



**Activism and Enforcement Mechanisms in the
Garment Transnational Labour Governance
The European Anti-sweatshop Movement**

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List of Acronyms

CAC40	Cotation Assistée en Continu (French stock market index)
CCC	The Clean Clothes Campaign
CSR	Corporate Social Responsibility
DAX30	Deutscher Aktienindex (German stock market index)
EBA	Enforceable Brand Agreement
ECCJ	European Coalition for Corporate Justice
EU	European Union
FTSE100	Financial Times Stock Exchange 100 Index
GDP	Gross Domestic Product
GIZ	The Deutsche Gesellschaft für Internationale Zusammenarbeit (German Development Agency)
GVC	Global Value Chain
ILO	International Labour Organization
IPIS	International Peace Information Service
ISS	Institute of Social Studies
NAP	National Action Plan
NGO	Non-Governmental Organizations
OECD	Organisation for Economic Cooperation and Development
SOMO	Stichting Onderzoek Multinationale Ondernemingen (The Centre for Research on Multinational Corporations)
UK	United Kingdom
UNCTAD	United Nations Conference on Trade and Development
UNGP	United Nations Guiding Principles on Business and Human Rights

Abstract

The rise of Global Value Chains (GVC) has created an enormous challenge for labour governance, in a premise that 'race-to-the-bottom' dynamics undermined states capacity to provide labour protections, while multinational corporations are attracted in a brutal competition in a search for costs reduction.

Hence, labour governance in the global sphere has been a complex arena of contestation. In particular, transnational activists networks have significant importance in engaging over decisions and behaviour of multinational companies. Much has been achieved about awareness raising. However, the consequences of the labour governance gap persist. The aftermath of the Rana Plaza collapse in 2013 has pushed activists for new proposals for change. Campaigns for corporate accountability claiming for extraterritorial liability opened up new spaces for mobilisation. In Europe, anti-sweatshop movements, concerned with precarious working conditions in the garment sector, have demonstrated a prominent role in policy reform.

This research discusses the elements that were conducive to activists' mobilisations on policy change, and the processes and results of contestation that involved two emergent cases: The French Law on Duty of Vigilance (2017) and The Bangladesh Accord (2013). This analysis contributes to reflect on the challenges of transnational labour governance in providing comprehensive responses and improve labour conditions, from the side of the European anti-sweatshop movement., with particular attention to the neo-Gramscian framework in GVC.

This study identified that there is a complex dynamic of interactions, including internal and external network aspects, both at the international and national level that shape activists' mobilisation on policy change. It identifies that activists achieved meaningful progress on extraterritorial liability creating new venues for mobilisations. However, claims to sustain long-term structural changes are commonly constrained by powerful elites, and substantial challenges are critically undermined. Addressing such challenges is crucial if activists want to achieve their claims for change.

Relevance to Development Studies

Global value chains have created new opportunities for developing countries. In the garment industry, they contributed to increase women employment opportunities and boost economic development. However, the literature has widely discussed the precarious labour conditions that workers face in order to sustain businesses in a globalized world, and the challenges to bridge the transnational labour governance gap.

There is still a long road to bridge this gap, but transnational labour activists have demonstrated a great deal of commitment and dedication to advance comprehensive responses in improve working conditions. They are challenging governments, businesses and policymaker to listen to their demands. This study contributes empirically with this discussion, understanding how transnational activists operate, in an attempt to analyse the opportunities and limitation of these movements and thus, possibilities for success in the labour governance.

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Keywords

Global value chains, transnational labour governance, anti-sweatshop movement, French law on Duty of Vigilance, The Bangladesh Accord, Rana Plaza, UNGP, neo-Gramscian, hegemony, passive revolution, social movements, activism.

Chapter 1 Introduction

1.1 The Labour Governance Gap and its Dynamics

The global economy has been associated with the progressive expansion of global value chains (GVC), resulting in the fragmentation of trade and industrialisation processes among multiple geographic spaces. This expansion is given by the constant competitive pressure for cost reduction, leading multinational companies to outsource production processes in countries with weaker regulatory regimes and cheaper production costs (Barrientos et al. 2016:1214-1215). The UNCTAD (2013:16) estimates that 80% of the global trade is linked with the GVC dynamics.

In this scenario, the ready-made garment industry has achieved a tremendous increase in production in the Southern countries. In 2011, Bangladesh turned into the second biggest exporter of ready-made garments in the world, representing 12.36% of the total country's GDP (RMGBD 2017). Moreover, around 80% of the garment workforce is women coming from poor and rural areas (World Bank 2017).

While the rise of GVCs has created new opportunities for employment, women emancipation and economic development, this dynamic is also associated with labour precariousness. "Globalization dynamics turned into market regulated commodities, a wide array of activities, previously provided and regulated by states and society" (Marchetti and Pianta 2012:94). Threats on capital flight persuade national governments – notably in developing and transitional economies – to a constant deregulatory competition of trade and labour in order to attract foreign investments. In particular, the ready-made garment industry and other relatively low skilled and labour-intensive industries have been facing this dynamic, in which cheap labour costs and precarious working conditions are instrumental in sustaining the industrial competitiveness. In this decade, Bangladesh was the stage of two massive accidents— the Tazreen Factory Fire, in 2012 and the Rana Plaza Collapse in 2013 - taking the lives of thousands of workers, portrayed by the media as a "mass industrial homicide"¹. Despite the constant violations, the Bangladeshi garment industry holds the second lowest minimum wage in the sector, set at US\$ 62,00 per month (IndustriALL 2018).

As a result of this 'race-to-the-bottom' (Appelbaum et al. 2005), governments and workers options are diminished. Labour precariousness, insecurities, informality, human rights violations and unequal social gains are common characteristics of global productions located in developing countries where state capacity to regulate is narrowed (see for example Phillips and Mieres 2015, du Toit 2004, Pegler 2015). A study conducted by the IPIS (2014:24) demonstrated that "more than half of companies listed on the FTSE100 (UK), CAC40 (France) and DAX30 (Germany) indexes have been linked to human rights abuses".

We are facing a global scale challenge to labour governance. Globalisation has created an enormous challenge in defining responsibility beyond national borders, in a premise that governments in developing countries are in a constrained position to address multinational companies' adversities and protect its citizens. Moreover, workers have been facing several

¹ The Guardian (2018a) "Rana Plaza, Five Years on: Safety of Workers Hangs in Balance in Bangladesh", accessed on 22 August 2018 < <https://www.theguardian.com/global-development/2018/apr/24/bangladeshi-police-target-garment-workers-union-rana-plaza-five-years-on> >

constraints in collective action in an attempt to improve power imbalances, including repressive labour relations, gender discrimination, disengagement of workers in authoritarian unions and insecure contracts (Evans 2008:282). Yet, “no universally coercive power of law, as well as no democratic processes of participation and deliberation, have emerged at GVC governance level” (Marchetti and Pianta 2012:94).

In the early 90’s, waves of mobilisations organised in transnational advocacy networks emerged. By contesting neoliberal practices and its adversities, these movement gained considerable media and public attention. By organising in transnational advocacy networks, they allowed the linkages among actors in civil society, enabling the leverage of local struggles and expanding the possibilities of contestation in a transnational arena (Keck and Sikkink 1999:89, Ellersiek et al. 2012:4). In the garment sector, campaigns and protests of the so-called anti-sweatshop movement, such as the Clean Clothes Campaign (CCC) in Europe, Maquila Solidarity Network and United Students Against Sweatshops in USA and Canada proliferated, challenging companies for accountability on its commercial activities (Palpacuer 2010:277).

One of the most relevant achievements of these movements is the capacity to create discursive power. Their mobilisations helped to construct a broader debate on the moral and political responsibility of the private sector activities within the GVC dynamics, by framing precarious working conditions and human rights violations with the businesses’ operations (Levy 2008:948, Schrempf-Stirling and Palazzo 2016:494). This strategy affected a key determinant of the corporation’s business model, the brand’s reputation. Thus, “companies were forced into a more direct relationship with their critics” (Burchell and Cook 2013:741).

In the last 20 years, multinational corporations have responded by establishing Corporate Social Responsibility (CSR) programs, based on voluntary soft-mechanisms in an attempt to self-regulate and deal with the challenges imposed by activists (Schrempf-Stirling and Palazzo 2016:492). However, until this moment, little has changed for the workers on the ground. CSR has translated the labour struggles in a set of code of conducts and standards, serving as a managerial tool to mitigate risks on brands reputation, while fundamental structures of labour precariousness have remained untouched (Barrientos and Smith 2007).

The widespread failure of CSR programs to improve working conditions has led activists to develop different strategies around a necessity to bring legal liability for the violations found in GVC, in a rationale that sanctions would persuade companies to accept accountability over labour deficits and prevent impunity². For example, the European anti-sweatshop movement, the CCC network, has become more prominent in the advocacy for the regulatory process of extraterritorial regulations (Utting 2008:969). On this front, activists’ advocacy strategies have been focused on different targets, including attempts to ratcheting-up multi-stakeholder initiatives by claiming for systems of transparency and disclosure of information; and resorting to the traditional arena, pushing for legal reforms in national states, host states and supranational institutions (2008:969).

This research paper aims to discuss the elements that were conducive to the CCC mobilisations on policy change and to reflect what extent these responses can potentially contribute to the labour governance gap in the transnational arena. In particular, my question in this research is:

- How has the European Anti-Sweatshop Movement mobilised for policy change in transnational labour governance?

² Fieldwork interviews with the CCC activists’ members in Italy, France, the Netherlands and Belgium (2018)

In here, I considered the possible effects of the CCC mobilisations as the introduction of new legislation or regulation, including influence on setting policy agendas and its revision³ (Schumaker 1975, as cited in Ellersiek et al. 2012:4). For these means, I buttressed the empirical analysis in the internal perspective of the CCC European Coalitions and some other relevant European civil society actors, considering their involvement in the prominent case studies of binding outcomes: The French Law on Duty of Vigilance (2017) and The Bangladesh Accord (2013).

These choice rely on the facts that the French Law on Duty of Vigilance is the first extraterritorial law on human-rights due diligence, and the Bangladesh Accord is considered a high-profile instrument in improving fire and safety conditions in Bangladesh's garment factories. In addition, I analysed two multi-stakeholder initiatives, the Dutch Agreement on Sustainable Garment and Textile and The German Partnership for Sustainable Textile in order to complement my understanding on the struggles faced by activists in improving labour conditions.

