alliance clarified that it did not expect to extend its operations in Bangladesh past its five-year mandate, but also because the Alliance was not a co-governed initiative including labor, and as such, was not perceived as advocating for workers’ rights in the same way as the Accord.

The State Strikes Back

The relationship between the Accord and domestic stakeholders deteriorated after 2016, culminating in a legal battle that starkly reveals the intersection of public and private regulatory efforts in post-Rana Plaza Bangladesh, and, ultimately, the government's ability to undermine the Accord model. In early 2017, as the Accord's initial five-year mandate drew to a close and questions about its future grew more urgent, government officials and industry leaders argued against extending the Accord. They claimed that the government's expanded DIFE could assume responsibility for monitoring ongoing remediation.

The Accord's labor signatories and a number of major brands disagreed with this assessment, however, and on June 29, 2017, announced a new Accord. The leadership of the BGMEA and government officials criticized the extension, claiming it was an unlawful infringement of Bangladesh's sovereignty.¹³ They were particularly concerned about a new provision that called for the development of a complaints protocol on freedom of association as it relates to worker safety, which BGMEA officials argued would be used as a pretext for trade union organizing. Atique Islam, a factory owner and past president of the BGMEA, responded to the announcement by praising the work of the Accord but criticizing its extension:

No more industrial accident has taken place in the garment sector since the Rana Plaza building collapse because of strong inspection, remediation and monitoring by the experts of the European-led Accord and the North American-led Alliance. . . . But, I am concerned about the handling of millions of workers by the Accord as it will work on freedom of association and improvement of labour rights. Bangladesh has its own labour law. (Mirdha 2017)

In May 2018, the Bangladesh High Court issued a restraining order against the Accord, requiring it to cease operations in the country. The appellate court repeatedly deferred a final ruling on the matter, while the Accord, the government, and the BGMEA engaged in protracted negotiations regarding an agreement on how and when the Accord would hand off its work to the government. By early 2019, negotiations appeared to be at a stalemate. Taking an increasingly aggressive posture, the Bangladesh government and BGMEA argued that the Accord must shutter its Bangladesh office and immediately transfer its operations to government inspectors. The Accord's signatories maintained that although a transition to local control would be appropriate at some future point, the government's inspectorate was not yet ready to assume responsibility for the work being done by the Accord, in

¹³The industry association's view does not represent the views of all factory owners. For example, one manufacturer we spoke with in 2016 told us that he was worried that, without an extension of the Accord, the progress that had been achieved since Rana Plaza might be lost. Like most large organizations, the BGMEA has a diverse membership including factory owners with varying attitudes and practices, including with regard to labor-management relations.

addition to its own caseload of non-Accord factories. A number of international investors supported this position, including a coalition of large French retailers who sent a letter to the country's Prime Minister, appealing for an extension of the Accord.¹⁴

In May 2019, the Bangladesh government, the Accord's global union federation signatories, and the BGMEA signed an MoU that represented the denouement to this protracted impasse. Under the MoU, Accord staff would continue operating in Bangladesh for an additional 281 days before transferring operations to a newly established group, the RMG Sustainability Council, which was to include both government inspectors and the BGMEA. The document also permits BGMEA representatives to establish a presence in the Accord's Dhaka offices during the transition period to facilitate a smoother transfer between the Accord and the RMG Sustainability Council.¹⁵