These tools vary in their scope of application, logic, context and enforcement capacity, as well as in the level of involvement and interaction with the CCC. These differences offer an understanding of the policy reform process between different strategies that aim to bridge the governance gap. Moreover, my second aim in this research is to analyse the extent that these tools can achieve concrete and meaningful changes for the worker on the ground, considering the opportunities and limitations from a pro-worker point of view.

This research draws upon a neo-Gramscian interpretation of GVC governance brought by Levy (2008). Central to this discussion are the concepts of 'hegemony', 'war of position' and 'passive revolution'. Transnational labour governance is interpreted here as the results of a dynamic series of challenges imposed by non-hegemonic groups and the responses given by elites, using power control to sustain its hegemonic position in GVC. This perspective is useful to elucidates on the persistence of private self-regulation, based on soft mechanisms in the labour governance. Moreover, it also contributes to understanding the constraints and opportunities that civil society face in promoting pro-workers structural changes, so claimed in the transnational labour governance literature.

Aiming to develop a theoretical framework, the next chapter offers an introduction to this discussion, presenting the neo-Gramscian discussion around the ongoing debates on transnational labour governance, including the challenges faced from a pro-workers reform approach (Hendrickx et al. 2016, Rodríguez-Garavito 2005, Kolben 2011, Seidman 2007). Then, in order to complement my analytical framework, I discuss the dynamics of transnational advocacy networks, including the elements that are influential in activists' mobilisations to obtain change. Chapter three provides the methodology and data collection used, based on qualitative research. Chapter four and five turns to the results of the empirical analysis. First, the paper examines the external elements, including political opportunities that led to different mobilisations and triggered the consolidation the French law on Duty of Vigilance, The Bangladesh Accord, the Dutch Agreement on Sustainable Garment and Textile and The German Partnership for Sustainable Textile. Then, considering the neo-Gramscian perspective, I attempted to analyse the opportunities and limitations based on the current solutions framed by the coalitions, and by the challenges proposed in the transnational labour governance theory. Furthermore, Chapter five turns to the internal aspects of the network, as such as internal divergencies, resources mobilisation that influenced the movement discourses and tactics.

³ Schumaker (1975 as cited in Ellersiek et al. 2012:4) focused on the phases of the policy-making as effects of activism mobilisations.

Overall, this paper attempted to analyse the opportunities and limitations based on the current solutions framed by the coalitions, and by the challenges proposed in the transnational labour governance literature. A concluding section suggests that the interactions between the European Anti-Sweatshop Movement, the CCC, and hegemonic orders resemble the Gramscian process of ‘war of position’ and ‘passive revolution’, shaping the outcomes in transnational labour governance. The chapter ends with a reflection on the problematic features along with potentialities of such strategies from the perspective of achieving substantive change and gain position over hegemonic groups.

Chapter 2 Theoretical Framework

This chapter describes the key theoretical debates used for interpretation of the empirical research. As earlier suggested, it attempts to use a neo-Gramscian perspective in GVC (Levy 2008). The starting point for my analysis is that the European Anti-Sweatshop movement poses a challenge in the dominant elites in labour governance, by engaging with political and economic confrontation.

The neo-Gramscian analytical theory contributes to articulate on the role and potentialities of these confrontations, including possibilities of engagement and collaboration with the dominant social order. As such, it also attempts to elucidate on the limitations and constraints found in transnational labour governance, pointing to the importance of strategising in order to influence change within complex social and political systems (Levy and Egan 2003:824).

2.1 A Neo-Gramscian Perspective on GVC

As an analytical category to understand transnational labour governance dynamics, Levy (2008) theorised a neo-Gramscian perspective on GVC. “Drawing from literature on institutional theory and entrepreneurship, GVC and neo-Gramscian approaches to the international political economy, Levy (2008:944) proposes that GVCs are simultaneously an economic and political phenomenon”. Therefore, he assumes that labour governance is part of a broader hegemonic project, posing a complex relationship between states, civil society and elites.

Levy’s (2008) framework explains transnational labour governance as a continuous process of interactions of challenges and contestation between governments, civil society and elites. These processes are structured and maintained by the active production and reproduction of a dominant order involving a “broader context of neoliberal ideologies and institutions, geopolitical interstate structures, and patriarchal gender relations” (2008:945). This dominant order is embedded in society and embodied in institutions for which the population express consent primarily without the need of coercive authority.

The societal consent around the position of prestige enjoyed by the dominant groups is explained by the fact that the population perceives the dominance of the ruling elites as part of their own project, guaranteeing long-term relative stability and legitimacy to the dominant groups (2008:951). Hence, this also implies that the moral language determined by the dominant concept of reality is shared in society through institutions and its ideological functions (Gill 2003:58 as cited in Elah and Okereke 2014:7). The term ‘hegemony’ refers to this relative stability of a social order dominance (Levy 2008:951).

Other Gramscian relevant concepts in this theoretical analysis are the ‘war of position’ and the ‘passive revolution’. Hegemonic stability is not steady and, in a favourable political opportunity scenario, non-hegemonic groups can challenge this stability. The ‘war of position’ entails that when a frontal attack on the hegemonic order seems infeasible, a micropolitics of change (i.e. a revolution without mass participation) might take place (Rajagopal 2003:19). The ‘war of position’ is a long-range strategy that slowly and actively gains influence within society – “by gaining legitimacy, creating intellectual resources, alternative institutions, and building alliances” (Levy and Newell 2005:51 as cited in Elah and Okereke 2014:7). In order to maintain its stability and preserve its essential features of hegemony, the

dominant group is required to respond and accommodate the challenges imposed in which is called 'passive revolution'. (Rajagopal 2003:19, Levy 2008:956).

"Understanding 'hegemony' and the 'passive revolution' is particularly useful to analyse how the process of reform is shaped through a dynamic in which the dominant order responds to the societal concerns, by trying to accommodate oppositional challenges but ensuring legitimacy and long-term stability of their dominance, without resorting to coercion to gain control" (Utting 2012:18).

The anti-sweatshop movements and their relation with CSR can be seen as a particular way to understand passive revolution dynamics (Bair and Palpacuer 2015: S9). They have created awareness of human-rights violations linked with global garment production. Their discourses triggered a change in the public opinion perception of businesses as a trustworthy voice, pressuring corporations to take responsibility for their business' activities. This dynamic resulted in the widespread of corporations' code of conducts and CSR programs. Considering the 'passive revolution' dynamics, CSR has been instrumental to "absorb and diffuse social contestation and political contention" (2015: S15), but maintaining the essential features of domination and power asymmetries typical of the GVC. Arguably, it has even strengthened the position of certain Western brands by exercising moral and cultural domination (Utting 2008:966, Levy 2008:957).

The passive revolution offers a useful understanding of the nature of hegemony and its resilient capacity to accommodate challenges, pointing to the limitations and the opportunities that strategic action for change has (Levy 2008:957).

Co-optation, Cooperation as a Hegemonic Position Maintenance?

The discussion above underlines the passive revolution tendency, in an understanding that dominant hegemonic groups adapt and evolve by absorbing challenges imposed while preserving its essential features of dominance. It allows them to accommodate new challenges while keeping its prestigious position and consent over society. "Such perspectives highlight the potential that activists have to strategically resonate and interact with hegemony by incorporating specific business interests in their agendas to obtain change" (Utting 2002:19).

In this research, as acknowledged by Rajagopal (2003:10), I consider that the European anti-sweatshop strategies are not part of a dichotomy relationship among resistance versus hegemonic power. Instead, this relationship is part of "a complex multitude of alternative visions" (2003:10). As such, contestation strategies, to some extent, have to work within the parameters established by the dominant group. This shows that non-hegemonic groups have the possibility to turn their struggles into a co-opt project with the dominant groups (2003:10). This vision would avoid any "generalisations and romanticised perspectives, bringing a balanced view on the transformative potential of change associated with transnational activism" (Utting 2012:35).

On transnational labour governance, Burchell and Cook (2013:742) argue that the moral challenge imposed by activists on corporations has resulted in a more direct relationship between both actors. In this scenario, possibilities of engagement have resulted in possibilities of co-optation and cooperation.

Coy and Hedeem (2005, as cited in Burchell and Cook 2013:744) explained four phases of a non-linear process that highlights the pressures that non-hegemonic movements may face in a confront with dominant elites. This process includes: a) "the involvement of non-hegemonic actors in the decision-making process; b) efforts from a dominant group to redirect non-hegemonic activities away from substantial challenges, including appropriation of

language and engagement; c) awareness from the non-hegemonic group about the deprioritization of their demands; d) focus on regulation, in which the established actors 'routinize, codify and regulate' activity within the area of challenge" (2013:744).

Following Coy and Hedeén proposition, non-hegemonic demands can easily fall short from their initial demands, compromising the achievement of structural change. Thus, hegemony often controls activists demands, shaping the process of reform on terms that will not pose a fundamental challenge to their interests (Pianta et al. 2012:530).

Conversely, it is inappropriate to assume that activists are unconscious when engaging in these processes. Actually, it is appropriate to consider that activists movements already consider in their negotiation strategies the fact that their demands are expected to be watered down (Pianta et al. 2012:299). Also, even though corporations are currently open to dialogue and engage with activists demands, consensus and collaboration are not necessarily expected in this relationship. Dialogues are often marked by distrust and conflict. Hence, decisions are not necessarily a final consensual outcome. In a conflict of interest's scenario, consensus, cooperation/co-optation can be seen as a temporary expression, attempting to gain position in the hegemonic order (Burchell and Cook 2013:742, Utting 2012:34). Consequently, these dynamics are commonly identified in the 'war of position' vs 'passive revolution' process.

Therefore, cooperation and co-optation can be considered a two-way street. One that implies the limits on the scope for progressive policy change, and one that also creates spaces to influence agendas and reform processes (Utting 2012:34).

2.2 Transnational Labour Governance

The labour governance dimension in GVC poses an enormous challenge, mobilising different interpretations on the role of the different actors involved. These challenges entail political, economic and discursive strategies that are commonly justified by economic grounds and unclear liabilities in a fragmented, dispersed production network. The difficulty in enforcing liability for extraterritorial violations in fragmented value chains allied with commercial imperatives linked to capital mobility and competitive disadvantages are often used explicitly by governments and corporations to avoid binding regulations or more strict forms of enforcement mechanisms.