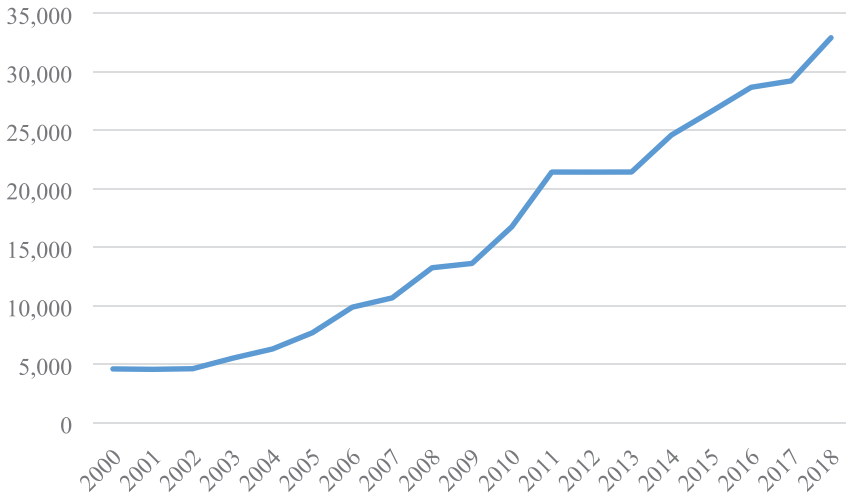
In its press release and public statements announcing the agreement, the president of the BGMEA emphasized that the Accord would not take any disciplinary action against a factory without consulting the BGMEA. This would be a major departure from the Accord's operating procedure to date, which guaranteed that decisions about terminating a factory (i.e., making it ineligible to supply Accord brands) would be made by the Accord's safety experts alone. Seven Bangladeshi affiliates of the global union federation IndustriAll criticized the agreement after it was announced, noting that they had not been involved in the negotiations. One Bangladeshi union leader expressed his view that the "deal is sure to compromise the safety and security of garment workers given there will be no independent decision-making by the Accord" (Reuters 2019).

The BGMEA's willingness to publicly oppose the Accord's extension, and the government's decision to support factory owners, must be understood in the context of the industry's economic performance since Rana Plaza. Both the Accord and the Compact were signed at a moment when the future of the industry looked uncertain.¹⁶ Yet not only did the feared exodus of foreign clients never materialize, exports grew. After holding steady between 2011 and 2013 at approximately \$21 billion, exports increased by almost a third over the next two years, reaching \$26.6 billion in 2015 and then climbing to a record \$32.9 billion in 2018. (See Figure 2.) One

¹⁴See <https://ics-asso.org/wp-content/uploads/2018/12/2018.12.21-ICS-Letter-to-Prime-Minister-Bangladesh-supporting-Accord-1.pdf>.

¹⁵In January 2020, the Accord Steering Committee and the BGMEA signed a final Transition Agreement outlining the terms under which the Accord's activities would be transferred to the RMG Sustainability Council in May 2020. See <https://admin.bangladeshaccord.org/wp-content/uploads/2020/01/Accord-BGMEA-Transition-Agreement-Final-14Jan2020.pdf>.

¹⁶This was not the first time labor issues threatened the industry's future. In 1992, US Senator Tom Harkin introduced the Child Labor Deterrence Act. Largely aimed at Bangladesh, the Bill would have banned imports of any garments manufactured using child labor. In response, the BGMEA announced its intention to eradicate child labor from the industry, and mass dismissals of underage workers followed. See ILO (2004).

Figure 2. Garment Exports (in US\$ millions)

Source: World Trade Organization Merchandise Trade by Commodity, Bangladesh exports of clothing to the world market; <http://stat.wto.org/StatisticalProgram/WSDBStatProgramHome>.

interpretation of this growth is that Rana Plaza triggered efforts to address the crisis in worker safety—such as the Accord and Compact—and that these efforts have reduced the risk of sourcing from Bangladesh to a level brands are willing to accept (Schuessler et al. 2019). Another interpretation is that the lack of clear economic fallout from Rana Plaza emboldened factory owners and government officials to take an increasingly aggressive posture vis-à-vis the Accord.

The latter interpretation is consistent with the fact that Bangladeshi garment workers have been subject to dramatic cases of labor repression since Rana Plaza despite the government’s ostensible commitments under the Compact. In December 2016, workers in the Ashulia district of Dhaka took to the streets to demand an increase in the monthly minimum wage of 5,300 Bangladeshi taka (US\$63), which had been in place since 2013. Police arrested more than a dozen protestors. Factory owners in the affected areas shuttered their facilities for several days and dismissed some 1,400 workers in what unions claimed were retaliatory firings. The crackdown received substantial media coverage, soliciting condemnation from labor advocacy groups and statements from foreign brands sourcing from affected factories, urging the government to release those being detained and encouraging employers to reach settlements with dismissed workers (Abrams and Sattar 2017; Safi 2017).