This neoliberal structural power in GVC dynamic influences the perspectives of policy-makers, and constraints national states choices are guiding them to de-regulating decisions, and consequently, diminishing governments capacity. This dynamic has led to the emergence, authority and legitimacy of other actors, institutions and approaches that try to bridge the regulatory labour gap forming out of this dynamic (Utting 2012:28).

Under this de-centralisation process, private self-regulation has been proliferating in the last two decades, based on the development, application and monitoring of standards and codes of conducts in CSR programs. As a market response to civil society and consumer pressure, CSR programs generated many criticisms. A critical interpretation of CSR considers that its development has been constructed around the interest of corporations to enhance legitimacy in its practices, being instrumental in promoting brands' images and leveraging competitive advantages (Porter and Kramer 2006 as cited in Bair and Palpacuer 2015: S6). Thus, via discursive legitimacy and commercial sanctions, corporations exercise moral, cultural and intellectual domination over developing countries actors, strengthening its commercial objectives (Utting 2008:966). In other words, GVC power structure described earlier mirror CSR practices, and the standards imposed by corporations end up contributing to increasing pressures on suppliers and their subcontractors to raise labour standards, while

simultaneously they are required to lower prices and accept shorted delivery deadlines (Barrientos and Smith 2007:725). Hence, CSR fails in tackling structural causes of labour precariousness and other entrenched relationships of power, while is limited to address aspects that are easy to improve but that do not try to solve the root cause of the problem. (Kolben 2011:426, Barrientos and Smith 2007:720).

Gereffi (2014:29) highlighted the necessity to bring public governance to supplement and reinforce private self-governance, claiming that states centrality is often overlooked. Yet, developing countries governments often seem to act as enemies rather than potential allies to long-term changes in labour governance (Seidman 2007:139). More recently, Mayer and Phillips (2017) underscored the actual central role that public actors always had in the labour governance. The authors highlight that CSR is not only a market response but a political tool as well. By bringing the notion of “outsourced governance”, they argue that CSR has been facilitated and legitimated by governments, being them active agents in delegating and facilitating authority and functions to private actors and the CSR agenda, without compromising national competitive advantages.

Furthermore, the widespread of CSR programs are interpreted as the response of the constant effort that civil society and transnational activists’ networks have in promoting the relationship of the precariousness working conditions with corporations’ economic activities (Rodriguez-Garavito 2015:204, Kolben 2011:407). However, in the labour governance discussion, less attention has been given to civil society actors and activists’ networks roles. By combining conflict and negotiation, activists’ networks were able to build a new model of governance at the global level. These networks enabled the translation of local labour struggles to a transnational scope of action by building coalitional power that Seidman (2007:16) called the ‘boomerang effect’. Thus, by ‘naming and shaming’ brands reputation, activists attained international pressure on corporations’ practices, expecting that corporations would respond to the challenges, creating a sense of accountability, in an attempt to improve working conditions. This is particularly relevant in the garment sector, in which campaigns promoted by Anti-Sweatshops, such as the Clean Clothes Campaign in Europe, enhanced a broader debate on the moral and political responsibility of the private sector towards the poor working conditions in production countries (Levy 2008:948, Schrempf-Stirling and Palazzo 2016:494).

Currently, there is a constant claim in the GVC governance literature for more “synergistic forms of governance” to reinforce private governance (Gereffi and Lee 2016:35, Utting 2008:969). A key premise of this approach is that no actor on their own can achieve governance goals, in which solutions require coordination and collaboration of multiple actors. Mouffe (2005, as cited in Utting 2012:22) underpins the critical tendency to “assume that conflict of interests can be supplanted by a consensual process, based on transparent communication among rational actors”. Thus, a corporate accountability agenda has emerged, claiming for complementarities between self-regulation and a broader set of actions that involve campaigns for legal reforms in an attempt to enforce GVC labour governance by tackling its imbalances (Utting 2008:969, Bartley 2018:281).

However, it is still unclear the roles and duties of different actors in this “hybrid and synergistic forms of governance”. At an international level, supranational organisations have become increasingly relevant. The UN Guiding Principles on Business and Human Rights (UNGPR), endorsed by the Human Rights Council in 2011, came as a response to the vacuum found in respect to the roles of the actors in respect to human rights in a globalised economy (2017a:187) and introduced a broad guideline for corporations in respect to human rights in their operations, based on a due diligence concept. It has also been mainstreamed and taken up by the EU policies and its National Action Plans (NAP), as well as by the

OECD Guidelines for Multinational Enterprises (Scheper 2017a:186). By promoting a market-driven solution, grounded on a liberal democratic model of the Western world, this has been received with a high degree of acceptance by the corporations and National states and became a relevant operational framework adopted by different actors, including in the agenda of NGOs and activists' mobilisations for corporate accountability demands.

2.1.1 Challenges on the Effectiveness on the Current Mechanisms

A sustained transnational political pressure is seemed necessary to get transnational labour reforms to happen. At the same time, there is agreement about the necessity of stronger extraterritorial regulation to defeat the market discourses on competitive disadvantages. However, the complexity to achieve effective change in the labour governance does not rely only on the enforcement character in itself. From a pro-workers perspective, Hendrickx et al. (2016:351) described two interrelated challenges found in the international labour regulation that is beyond the binding criteria and enforceability. These challenges limit the substantial changes in workers' labour conditions in producing countries, and the implementations of the mechanisms.

First, the authors argue that the labour struggle has suffered a shift of focus. Labour-rights discourse has been substituted to the human-rights discourse. Hence, issues related to freedom of association and collective bargaining are undermined by more appealing discourses as forced labour and child labour (2006:351). These topics can receive higher public attention, and consequently, generate higher reputation risks and costs for corporations. Similarly, civil society organisations tend to frame workers in the South as vulnerable victims and dependable of international support, thus evoking higher public sympathy, consequently framing spaces for political opportunities. These frames provide activists with a language for negotiation, leaving the images of workers' empowerment less appealing to global audiences (Seidman 2007:32-33).

Conversely, these choices contribute to the structural stigmatisation of the stated beneficiaries of these campaigns, the workers (Seidman 2007:34, Kabeer 2004:11). In the case of the Bangladesh garment sector, workers are in its majority Muslim women, therefore, facing intersectional stigmatisation. An understanding of the politics of representation, used by transnational actors to claim for change on behalf of thousands of underrepresented voices, challenges the view on what is at stake on corporations and NGOs discourses around labour governance. Kabeer (2004:12) argues that substantial change in transnational activism and governance mechanisms can be critically undermined if a "more nuanced, balanced and differentiated accounts of workers realities representation on narratives, do not distinguish between situations in which human rights violations are products of poverty and underdevelopment, rather than workplace violations".

Secondly, as a related aspect, most of the regulations are unilaterally imposed and "dominated by OECD based non-governmental organisations, investors, consumers, businesses and business associations" discourses (Fox 2004:30). In this dynamics, local views are often excluded, and the stringency on the ground is critically limited (Hendrickx et al. 2016:351). The willingness of recipient countries to embrace imposed standards and the strengthening of workers enabling rights - freedom of association and the leverage of power of workers' voice, and channels of articulation through collective bargaining – are at best marginally included in the mechanism's rationales (Rodriguez-Garavito 2015, Kolben 2011:432). Morton (2010:317 as cited in Levy et al. 2016:370) explains that "when the pressure for change reflects a 'revolution from above', involving elite-engineered social and political reform, rather

than a broad-based popular movement, a radical change is undermined”. In respect to CSR practices, although being the state beneficiaries of companies’ code of conducts, workers are often positioned as a “passive object of regulation”, having little input into CSR content (Egels-Zandén and Merk 2014 as cited in Palpacuer 2017:61).

There is a conditional need to diminish power asymmetries in transnational labour governance. This means moving from elites imposing the rules of the game to having “working class emancipation to decide for themselves the content and the pace of their struggles with employers and to participate actively in truly continuous monitoring of the everyday operation of the factory” (Rodríguez-Garavito 2015:211).

Scholars have analysed the capacity of CSR to impact the working conditions. Only temporal improvements in health and safety issues and environmental aspects were achieved (Barrientos and Smith 2007:720). Moreover, as expected, a minimal impact on the enabling rights was obtained (Anner 2012, Utting 2008:964). There is an enormous gap between what CSR proposes in its rhetoric and its impacts on working conditions.

2.3 Transnational Advocacy Networks

Transnational Advocacy Networks are considered a fundamental form of mobilisation to transform national sovereignty practices and an essential element of the global politics of change (Keck and Sikkink 1999:89). These movements are interpreted as a response to the complexity brought by global issues and its governance challenges, opening the path for new creative forms of contestations and opportunities for policy change (Pianta and Marchetti 2007:29). They are situated in a relational dynamic of governance around different conflict of interests that under certain conditions can influence discourses and policy processes.

From the social movement literature, some factors and processes are key to understand transnational advocacy networks’ mobilisations. Some of the essential analytical concepts are the political opportunity structures and resources mobilisation (Ellersiek et al. 2012:4). Political opportunity can be understood as “the degree of openness or closure within conventional institutional system related to such aspects as splits with ruling elites, coalitions, allies, coercion and hegemony” (della Porta and Diani 2006; Tarrow 2006 as cited in Utting 2012:18). Resource mobilisation theory argues that networks can leverage collective action by promoting political exchange and pooling of resources (Keck and Sikkink 1998 as cited in Bendell and Ellersiek 2012:68).

Still, other factors contribute to activist’s mobilisations in which, political opportunities have a multilevel strong cultural component. These other factors include “strong protest networks, the global framing of issues and multiple forms of transnational activism” (della Porta et al. 2010 as cited in Ellersiek et al. 2012:4).

The emergence of mobilisations resides in the perception of a network on the possibilities of change to the global issue at stake (Marchetti and Pianta 2012:101). In the mobilisations, the ability to frame the problem as “relevant, urgent and soluble”, attaining political significance and public engagement (2012:102) is crucial. Thus, transnational advocacy networks are “communicative structures”, in which their activities rely on the quick and accurate mobilisation of information in order to persuade, pressure and gain leverage over powerful actors. Through these means, networks can transform the terms and natures of debates, promoting causes, principled ideas and norms, and eventually shape the directions towards political opportunities for policy change (Keck and Sikkink 1999: 90-92).

Analyse the internal aspects of networks is helpful to understand how their structure facilitates and shapes the way in which political process is conducted. As such, it is argued that networks facilitate resource mobilisation. They are considered more effective in channelling and generating information and knowledge than other forms of organising (Bendell and Ellersiek 2012:68). The collective action is motivated by a shared understanding of framings, including social norms that are essential for the integration of actors, and to build the links on the national and international level (Keck and Sikkink 1999:89). Still, different social and political contexts, in which different actors operate, including the predominance of hegemonic elite dominance by businesses' interests on politics, can result in contested understandings of meanings, leading to different forms of mobilisations (Ellersiek et al. 2012:4).

"Transnational networks strategies, tactics and patterns of influence operate similarly to those that scholars of social movements have highlighted" (Keck and Sikkink (1999:91). However, in transnational networks, the contexts, operations and conditions of activism outcomes have broadened (Ellersiek et al. 2012:4). For these movements, the discursive power around the construction of frames of meanings is as a key part of the mobilisation strategy (Keck and Sikkink 1999:91).

The literature on transnational advocacy networks highlights different modes in which organising activism transforms political opportunities. Keck and Sikkink developed a typology on the transnational advocacy networks' tactics, as below:

- "(a) *information politics*, or the ability to move politically usable information quickly and credibly to where it will have the most impact;
- (b) *symbolic politics*, or the ability to call upon symbols, actions or stories that make sense of a situation or claim for an audience that is frequently far away;
- (c) *leverage politics*, or the ability to call upon powerful actors to affect a situation where weaker members of a network are unlikely to have influence; and
- (d) *accountability politics*, or the effort to oblige more powerful actors to act on vaguer policies or principles they formally endorsed." (Keck and Sikkink 1999:95)

As aforementioned, the movements operate by constructing frames on meanings. Moreover, the mobilisations have demonstrated the potential for political contestation and change patterns on the dominant order. As such, they are sites for political renegotiations of hegemonic normative meanings.

2.4 Analytical Framework

To understand the dynamics of the CCC network in the transnational labour governance, and answer my research question: How has the European Anti-Sweatshop Movement mobilised for policy change in transnational labour governance? I elucidated my data analysis and interpretation based on the literature reviewed above.

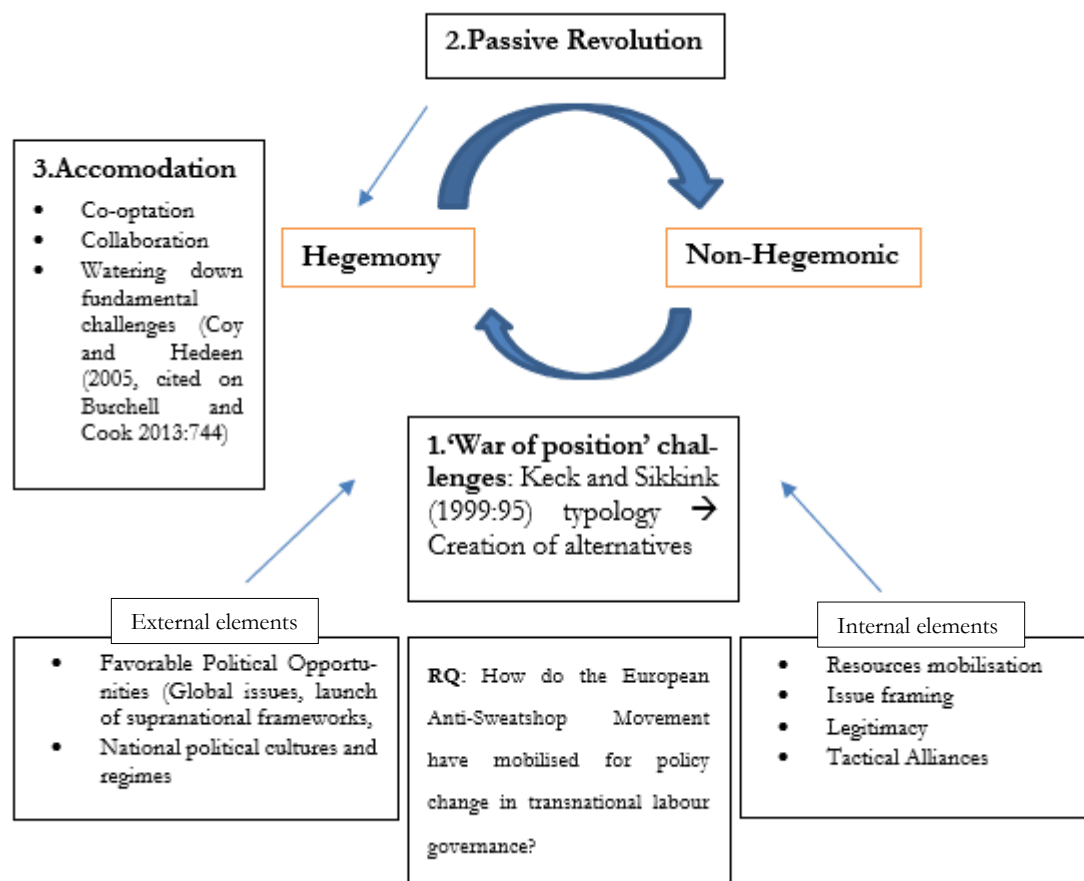
This research is built upon a neo-Gramscian perspective of 'hegemony', 'war of position' and "passive revolution" interpretation in GVC brought by Levy's (2008). With his framework, I attempted to interpret how the relationship among hegemony and contestation has shaped transnational labour governance. Figure 1 attempts to simplify this representation. As argued by Rajagopal (2003:10), I consider that this relationship is not dichotomous. Instead, there are nuances on possibilities of collaboration and co-optation in this process. Coy and Hedeén (2005, as cited in Burchell and Cook 2013:744) developed a four-stage

model of co-optation as an analytical process that highlights the pressures that non-hegemonic movements face in a struggle with elites. These struggles are demonstrated in the transnational labour governance theory (Hendrickx et al. 2016, Rodríguez-Garavito 2005, Kolben 2011, Seidman 2007), in which critically shows the difficulty and challenges that non-hegemonic movements face in change essential features of domination and power asymmetries in GVC.

On the other hand, these theories also contribute to elucidate on opportunities that activists network have as agents of transformation. The transnational advocacy network theory explains how contestation in a globalised world have influenced labour governance in a complex political and economic system (Keck and Sikkink 1999), “pointing to the importance of political struggles within civil society” (Levy and Egan 2003:825) and how to develop more comprehensive and coordinated strategies. Hence, attention on the points of tensions and leverage is given in the analysis of the data.

Figure 1.

Analytical Framework: a neo-Gramscian perspective on Transnational Labour Governance



Source: Author

Chapter 3 Methodology

From Where I Stand

My interest in understanding the CCC outcomes and the logic behind its construction grew from prior professional interest. I approached this research as a former corporate social responsibility practitioner. As I have been working for the last five years in the garment sector, monitoring corporations' suppliers in the reality of Brazil. I have been in close contact with workers, factory owners, unions as well as with the brand's representatives. I saw all the gaps and critics raised by the literature being concretized and limited improvements for the workers' life in the garment value chain. Then, Prof. Florence Palpacuer invited me to join her ongoing research along with the CCC Network. The research was pushed by an internal demand of the CCC International Secretariat, aiming to further their understanding of some emergent initiatives in transnational labour governance.

These initiatives included The French law on Duty of Vigilance, the Dutch bill on Duty of Care to prevent child labour, the Dutch Agreement on Sustainable Garment and Textile, the UK Modern Slavery Act and the German Partnership for Sustainable Textile.

In the course of this research, several discussions and interviews with the network and academics demonstrated a diversity of internal views as well as a point of consensus around the necessity of enforcing transnational labour governance through binding mechanisms. Hence, this discussion has also brought the Enforceable Brand Agreement (EBA) strategy, concretised with the Bangladesh Accord, to the discussion. By conducting a prior mapping on these initiatives, I decided to focus on the regulations with more "teeth" in the possibilities of bringing concrete change, as such as the French Law on Duty of Vigilance and in the Bangladesh Accord.

In a neo-Gramscian interpretation, these initiatives offer useful analytical cases on the difficulty to gain positioning by promoting enforcement and stringent mechanisms in transnational labour governance

The French Law on Duty of Vigilance is the first extraterritorial law on human-rights due diligence. The Bangladesh Accord is considered a high-profile instrument in improving fire and safety conditions in Bangladesh's garment factories. These tools address different purposes, but they are both emblematic on the transnational labour governance. Moreover, as a fruitful arena to explore dynamics of collaboration and contestation on a passive revolution, I decided to explore the multi-stakeholder initiatives, giving me more elements to understand the passive revolution dynamics, including the activists' opportunities and constraints.

3.1 Data Collection and Evaluation

This research relied on qualitative data collection by interviewing some key representatives of the European civil society related to transnational labour governance. The focus was given on the CCC network, motivated by its high degree of visibility and relevance, in addition to its active role in mobilising policy reforms in the garment GVC context. Then, I involved an extensive review of secondary data from the relevant literature, including publications, public debates and press releases.

Sixteen extensive semi-structured interviews (Annex 1) were conducted. The interviews included the CCC network key informants, in its majority coalitions' coordinator, and other stakeholders, including academics, activists, and lawyers coming from France, Italy, Belgium, Germany, UK and The Netherlands. Also, an International Law Foundation – Asser Institute, and a research foundation on business and human rights – SOMO were included in the scope conducted from March to September 2018 divided into two phases.

Interviews questions, during the first phase, emphasised a broader mapping on the strategic framework of the CCC and the interactions among actors. The second round of interviews focused on the logic behind the two main strategies mobilisations and discussions identified inside the network during the first phase: The EBAs and national extraterritorial hard-laws.

Since the primary data was self-reported, limitations regarding filtered information and overemphasised coalitions achievements, successes and strategies were considered. In order to overcome this limitation, my data selection involved institutions that are not related to the CCC network, as well as I attended seminars and discussions on GVC. In addition, I had a closer academic supervision during the entire process.

3.2 Methodology

The analysis of the data relied on qualitative content analysis. This methodology was employed aiming to describe and interpret the phenomena through the internal interpretation of the CCC.

In this way, to gather my data, the interviews were transcribed and inductively coded. I made a first-order code in order to identify the main themes raised related to actors' strategies, challenges and limitations. As well, I focused on the identification of silences in the discourses (Ryan and Bernard 2003:92). Second-order coded aimed to identify the 'passive revolution' dynamics of challenges and adaptation of the social order. Then, I compiled the data to a country-level analysis and then gathered and triangulated in order to validate and contrast the results with other secondary data.