In response to the crackdown, the European Commission sent a letter to the Bangladesh government in March 2017, and another in May, implying that it would launch a formal investigation if Bangladesh failed to deliver “tangible progress” by the end of August 2017. An investigation could

trigger eventual withdrawal of Bangladesh's trade preferences under the GSP. Following the second letter, government officials pledged to address concerns about the status of workers' associational rights, but in December 2018, an even more dramatic episode of labor repression occurred after workers again took to the streets. This time the demonstrations were precipitated by the government's announcement that the minimum wage would be increased to 8,000 taka (US\$95)—half of what Bangladesh's largest labor federations had called for. Again, the BGMEA blamed outside agitators for the interruption of production. More than five dozen workers were arrested, and labor advocates suggested that as many as 10,000 were fired (WRC 2019). Given the scale of these incidents, the European Commission's reticence to initiate an investigation, let alone impose a sanction, suggests that "negative conditionality may no longer be considered a credible threat underpinning the Compact" (Kenner and Peake 2017: 112; also Vogt 2017).

Conclusion

After Rana Plaza, global unions, foreign brands, importing-country governments, factory owners, and Bangladesh state officials recognized a need to improve worker safety. Factory inspection and remediation was the most obvious and pressing need carried out by both private actors under the Accord and public actors under the Compact-mandated National Initiative. Each made progress in this area, even if the Accord's achievements outpaced those of the National Initiative. The government's efforts should not be overstated, however. Industry and state officials countenanced efforts to advance worker health and safety as long as these centered on factory inspection and remediation. The Accord took a more expansive view, insisting that mechanisms such as independent safety committees that ensure worker voice are part of creating and sustaining safe workplaces. Factory owners were unwilling to accept efforts to link worker empowerment to health and safety. The government supported domestic elites in opposing these aspects of the Accord while also failing to comply with its own commitments under the Compact to reform the Labor Code and protect workers' rights.

Our analysis provides the empirical basis to address the broader question of the relationship between public and private regulation in governing labor standards. In this case, the government of Bangladesh used the institutions of public governance—the Labor Law and the Courts—to undermine the Accord's efforts to empower workers. This outcome differs from the scenarios of substitution or complementarity between private and public regulation outlined in the literature and suggests that efforts to reform labor governance—whether public or private—are likely to be sustainable only to the extent that they protect and empower domestic reformers, in this case the Bangladeshi labor movement and its allies. The Bangladesh case also suggests the inadequacies of the very categories of

“public” and “private” for analyzing labor governance. The Accord is significant not because it represents a private governance approach but rather precisely because it *departs* from the conventional model of private governance; it is a unique experiment in co-governance by labor as well as capital. Thus, for understanding efforts to promote labor standards and worker rights in global supply chains, differences *among* private governance regimes may be more significant than the public-private distinction.

Finally, the analysis of post-Rana Plaza Bangladesh underscores how power relations among supply chain stakeholders change over time in ways that shape labor governance. Diverse actors forged the Accord and Compact at a moment global clothing brands were uniquely vulnerable to reputational risk due to Rana Plaza, Bangladeshi factory owners were worried about losing orders, and the government of Bangladesh feared losing trade preferences that helped generate the country’s only significant source of export revenue. When it became clear that brands were placing more, not fewer, orders with Bangladeshi suppliers, and that the European Union would not withdraw trade preferences, the balance of forces shifted away from those seeking pro-labor reforms. Our evidence thus illustrates the importance of understanding governance projects as sites of ongoing contestation that reflect the political economy of the supply chains they are intended to regulate.

References

- Abrams, Rachel, and Maher Sattar. 2017. Protests in Bangladesh shake a global workshop for apparel. *New York Times*, January 22.
- Accord. 2013. Accord on Fire and Building Safety in Bangladesh. May 13. Accessed at https://bangladeshaccord.org/wp-content/uploads/2013/10/the_accord.pdf (December 2016).
- . 2016. Quarterly aggregate report February 2016. Accessed at <https://admin.bangladeshaccord.org/wp-content/uploads/2018/07/Quarterly-Aggregate-Report-25-February-2016.pdf> (November 2019).
- . 2018. Quarterly aggregate report April 2018. Accessed at https://admin.bangladeshaccord.org/wp-content/uploads/2018/07/Accord_Quarterly_Aggregate_Report_April_2018.pdf (October 2019).
- . 2019. Quarterly aggregate report April 2019. Accessed at https://admin.bangladeshaccord.org/wp-content/uploads/2019/05/Accord_Quarterly_Aggregate_Report_April_2019.pdf (November 2019).
- AFL-CIO Solidarity Center. 2019. How the Government of Bangladesh denies workers their right to form a union. Unpublished report on file with authors.
- Amengual, Matthew. 2010. Complementary labor regulation: The uncoordinated combination of state and private regulators in the Dominican Republic. *World Development* 38(3): 405–14.
- Amengual, Matthew, and Laura Chirot. 2016. Reinforcing the state: Transnational and state labor regulation in Indonesia. *ILR Review* 69(5): 1056–80.
- Anner, Mark. 2012. Corporate social responsibility and freedom of association rights: The precarious quest for legitimacy and control in global supply chains. *Politics & Society* 40(4): 609–44.
- Anner, Mark, Jennifer Bair, and Jeremy Blasi. 2013. Towards joint liability in global supply chains: Addressing the root causes of labor violations in international subcontracting networks. *Comparative Labor Law and Policy Journal* 35(1): 1–43.