As a limitation in the use of the "passive revolution" dynamics, including the "war of position" is its long-term nature. Given that one of my objectives is to understand the opportunities and challenges that the CCC may face with the initiatives at stake, this short-term analysis limits the evaluation to understand 'war of position' successes, in a Gramscian sense. Therefore, most of the conclusions were based on rhetoric analysis rather than in empirical data.

Moreover, while analysing the limitations of the CCC outcomes I questioned the politics of representation of the network to speak on behalf of thousands of workers in the South. In here, I am speaking from a privileged position in a Western Institution, interpreting the voices of workers that I did not include in this research. Hence, unlearn privilege is an exercise that I tried to exert, acknowledging that I am speaking by myself as a student in the global North with a privileged position, trying not to contribute to the workers' several types of stigmatizations.

Chapter 4 The European Anti-Sweatshop Movement Outcomes on the Labour Governance

“The political opportunities and the level of repression in a political system determine the level of responsiveness and repression that activists can get through its mobilisations” (Bendell and Ellersiek 2012:77). The cases analysed demonstrated that national political contexts and regimes allied with favourable political opportunities resulted in different outcomes as results of the CCC strategies.

This chapter offers a brief introduction to the CCC network. Then, I explored these external elements that determined the CCC network mobilisations towards policy change, by focusing in the cases of the Bangladesh Accord, in the French law on Duty of Vigilance. As well as in the multi-stakeholders initiatives, the Dutch Agreement on Sustainable Garment and Textile and the German Partnership for Sustainable Textile.

4.1 The Clean Clothes Campaign Network Outcomes: Two Approaches in a War of Position

The movement grew in 1988, when around 50 women, coming from feminists’ groups, protested in front of C&A - by that time the Dutch market leader - store in Amsterdam against the precarious working conditions in the garment production. This protest turned into a permanent campaign, justified by two main arguments: the exploitation of capital by taking advantages of poor regulatory regimes and cheap production costs found in southern countries, and secondly by the majority presence of women workers in the garment industry, having gender as an essential driver of the CCC discourses and actions (Sluiter 2009:16).

Currently, “the CCC has established an international secretariat in the Netherlands, with a total of 16 coalitions in European countries, with approximately 200 partner organisations” (Palpacuer 2017:58). The transnational advocacy networks’ tactics typology developed by Keck and Sikkink (1999:95) – information, symbolic, leverage, and accountability – can be identified in the core of the CCC mobilisations (Palpacuer 2018:74).

During these 30 years of the CCC, their strategies have been developed to different tactics. The CCC mobilisations have evolved from the creation of a standard Code of Conduct to the adoption of a market-led strategy, the “Fair Trade Charter” (Palpacuer 2017:65). Among the main network activities, until the present moment, the called urgent appeals stands out. Through coalitional power, Southern partners of the CCC channel and leverage their claims, launching different strategies against corporations through the network. The urgent appeals actions vary from public campaigning, by “naming and shaming” brands, to less compelling forms of action, such as dealing directly with the corporations CSR departments (Merk 2009:608). Through discursive and rhetorical devices, activists successfully framed the precarious working conditions as a global human rights issue as the results of multinational companies’ activities. In doing so, activists gained media spotlight and public

⁴ Palpacuer, F. (2018) ‘Global Value Chains as Sites of Contestation: the Role of GVC-Based Campaign Networks’. Unpublished paper, the author has given me an ‘advance copy’ ahead of envisaged publication

attention, that provided them with a strategic space of influence within society (Ellersiek et al. 2012:1).

However, the interviews revealed a sense of frustration. They indicated that they are not obtaining a substantial change in working conditions through their standard mobilisations, based on denounces and campaigns. Yet, interviews highlighted that corporations had changed the way they dealt with the campaigns and learnt how to articulate urgent appeals, answering to the pressures in diverse ways. Activists state that companies are more open to dialogue, and to present themselves as more transparent, answering to the appeals before getting to the public attention, while aspects related to the business model, such as pricing, living wage are not touched.

Consequently, labour conditions have not been improved through this mean. The French CCC (Author fieldwork 2018) stated: “Companies use CSR as a defence mechanism towards NGOs. They have changed their tactics, and they are keen to speak with us. They are learning how to speak, how to speak to workers and consumers”⁵.

The widespread failure of CSR, based on soft-laws and self-regulation, took the CCC network to a consensus around the necessity to enforce the labour governance through binding mechanisms. Hence, there is a more prominent interaction of the CCC with the regulatory dimension. Different approaches have been advocated by the CCC, with the aim to improve working conditions in factories supplying for European companies. Among these approaches, two strategies stood out in the interviews: the home State hard-laws and the EBAs. While one targets the traditional arena of states as the regulator actor, the other targets corporations through a multi-stakeholder initiative.

In summary, the EBAs are, by definition, agreements between one or more brands and trade unions - preferably involving global trade unions - developed to enhance accountability on corporations’ activities. A key characteristic of these agreements is the provision of a possibility to bring legal redress in cases of agreement’s aspects violation (CCC 2015a:41). The praised Bangladesh Accord concretised the EBA concept, having active participation of the CCC in its implementation. Aiming to address emergency fire and safety aspects in Bangladesh’s garment factories, the data provided by the Bangladesh Accord shows that since 2013, 89% of non-compliances identified in the garment factories were remediated (Bangladesh Accord 2018).

On the other hand, the CCC network has also been discussing and advocating for home state extraterritorial hard-laws. This strategy brings back the traditional arena of having the states as the responsible actor to regulate, building upon the support of existing judicial institutions. As a concrete example, activists in France, by lobbying the government were able to achieve in 2017 the first extraterritorial law in regulating business activities overseas, the French Law on Duty of Vigilance.

Both initiatives had close and relentlessly mobilisation of the CCC activists’ members, and despite divergencies on the solution framing from the defenders of each strategy inside the network, there is a fluid discourse among the choice targeting both approaches, as will be discussed on Chapter five.

The next section explores how these initiatives were motivated. In addition, by analysing the dynamics of the CCC with these outcomes, I highlighted the constraints faced by activists during mobilisations.

⁵ Fieldwork Interview (2018)

4.2 Rana Plaza Tragedy Aftermath and the Passive Revolution

The tragedy of Rana Plaza building, in 2013, killing 1134 workers, and leaving further 2500 people injured ⁶, has dramatically demonstrated to the world the adversities costs of the readymade garment production. Moreover, the tragedy has also exposed the inefficiency of the voluntary and soft-mechanism enforcement strategies in mitigating and preventing labour precariousness in garment GVC.

Rana Plaza did not have the legally required building licenses and was not built to support a factory housing over 3000 workers and industrial machinery. Right after the tragedy, NGO's listed the brands involved. As a response, brands tried to transfer responsibility of the tragedy to their subcontractors and resisted to pay compensation to workers.

This tragedy opened up an international debate and helped to build a shared problem frame around the urgency to regulate companies' activities overseas. In Europe, at the national and transnational level, Rana Plaza shaped the strategies of activists and NGOs coalitions, opening up a political opportunity for mobilisation.

A variety of concerted efforts regarding scope, approaches and enforcement, that contrasted between prevention, correction and collaboration, guided the European anti-sweatshop network activities. As mentioned above, France saw Rana Plaza as the pushing element to bring a National hard-law in transnational regulation. These efforts resulted in the French Law on Duty of Vigilance adopted in 2017. In its turn, the CCC International Secretariat and most of the European National Coalitions centred its efforts in bringing compensation and remediation to the victims'. Subsequently, Rana Plaza brought strength to enable activists to have a binding agreement signed between brands and trade unions to remediate the health and safety issues found in the Bangladesh factories, resulting in the Bangladesh Accord. Moreover, Rana Plaza led European National governments to have the endorsed UNGP's, and their National Action Plans applied in Multi-Stakeholder Initiatives, such as The German Partnership for Sustainable Textile and the Dutch Agreement on Sustainable Garment and Textile.

Before Rana Plaza, activists' campaigns struggled to get public support and strengthen the enforcement mechanisms. This fact is particularly visible in the Bangladesh Accord and The French Law on Duty of Vigilance cases as explained below.

The Bangladesh Accord

The Bangladesh Accord discussion started in 2010, in which global unions began to elaborate on a set of proposes to improve the building safety conditions in Bangladesh. These proposals were codified by the Anti-Sweatshop Movements, including the CCC, in a 'Memorandum of Understanding', aiming to get support from the brands in the establishment of a preventive program. However, companies demonstrated no willingness to sign this memorandum. Without any concrete measure, subsequently, a series of major fires in garment factories occurred, including the catastrophic fire at the Tazreen Fashion garment factory in

⁶ The Guardian (2018a) "Rana Plaza, Five Years on: Safety of Workers Hangs in Balance in Bangladesh", accessed on 22 August 2018 < <https://www.theguardian.com/global-development/2018/apr/24/bangladeshi-police-target-garment-workers-union-rana-plaza-five-years-on> >

2012 leaving 112 fatal victims⁷. Within this context, the wholesale companies Carrefour, Tesco, Walmart, engaged in an industry-led initiative coordinated by the German development agency (GIZ). GIZ raised a proposal to develop a common program with the ‘Memorandum of Understanding’ (Clean Clothes Campaign and Maquila Solidarity Network, 2013:2). After three years of negotiations, on 24 of April 2013, Rana Plaza collapsed.

On the 29 of April, the ILO, GIZ, the CCC and Maquila Solidarity Network along with the global unions, IndustriALL and UNI Global Union among other NGOs, gathered together to outline the key principles for an alternative approach to improve the safety conditions of garment factories in Bangladesh. Foreseen a binding dispute mechanism, the Bangladesh Accord was proposed and subsequently, after relentless activist’s campaigns, over 150 apparel brands signed the Accord⁸.

Rana Plaza has created a substantial negative impact on public opinion regarding business activities. By the interviews, Rana Plaza was needed to have the Accord signed, since its adherence is on a voluntary basis.

In practical terms, the Accord negotiates specific, narrow, transparent and objective demands. It includes remediation solutions to have the garment factories’ fire and safety issues fixed in Bangladesh, as referred on the OECD Guidelines⁹. In which, in situations where signatory brands refuse to contribute with the remediations, global trade unions have a door open to file a case against brands. From the side of factories, if after negotiations the required improvements were not concretised, factories can be terminated and public listed, not being able to supply to the Accord signatory brands in the next 18 months¹⁰.

The “commitments with regard funding and to keep business relationships with factories, and by all of these being agreed in a legally binding contract”, demonstrate that the Accord holds some aspects that challenge corporations’ practices (Scheper 2017a:1085). The fact that suggests a step forward on CSR soft-law practices. The Bangladesh Accord has brought two cases to The Permanent Court of Arbitration at The Hague, in which brands failed to accomplish the mandatory deadlines to remediate factories. Brands negotiated not to have their names disclosed, releasing them from reputational costs aspect. The settlement rendered companies to agree to pay \$2.3 million to fix issues at more than 150 garment factories in Bangladesh (The Guardian 2018). To understand the relevance of these settlements, “since the 1980s, more than 120 foreign direct liability cases have been filed worldwide against corporations for their alleged complicity in human rights abuses. Judged solely by their outcome, the cases indeed present a rather disillusioning record: No corporation has been found guilty, and most human rights litigation cases were dismissed. Less than a handful of cases were settled” (Drimmer and Lammoree, 2011; Zerk, 2006; Enneking, 2014 as cited in Schrempf-Stirling and Wettstein 2017:548). The interviews revealed that brands have resisted financing the remediations negotiated under the Accord. The presence of the charges was determinant to get them to perceive, to finance and to develop the risk management systems in Bangladesh production networks¹¹.

⁷ The Clean Clothes Campaign (2015) ‘Three Years After Tazreen Factory Fire Walmart Still Refuses to Pay’. Accessed on 16 August 2018. Available at <<https://cleanclothes.org/news/2015/11/18/three-years-after-tazreen-factory-fire-walmart-still-refuses-to-pay>>

⁸ The Clean Clothes Campaign (2013) ‘The Accord on Fire and Building Safety in Bangladesh’. Accessed on 16 August 2018. Available at <<https://cleanclothes.org/ua/2013/accord>>

⁹ The adoption of the OECD Guidelines is not mentioned in the Bangladesh Accord, however during the interview with the Accord staff, it was revealed that the Guideline is referred to the companies by the Accord as the example to follow.

¹⁰ Fieldwork interview (2018).

¹¹ Fieldwork interview (2018).

Scheper (2017a:1085) suggests that two key aspects are responsible for the concrete changes obtained through the Accord. First, as a legally binding agreement, it enforces improvements on fire and safety aspects. Secondly, and most important, the Accord relies on the GVC power structure to function. In which buyer strengthen their source of power over suppliers. Brands create standards that are systematically used to pressure the production network to adapt to them without touching on pricing, short delivery deadlines and workers' wages, that are still the second lowest in the world. Thus, most of the burden falls on suppliers, based in the assumption that the problem can be addressed through subsidies rather than negotiate long-term, substantive changes, as such as pricing and living wages (Scheper 2017a:1071). Interviews revealed that there is no space for this discussion within the Accord. On the words of one of the interviewed activists that disagree with this approach: "it is a neo-liberal solution that collaborates to maintain Bangladesh's position of being the cheap labour cost country for Western brands to profit".

In June 2017, the Bangladesh Accord had its term extended until May 2021. The current proposal aims to transfer the duty to improve the fire and safety conditions to the Bangladeshi Government (Bangladesh Accord 2017). Despite achieving some concrete changes in fire and safety and workers empowerment around health and safety prevention (Donaghey and Reinecke 2018), this transitioning period has demonstrated the limits of the initiative to address and sustain structural causes of labour precariousness.

The Accord has proved controversial measures to achieve its current objective. The interviews revealed an evident loss of faith in the developing countries' governments and actors as agents of transformation. Yet, the decision-making process does not include local actors, and local unions participation is limited to the attendance on safety committee training in the factories. This top-down character of Accord, occupied by English speakers' cosmopolitan staff, who detains relative power to negotiate and relate to Western corporations, critically limits the objective of the transitioning process.

These limitations demonstrate the emergency character and function of the Accord, not demonstrating to sustain its objectives in the long-term. Hence, it remains to be seen if the safety conditions and workers representation on health and safety mechanisms will be maintained after the transition period.

The French Law on Duty of Vigilance

The shift on the activist's discourses from voluntary soft-mechanisms to the role of binding mechanisms and laws brought the attention to corporate accountability through the imposition of sanctions (Utting 2008:965). Conversely, during the interviews with Belgium, Italy, Germany, the UK and The Netherlands, activists declared that there is no political room for legislation in their related countries, putting expectations on the next elected governments¹².

However, France had a different opinion. In France, states are considered the legitimated institution to regulate and state intervention is widely-accepted (Blasco and Zølner, 2010; Clift, 2012b; Howell, 2009: 251; Vail, 2018 as cited in Evans A. 2018:12). Pianta et al. (2012:52) explain that often "French and Italian mobilisations, take a more radical political stance in comparison to the UK, for example, that shows a closer interaction with business interests". The interviews suggested that the long-standing characteristics of France national

¹² Fieldwork interviews (2018).

politics and the presence of the Socialist Party in the Presidency allowed activists to put pressure at the political level ¹³.

Since 2010, the France CCC member, Ethique sur l'étiquette and the Forum Citoyen pour la RSE, the French member of the European Coalition for Corporate Justice (ECCJ) worked together towards an extraterritorial hard law. In the idealisation of the process, the widespread commitment and acceptance on the UNGPs framework was interpreted by the activists as a legitimated venue for the mobilisations¹⁴.

The French Law on Duty of Vigilance was envisioned, aiming to hold companies legally accountable for its extraterritorial impacts in its subsidiaries and supply chain. Also, to stop corporations' impunity for its human rights violations, along with a preventive rationale that French companies would not be going to outsource and stimulate production based only on cheap labour costs, instead of accepting a race-to-the-bottom as inevitable. Relentlessly efforts were directed to demonstrate the weaknesses of the current mechanisms based on soft-laws and to defend the importance of having hard-law¹⁵.

The law was proposed in 2012, however only after Rana Plaza in 2013, that the discussions and proposals gained the media and public attention. Activists considered the tragedy a massive push for the law approval. Ethique sur l'étiquette used symbolic and information politics through media and campaigning expertise to advocate for the law, having Rana Plaza to demonstrate the necessity of binding regulation. Involving broader-based alliances, with the support of big NGOs, as such as Amnesty International, the discussion capitalised and gained more strength. Finally, the National Assembly debated the proposal in 2015¹⁶.

During this process, in one hand strong lobbying from business associations in France concerned with competitions risks, vagueness on liabilities and capital mobility tried to break the approval of the law. On the other hand, activists heavily campaigned, already knowing the justifications based on economic grounds that they would have to face, they engaged in epistemic communities and prepared counter-arguments¹⁷. By that time, Macron was the Minister of Economy, and the law was de-prioritised. In 2016, he left the Minister to work on his presidential campaign. Replaced by Michel Sapin, then the Bill was back in the agenda. The discussion came to an end on 23 of March 2017, when the law was approved (Evans A. 2018:14-18).

The Law underlines the possibility to impose a civil fine to companies in every business sector, which do not put in place a due diligence plan in compliance with the UNGPs, covering environmental and human rights impacts. It applies to large companies "employing at least five thousand employees within the company and its direct and indirect subsidiaries, whose head office is located on French territory; or companies employing at least ten thousand employees worldwide in its direct or indirect subsidiaries" (ECCJ 2017). In addition, the Law requires that human rights due diligence plans should cover the activities resulted of "parent companies, companies under its direct and indirect control, as well as the suppliers and subcontractors with which the parent company or any of its subsidiaries have established a business relationship" (ECCJ 2017).

The obligation for companies is not to prevent human rights and environmental violations itself, but instead, to prepare, monitor, publish and enforce a vigilance plan to reach specific results. Therefore, a breach of this obligation cannot be claimed only because of

¹³ Fieldwork interview (Aljoutoni N., France CCC, 5 June 2018).

¹⁴ Fieldwork interview (Aljoutoni N., France CCC, 5 June 2018).

¹⁵ Fieldwork interview (Aljoutoni N., France CCC, 5 June 2018).

¹⁶ Fieldwork interview (Aljoutoni N., France CCC, 5 June 2018).

¹⁷ Fieldwork interview (Aljoutoni N., France CCC, 5 June 2018).

damage. Then, the prosecution in French Courts can occur by indicating that a company has not fulfilled its obligations that resulted in a violation (Erol 2018).

The law seems to have opened the door to make companies accountable for their activities. Still, it has raised many questions about its implementation and capacity to file cases.

Upon the course of law discussion, by the wording of its first drafts, the initial activist's demands were moderated, falling short from their initial expectations. Pianta et al. (2012:304) associate this dynamic with "the structural gap between the issue-centred approach to policy advocated by activists, and the process-based activities of policymakers and officials in state bureaucracies". Activists in France highlighted a significant loss on the burden of proof that currently relies on the hands of victims in order to prove fault, breach and causality. Still, NGOs, trade unions and victims can file a case to the French courts on behalf of victims. Also, there is no penal side in the law, in which the breach was considered insufficiently clear and precise by the French constitutional requirements for criminal offences (Erol 2018).

Therefore, much of the burden of monitoring falls on NGOs and activist's capacity. The Law does not propose any monitoring entity, and there is no central consolidation of companies concerned by it. Yet, the French government has not produced any list of related companies as such as no transparency disclosure requirement on the corporations' suppliers.

These questions underpin that transnational regulation implementation may need to go through a learning process, considering that governments may face limited competences and resources to deal with the extraterritoriality aspects. A further challenge in the implementation of the law is the fact that it is still based on corporate forms of knowledge and expertise in establishing human rights and environmental due diligence in complex production networks. These challenges suggest that activists will need to continue their efforts, with close monitoring and lobbying for appropriate implementation and necessary changes (Pianta et al. 2012:530).

Thus, considering the broad scope of the law and the involvement of human rights and environmental aspects, the capacity and expertise required seems very ambitious, as well as its content implementation considering the complexity of GVC dynamics.

What the French Law on Duty of Vigilance and the difficulty from other CCC European Coalitions in introducing an extraterritorial hard-law appoints to the hurdle faces in overcoming traditional bounds to engage in policy process dominated by hegemonic forces interests.

The Multi-stakeholder Initiatives

In contrast, following this insight, The Netherlands and Germany governments opted to enhance cooperation rather than regulation, following the Rana Plaza collapse. Respectively, they have launched the Dutch Agreement on Sustainable Garment and Textile and The German Partnership for Sustainable Textile, as a justification to build upon and give effect to the endorsed UNGP and their National Action Plans. Hence, the in these initiatives, members are expected to perform human rights due diligence in its activities on a voluntary basis.