- Ashraf, Hasan, and Rebecca Prentice. 2019. Beyond factory safety: Labor unions, militant protest, and the accelerated ambitions of Bangladesh's export garment industry. *Dialectical Anthropology* 43: 93–107.
- Bair, Jennifer, and Florence Palpacuer. 2012. From varieties of capitalism to varieties of activism: The antisweatshop movement in comparative perspective. *Social Problems* 59(4): 522–43.
- Barrientos, Stephanie, and Sally Smith. 2007. Do workers benefit from ethical trade? Assessing codes of labour practice in global production systems. *Third World Quarterly* 28: 713–29.
- Bartley, Tim. 2011. Transnational governance as the layering of rules: Intersections of public and private standards. *Theoretical Inquiries in Law* 12(2): 517–42.
- . 2014. Transnational governance and the re-centered state: Sustainability or legality? *Regulation & Governance* 8(1): 93–109.
- . 2018. *Rules without Rights: Land, Labor and Private Authority in the Global Economy*. New York: Oxford University Press.
- Bartley, Tim, and Doug Kincaid. 2016. The mobility of industries and the limits of corporate social responsibility: Labor codes of conduct in Indonesian factories. In Kiyoteru Tsutsui and Alwyn Lim (Eds.), *Corporate Responsibility in a Globalizing World*, pp. 393–429. New York: Cambridge University Press.
- Berliner, Daniel, Anne Regan Greenleaf, Milli Lake, Margaret Levi, and Jennifer Noveck. 2015. *Labor Standards in International Supply Chains: Aligning Rights and Incentives*. Northampton, MA: Edward Elgar.
- Daily Star*. 2015. Accord, Alliance a noose around the neck: Muhith. June 16. Accessed at <https://www.thedailystar.net/business/accord-alliance-noose-around-the-neck-muhith-97669> (November 2019).
- Daily Sun*. 2018. No trade unions in 97.5 percent of RMG factories: CPD survey. August 30. Accessed at <https://www.daily-sun.com/post/332660/2018/08/30/No-trade-unions-in-97.5-percent-RMG-factories-CPD-survey> (November 2019).
- Distelhorst, Greg, Richard M. Locke, Timea Pal, and Hiram Samel. 2015. Production goes global, compliance stays local: Private regulation in the global electronics industry. *Regulation & Governance* 9(3): 224–42.
- Donaghey, Jimmy, and Juliane Reinecke. 2017. When industrial democracy meets corporate social responsibility—A comparison of the Bangladesh Accord and Alliance as responses to the Rana Plaza Disaster. *British Journal of Industrial Relations* 56(1): 14–42.
- Eberlein, Burkard, Kenneth W. Abbott, Julia Black, Errol Meidinger, and Stepan Wood. 2014. Transnational business governance interactions: Conceptualization and framework for analysis. *Regulation & Governance* 8(1): 1–21.
- Esbenshade, Jill. 2012. A review of private regulation: Codes and monitoring in the apparel industry. *Sociology Compass* 6/7: 541–56.
- European Commission. 2013. Remarks by EU Trade Commissioner Karel De Gucht on the launch of a global Sustainability Compact in response to Bangladesh tragedies, July 8. Accessed at http://europa.eu/rapid/press-release_MEMO-13-670_en.htm (October 2016).
- . 2015. Bangladesh Sustainability Compact Technical Status Report, April 2. Accessed at http://trade.ec.europa.eu/doclib/docs/2015/april/tradoc_153390.pdf (January 2017).
- . 2016. Bangladesh Sustainability Compact Technical Status Report, July 26. Accessed at http://trade.ec.europa.eu/doclib/docs/2016/august/tradoc_154841.pdf (February 2017).
- . 2018. Implementation of the Bangladesh Compact Technical Status Report, September 28. Accessed at http://trade.ec.europa.eu/doclib/docs/2018/september/tradoc_157426.pdf (May 2019).
- Fransen, Luc, and Biran Burgoon. 2017. Introduction to the special issue: Public and private labor standards policy in the global economy. *Global Policy* 8(S3): 5–14.
- Gereffi, Gary. 1994. The organization of buyer-driven commodity chains. In Gary Gereffi and Miguel Korzeniewicz (Eds.), *Commodity Chains and Global Capitalism*, pp. 95–122. Westport, CT: Praeger.