The initial governments' discourses were around the need for cooperation among the stakeholders as a first response to Rana Plaza. The former minister of foreign affairs in The Netherlands, Lilianne Ploumen, stated in a speech in 2016 that: "My aim is to facilitate, but I am not afraid to regulate" (Ploumen 2016). With this rationale, Ploumen has come up with a covenant approach, primarily in the sectors that pose higher human rights risks. The garment sector was the first one mobilised, launched in 2015.

The CCC got in the negotiation process belatedly, expecting that the covenant would turn into an EBA. However, interviews revealed that the government positioning was very passive. Activists demonstrated frustration regarding the outcomes of the negotiation and implementation processes, stating that brands did not establish any concrete commitment. Around this discourse, the Dutch CCC preferred to play an outside role on what Keck and Sikkink (1999:97) have called “accountability politics”. The network has sought to redress by pressuring and putting efforts to criticise the Dutch Agreement shortcomings, as such as its transparency and vagueness in the criteria imposed to corporations (SOMO 2018). Moreover, their focus is in demonstrate the weaknesses of the current mechanisms based on soft-laws, as such as the Dutch Agreement, in an attempt to build a path towards a political opportunity to claim for the necessity of binding criteria and give it some “teeth”¹⁸.

In 2014, Germany, despite the efforts of NGOs, including the CCC in advocate for binding regulation, has opted heavily against the establishment of law and created the German Partnership for Sustainable Textile. Conversely, despite divergencies, the German CCC decided to be a member of the partnership. Activists summarised the option by saying that “after 20 years working on labour regulation, the Partnership was the first initiative from the German government. As we are the network that focuses on this topic, we cannot choose not to join it”¹⁹. On the other hand, the government was profoundly interested in having the CCC as part of the Partnership in order to legitimate the initiative.

Similarly, without bringing concrete targets and measures, the interviews revealed a sense of frustration on the outcomes and requirements of the Partnership. For example, the targets on living wages are restricted to a voluntary target that requires “initiation or involvement in a measure that aims to pay living wages for employees in production countries until 2019” (Partnership for Sustainable Textile 2017:2). Frustration was also revealed in the attempts of the CCC to improving the Partnership. In 2018, the members were required to publish a mandatory roadmap including agreed targets. In order to stimulate the quality of the reports, the NGOs suggested to perform an analysis and rank them. Companies were heavily against this proposal, arguing that they are going to be penalized for being members of the Partnership. Thus this suggestion has not moved ²⁰. Also, the mandatory publishing led companies to withdraw the initiative. From about 190 members in early 2017, the initiative has currently 130 members (Partnership for Sustainable Textile 2018).

For the activists, the Partnership is a market-led instrument used by the German government as a criterion for sustainable textile purchasing. The Partnership establishes more concrete targets for what is in respect to environmental sustainability practices. For example, it determines a target to companies on the use of 35% of sustainable cotton by 2020, in which 10% should be organic cotton (Partnership for Sustainable Textile 2017:1).

Therefore, for both multi-stakeholder initiatives, there are no expectations foreseen by the activists that the current governments will legislate on an extraterritorial hard-law, or establish a binding, enforceable contract between the parts.

Regarding resources mobilisation, the multi-stakeholder initiatives can represent an opportunity for activists to influence the policy processes and agendas as a convenient platform to spread information and knowledge in a fast way (Cornwall 2004:5). Conversely, the interviews demonstrated that the presence of deep power asymmetries constrains the collaborative aspects in the slightest attempts to touch in the business’s structures, as such as “ranking companies” or requiring the publishing of roadmaps and transparency suppliers list.

¹⁸ Fieldwork interview (de Bruin, C., Dutch CCC, 7 June 2018).

¹⁹ Fieldwork interview (Zahn, T., German CCC, 10 April 2018).

²⁰ Fieldwork interview (Zahn, T., German CCC, 10 April 2018).

Governments, without foreseen legislation, face a trade-off on the initiative's legitimacy. In one hand, having fewer participants with stricter criteria or on another, having more participants with hollow criteria, perhaps, in a premise that a multi-stakeholder initiative will strive to improve the garment labour conditions in a consensual and transparent way.

The cases have also demonstrated a disconnection between corporations' discourses and practices. The German CCC suggests that the multi-stakeholder initiatives participation is a way that elites found to avoid potential laws and legitimise their economic activities by providing a reputational mileage of being part of "something". Yet, activists interpreted their participation as a co-optation attempt to leverage and legitimise the multi-stakeholder initiative for itself, having a marginal input in the policy process itself²¹.

The cases above, including the binding examples, offer useful insight, demonstrating a 'snapshot' of a process of war of position vs passive revolution.

The businesses operations and profitability are challenged by demands for labour protections in production countries, that in contrast, elites accommodate the demands by linking their interests with those of society in approaches that do not pose fundamental challenges on their power structures.

Hence, following the analysed cases, Rana Plaza until this point has not created a "game changer" outcome. As such, considering the "pro-workers" perspective on enabling-rights, the cases above have not demonstrated significant advances on this side, not being able to establish broad bottom-up participation in the decision-making process.

Nevertheless, the cases have also pointed out the importance of 'war of position' struggle to bring change. After twenty years of soft-laws, as such as CSR, ruling transnational labour governance, the presence of mechanisms that could sanction companies and bring accountability to businesses practices, represent a substantial gain of position in society, in a neo-Gramscian sense. The next section explores the potential possibilities and advances that the binding cases can bring to transnational labour governance, looking through another political venue: The human rights due diligence.

4.3 The Human-Rights Due Diligence as the Legitimated Operational Framework and a Room for Opportunity

Rana Plaza triggered a number of initiatives on transnational labour regulation in Europe. At the same time, many of these initiatives chose to operationalise using human rights' due diligence framework, the United Nations Guiding Principles on Business and Human Rights (UNGPs). This framework was endorsed in 2011 by the United Nations Human Rights Council, and it has been treated as the legitimated operational framework in transnational labour governance, reinforced and mainstreamed in the same year by the OECD Guidelines for Multinational Enterprises.

This framework is intended to be a mutually reinforcing form of governance, based on a three-pillared interconnected structure that establishes: "(i) the state's duty to protect against human rights abuses; (ii) the corporate responsibility to respect human rights and (iii) access to complaint procedures and remedy for victims, when necessary" (Scheper 2017b:189). In accordance with the framework's author, John Ruggie (2017:12), the "UNGPs were drawn on different discourses and rationales that reflect the different social

²¹ Fieldwork interview (Zahn, T., German CCC, 10 April 2018).

roles that each governance system plays in regulating corporate conduct”, in an attempt to close the aforementioned governance gap, based on the International Bill of Rights and ILO core conventions.

The UNGPs represent a pragmatic propose that acknowledges the labour governance gap. Likewise, in the opinion of one of the interviewer lawyers, the framework acknowledges that universal labour law is not feasible and it is unlikely to occur²². Thus, the UNGP framework proposes a realistic approach by proposing a transnational regulatory system inside corporations’ activities.

This system suggests that, by being institutionalised in laws and binding regulations, it would contribute avoiding “race-to-the-bottom” dynamics in production countries, since, in theory, companies would avoid outsourcing production in countries with weak regulatory regimes and with repressed trade unions.²³

There is a broad consensus around the framework, reflected in its increased adoption, mainly after Rana Plaza. In Europe, the European Commission requested all member states to develop a National Action Plan (NAP) based on the UNGP, as part of the State responsibility pillar (United Nations Human Rights n.d.).

This consensus was seen as an opportunity by some actors in the European civil society to focus its efforts to bring the framework into transnational labour governance mechanisms, as reflected on the French Law on Duty of Vigilance and in the Bangladesh Accord, that refers its remediation procedures to the OECD Guidelines²⁴.

Still, binding cases implementing the UNGP are few. There are examples, as such as the UK Modern Slavery Act of 2015, that focuses only on the UNGP reporting framework, requiring companies to publish an annual “slavery and human trafficking statement, including the measures taken to ensure that modern slavery is not taking place in companies’ activities” (Shift 2015). Moreover, in Switzerland, a similar law as the one in France is in the parliamentary deliberations ((Shift 2018).

The adherence to the framework is still in its majority on a voluntary basis, as it is in the multi-stakeholder initiatives and other soft-law instruments. It does not impose any international law obligations from national states and does not establish a liability model, but it is still based on “social expectations” and considerations (Scheper 2017b:190).

Several reasons justify its adherence and acceptance by dominant elites. First, it can be argued that the United Nations is seemed as the legitimated actor in settling development agendas and norms, operating through the use of “discursive as well as material power, aiming to offer policy guidance but also, and as a pre-requisite, to demonstrate expertise, by framing solutions and knowledge” (Gasper et al. 2013:29). Secondly, “the broad spectrum of the human rights due diligence concept serves as an umbrella to create common bonds between divergent ideas and interests” (Livesey 2002: 315 as cited in Burchell and Cook 2013:750).

Thus, critics on the framework underpin that it offers a market-oriented language that seeks to identify connections between sustainable and responsible practices allied with core business commitments to economic growth. In which, shared interests are central in the discussion rather than the conflict of interests for itself. In this sense, corporations’ power balance and its forms of dominations, as such as sanctions for possible abuses, are marginally discussed and incorporated (Scheper 2017b: 193). This critic resembles on what Levy et al.

²² Fieldwork interview (Partiti, e. and Duval, A., Asser Institute, 11 July 2018).

²³ Fieldwork interview (Partiti, e. and Duval, A., Asser Institute, 11 July 2018).

²⁴ This information is not in the Accord procedures, but the data was collected through interview with the Bangladesh Accord staff (2018).

(2008: 947) pointed out: “ethics and CSR perspectives have tended to view corporate practices, prices and working conditions as matters of managerial discretion rather than an outcome of production networks as economic, political, and ideological systems”. This argument suggests that the human rights discourses in CSR and the UNGPs are serving as a co-opted hegemonic tool.