- Gereffi, Gary, Ronnie Garcia-Johnson, and Erika Sasser. 2001. The NGO-industrial complex. *Foreign Policy* 125: 56–65.
- Graham, David, and Ngaire Woods. 2006. Making corporate self-regulation effective in developing countries. *World Development* 34(5): 868–83.
- Greenhouse, Steven. 2013a. Bangladesh fears an exodus of apparel firms. *New York Times*, May 3.
- . 2013b. Obama to suspend trade privileges with Bangladesh. *New York Times*, June 27.
- [ILO] International Labour Office. 2004. Addressing child labor in the Bangladesh garment industry, 1995–2001: A synthesis of UNICEF and ILO evaluation studies of the Bangladesh garment sector projects. Geneva: ILO.
- . 2016. Report of the High-Level Tripartite Mission to Bangladesh. Accessed at https://www.ilo.org/wcmsp5/groups/public/—ed_norm/—relconf/documents/meeting_document/wcms_488339.pdf (November 2019).
- James, Philip, Lilian Miles, Richard Croucher, and Mark Houssart. 2019. Regulating factory safety in the Bangladeshi garment industry. *Regulation & Governance* 13: 431–44.
- Kabeer, Naila. 2004. Globalization, labor standards, and women's rights: Dilemmas of collective (in)action in an interdependent world. *Feminist Economics* 10(1): 3–35.
- Kenner, Jeff, and Katrina Peake. 2017. The Bangladesh Sustainability Compact: An effective exercise of global experimentalist EU governance? *Cambridge Yearbook of European Legal Studies* 19: 86–115.
- Khan, Mohd Raisul Islam, and Christa Wichterich. 2015. Safety and labour conditions: The Accord and the National Tripartite Plan of Action for the garment industry of Bangladesh. Global Labour University Working Paper No. 38. Geneva: ILO. Accessed at https://www.global-labour-university.org/fileadmin/GLU_Working_Papers/GLU_WP_No_38.pdf. (June 2017).
- Khanna, Pragya. 2011. Making labour voices heard during an industrial crisis: Workers' struggles in the Bangladesh garment industry. *Labour, Capital and Society* 44(2): 106–29.
- Kolben, Kevin. 2007. Integrative linkage: Combining public and private regulatory approaches in the design of trade and labor regimes. *Harvard International Law Journal* 48(1): 203–56.
- Lebaron, Genevieve, and Jane Lister. 2015. Benchmarking global supply chains: The power of the 'ethical audit' regime. *Review of International Studies* 41(5): 905–24.
- Locke, Richard. 2013. *The Promise and Limits of Private Power*. New York: Cambridge University Press.
- Locke, Richard, Ben A. Rissing, and Timea Pal. 2013. Complements or substitutes? Private codes, state regulation and the enforcement of labour standards in global supply chains. *British Journal of Industrial Relations* 51(3): 519–52.
- O'Rourke, Dara. 2006. Multi-stakeholder regulation: Privatizing or socializing global labor standards? *World Development* 34(5): 899–918.
- Mayer, Frederick, and Gary Gereffi. 2010. Regulation and economic globalization: Prospects and limits of private governance. *Business and Politics* 12(3): 1–25.
- Mayer, Frederick W., and Nicola Phillips. 2017. Outsourcing governance: States and the politics of a 'global value chain world.' *New Political Economy* 22(2): 134–52.
- Miller, Doug. 2013. *The Last Night Shift in Savar: The Story of the Spectrum Sweater Collapse*. Newcastle, UK: McNiddder & Grace.
- Mirdha, Refayet Ullah. 2017. Garment makers oppose Accord's time extension. *Daily Star*, July 2.
- Mosley, Layna. 2011. *Labor Rights and Multinational Production*. New York: Cambridge University Press.
- New Age*. 2019. Factories under national inspection initiative get 6 more months. October 11. Accessed at <http://www.newagebd.net/article/87260/factories-under-national-inspection-initiative-get-6-more-months> (February 2020).
- Piore, Michael, and Andrew Schrank. 2008. Toward managed flexibility: The revival of labor inspection in the Latin world. *International Labour Review* 147(1): 1–22.
- . 2018. *Root-Cause Regulation: Protecting Work and Workers in the Twenty-First Century*. Cambridge, MA: Harvard University Press.

- Rahman, Md Zillur. 2014. Accord on Fire and Building Safety in Bangladesh: A breakthrough agreement? *Nordic Journal of Working Life Studies* 4(1): 69–74.
- Rahman, Sajjadur. 2013. Owners probe owners' fault: BGMEA investigation always comes to a zero. *Daily Star*, May 1. Accessed at <http://www.thedailystar.net/beta2/news/owners-probe-owners-fault/> (December 2019).
- Reinecke, Julia, and Jimmy Donaghey. 2015. After Rana Plaza: Building coalitional power for labour rights between unions and (consumption-based) social movement organisations. *Organization* 22(5): 720–40.
- Reuters. 2019. Bangladesh garment unions say new factory oversight deal risks worker safety. May 21. Accessed at <https://www.businessoffashion.com/articles/news-analysis/bangladesh-garment-unions-say-new-factory-oversight-deal-risks-worker-safety> (November 2019).
- Rodríguez-Garavito, César A. 2005. Global governance and labor rights: Codes of conduct and anti-sweatshop struggles in global apparel factories in Mexico and Guatemala. *Politics & Society* 33(2): 203–33.
- Rubya, Tamanna. 2015. The ready-made garment industry: An analysis of Bangladesh's labor law provisions after the Savar Tragedy. *Brooklyn Journal of International Law* 40(2): 685–718.
- Safi, Michael. 2017. Police and fear stalk the streets of Dhaka as clothes workers fight for more than £54 a month. *The Guardian*, January 7.
- Salminen, Jaakko. 2018. The Accord on Fire and Building Safety in Bangladesh: A new paradigm for limiting buyers' liability in global supply chains? *American Journal of Comparative Law* 66(2): 411–51.
- Scheper, Christian. 2017. Labour networks under supply chain capitalism: The politics of the Bangladesh Accord. *Development and Change* 48(5): 1069–88.
- Schuessler, Elke, Stephen J. Frenkel, and Chris F. Wright. 2019. Governance of labor standards in Australian and German garment supply chains: The impact of Rana Plaza. *ILR Review* 72(3): 552–79.
- Seidman, Gay W. 2007. *Beyond the Boycott: Labor Rights, Human Rights, and Transnational Activism*. New York: Russell Sage Foundation.
- Siddiqi, Dina. 2016. Before Rana Plaza: Towards a history of labour organizing in Bangladesh's garment industry. In Vicki Crinis and Adrian Vickers (Eds.), *Labour in the Clothing Industry in the Asia Pacific*, pp. 60–79. London: Routledge.
- Stigler, George. 1971. The theory of economic regulation. *Bell Journal of Economics and Management* 2(1): 3–21.
- Taplin, Ian. 2014. Who is to blame? A re-examination of fast fashion after the 2013 factory disaster in Bangladesh. *Critical Perspectives on International Business* 10(1-2): 72–83.
- Vogt, Jeff. 2017. The Bangladesh Sustainability Compact: An effective tool for promoting workers' rights? *Politics and Governance* 5(4): 80–92.
- [WRC] Worker Rights Consortium. 2019. Banning hope: Bangladesh garment workers seeking a dollar an hour face mass firings, violence, and false arrests. Washington, DC: Worker Rights Consortium. Available at <https://www.workersrights.org/wp-content/uploads/2019/04/Crackdown-on-Bangladesh.pdf> (October 2019).
- Zajak, Sabrina. 2017. International allies, institutional layering and power in the making of labour in Bangladesh. *Development and Change* 48(5): 1007–30.