From the side of the European civil society, in 2007, by that time the UN Special Representative, John Ruggie presented a report to the UN Human Rights Council on his mandate, as a draft of the UNGPs. The International Secretariat of the CCC saw it as an opportunity to give to CSR more substance by targeting international organisations. Hence, they sent a response letter with several suggestions and critics on how to “develop a global framework” to John Ruggie. The letter called for more detailed guidance on the roles of governments and civil society, including trade unions participation. It has also suggested the development of complaint and remediation procedures, as well as it discussed the establishment of responsible purchasing practices guidance (Business and Human Rights Resource Center 2007). John Ruggie answered by agreeing with the CCC positioning but explained in his own words that:

“You can appreciate, therefore, that the main focus of my work going forward has to be on overall system architecture. However, my broad and yet brief mandate cannot possibly produce specific solutions for each of the many dilemma situations and instances of abuse I have encountered directly or through the reports of others” (Ruggie 2007).

This general and vague view of the human rights due diligence process has led the discussion to another set of criticisms on the framework implementation. The UNGPs offer a roadmap on actors’ roles but do not offer a detailed interpretation of its terms. Rajagopal (2003:197) explains that human rights in international law are commonly built on the doctrine of sovereignty. For this fact, international law barely includes structural or socio-political root causes of human rights violations. Conversely, for Duval and Partiti (2018:25), “human rights due diligence is pluriverse and inherently context-specific. To this extent, even a catalogue of best practices could remain ineffective unless it provides companies with clear guidance on what actions should be taken in specific instances”. In the French law on Duty of Vigilance, activists demonstrated this dilemma in their positioning: “We have created a new business”²⁵, said one activist, raising that activists and NGO’s are now required to advocate in a new interpretative discussion on the human rights due diligence meaning in order to campaign and be critical on it. Hence, to be able to prosecute companies for the lack of actions, taking into consideration the complexity of GVC structure.

The UNGPs language presents in its words general principles and falls short on providing measures to address concrete changes for working conditions. The use of buzzword terms as such as sustainability, corporate social responsibility, rights-based, due diligence and so on remains as it is in most corporate codes of conducts. In which, these values and visions are seemed crucial to build on discursive power and maintain the hegemonic legitimacy by framing the elites with a sense of commitment on human rights (Utting 2012:31), while structural measures are silenced and not up to discussion, reasserting social control.

Nevertheless, during interviews with law academics, they explained that vagueness and openness in law are not given as an issue for itself, but its importance lies in determining an agreement on the meaning of a concept. In the case of the UNGP’s vagueness, its meaning in law depends on the presence of concrete cases, in which it has not been concretized yet.

²⁵ Fieldwork interview (Aljoutoni N., France CCC, 5 June 2018).

This fact suggests a possible point of leverage for a counter-hegemonic struggle. In this regard, by bringing the human rights due diligence process into laws and regulations foundations, as mobilised in the French Law on Duty of Vigilance and the Bangladesh Accord, activists have an opportunistic possibility to harness the UNGPs and influence key challenges in the CSR language and practices. The symbolic possibilities of bringing cases to public discussion at open Courts, serve as an opportunistic room for interpretative battles and contest the interpretations of business practices.

The first legal cases around the concept of due diligence remain to be seen; however, from a legal perspective, the first cases are going to be essential to develop a case law in human rights due diligence.

In these terms, the hegemonic struggle lies in the interpretation and in shaping the practice and meaning of these principles. It seems necessary that activists demands move towards progressive changes, challenging and re-shaping the interpretation on the human right's due diligence concept to a counter-hegemonic language. In other words, a counter-hegemonic struggle requires that meanings on businesses' practices progressively move to enhance pro-workers reforms as such as enabling-rights to strength workers' voices and ensuring local stringency with broader local involvement.

The threat of co-optation on the human right's due diligence language and agendas that do not pose a fundamental change on the dominant structure and interests, as such as seen in the Bangladesh Accord and the multi-stakeholder initiatives, demonstrate the complexity and the unsteady implications that activists face to gain position in the passive revolution dynamic. Hegemonic actors hold the ability to circumvent challenges and gain influence and control through different means, maintaining the 'status quo' of the power relations.

This Chapter has discussed the CCC concrete outcomes and the extent that they can represent a gain of position in the 'war of position' vs 'passive revolution' dynamic.

Furthermore, this Chapter has also discussed the external key elements that were conducive to policy change in the activist's mobilisations. In summary, these elements included:

- The national political regimes characteristics seemed to contribute to creating an enabling environment towards policy change. The presence of the Socialist Party in France and its republicanism political culture contributed to the establishment of the French Law, while in the other countries, as such as in The Netherlands and Germany the government's proposals offered a closer interaction with businesses interests (Pianta et al. 2012:52).
- The presence of Rana Plaza collapse and the endorsement of the UNGPs created a favourable political opportunity for the network's mobilisations, by achieving media and public attention and framing labour conditions in GVC as a global issue.
- The involvement of a broader-based alliance, including NGO's that work on different issues related to neoliberal practices and its adversities, enabled the establishment of epistemic communities. Including an interdisciplinary action on the policy reforms. This aspect brought strength and credibility for the French Law and to the Bangladesh Accord mobilisations.

The next chapter focuses on the internal dimensions of the CCC network to elaborate on the understanding of my research question and complementing the analysis on the limits that the network's strategies face in achieve changes on the ground.

Chapter 5 Two Strategic Divergencies - Inside the CCC

The capacity that the CCC has demonstrated in mobilise policy change appears to be shaped by a complex of external opportunities related to national and international aspects. Internal dimensions of the network, as such as resources scarcity and mobilisation, has also revealed to be determinant on the formulation of their strategies, proposals and discourses to advance on policy change.

Despite the network's activists acknowledge the same problem framing and to recognise the limits of soft-laws, the two main discourses that have been shaping the CCC network mobilisations discussed above, underpin the points of divergences on the understanding of a broader network strategic focus.

By considering the diversity within national network coalitions, concerning their capabilities, resources as such as the complexity of transnational labour governance gap itself, tensions are expected and even inherent to this collaborative process. Yet, this diversity also implies in the challenge to integrate different approaches and discourses in a broader strategic focus (Bendell and Ellersiek 2012:70).

At the same time, the interviews revealed a pattern in the CCC discourses around the goals that they aim to achieve. There is a focus on short-term responses and corrective matters rather than addressing long-term and fundamental challenges on hegemonic interests.

This chapter discusses these internal tensions and their influence on the formulation of a broader strategic framework.

5.1 Why a Corrective Approach Focus?

Regarding resources capacity, most of the interviewed coalitions revealed that they need to deal with capacity scarcity. This fact has led the network's coalitions to prioritise their activities, narrowing them to more urgent matters and more punctual joint actions around the "urgent appeals". The Italian CCC highlighted that resources scarcity is a major obstacle in the overall efficiency of the network operations as a whole, constraining the network discussions and strategies towards a structural and deeper analysis²⁶. This statement can be seen in the CCC discourses around its current framed goals. Interviews revealed a focus on short-term corrective measures aiming to reach urgent aspects, by emphasising the necessity to leverage workers' capacity to raise complaints, and obtain proper remediation. An activist underscored the importance of short-term mechanisms by saying: "For the workers that need an immediate solution, it means it cannot last...Then, it is not a good venue"²⁷.

In this rationale, mobilisations on enabling-rights have been driven to urgent matters, rather than to enhance long-term aspects, such as freedom of association and collective agreement.

²⁶ Fieldwork interview (Lucchetti, D., Italian CCC, 16 July 2018)

²⁷ Fieldwork interview with the CCC International Secretariat (2018). Yet, the role of trade unions in the French law is mentioned in the context of the grievance mechanism, not in the preventive aspect of freedom of association and collective bargaining.

In the Bangladesh Accord, for example, the CCC network has emphasised and praised the complaints mechanisms and the high rate of factories' remediations. Yet, activists underpinned the novelty of the French Law by its potential capacity to sanction corporations due to damages that may occur in their activities, instead of focusing on the preventive plan for itself²⁸. In this aspect, the interviews revealed that the expectations on the results of the law are on its capacity to leverage workers to address complaints.

Conversely, Brabant and Savourey (2017) argue that the French Law will face many challenges in providing victim's remediation, given the difficulty to prove breach and causation that claimants may face. This argument suggests the necessity raised in the last chapter of focusing the advocacy mobilisations towards the construction of comprehensive meanings on the human rights due diligence process. Yet, pushing companies to be accountable for responsive preventive plans and move beyond the urgent debates, considering that an "unfulfilled threat' of legal action is sometimes sufficient to persuade corporations to reach compromises with the claimants" (McCann 2006: 30).

In addition, I suggest that beyond the scarcity of resources, the focus on short-term corrective matters is also a consequence of the historical nature of the network itself. Campaigns are commonly based on the necessity of framing workers as victims of human rights violations, depicting them in precarious and emergency working conditions rather than actions towards permanent changes in policy (Schrempf-Stirling and Palazzo 2016). Moreover, it reflects in the nature of Western activism for itself, that legitimates its agendas by attempting to speak on behalf of workers in the global South. As such, these campaigns provide the network with a language of negotiation with global audiences, reinforcing the organisational identity, agenda and the urgency of their issues at stake to sustain the CCCs mobilisations (Seidman 2007:32-33).

Moreover, the focus on urgent corrective matters is also understood as a lack on the network strategical alignments that end up blurring structural changes and networking benefits leverages. France, for example, does not consider that the efforts put on the implementation of the French Law on Duty of Vigilance were shared collectively inside the network, preferring to use other forms of channelling, as such as the ECCJ network. Thus, the Law was not seemed by the French CCC as part of the CCC network activity itself. At the same time, the EBA approach was received by them with critics, considering the involvement of businesses in the decision-making processes as problematic, underpinning the possibilities, in a long-term, that this approach has in undermine local governments capacity.

Conversely, defendants of the EBA approach see it as a possible step towards legislation, contributing with the political transformation in a broader acceptance of binding regulations. By interviewing other coalitions as such as Belgium, Germany and Italy, revealed a more fluid discourse. The CCC in Italy illustrates this fluid understanding, highlighting the necessity of having a more in-depth analysis of the current network strategies to focus on sustainable long-term impacts rather than short-term corrective measures.

"I think that the issue here is that we are probably posing out the wrong question by creating this opposite: Enforceable brand agreement vs state as the two arenas that we have to choose or to complement to get what we want to achieve (...) However, it is again; the discussion is around how to enforce government, states to do their job, to defend citizens against capital and to re-establish a balance in the powers and dynamics between labour and capital, at states level and global level. I do see the rationale behind this discussion, and I do agree. However, if we look at how GVC works, probably, we can single out a new sphere where politics, policy and capital may be doing a partnership"²⁹.

²⁹ Fieldwork interview (Lucchetti, D., Italian CCC, 16 July 2018)

As demonstrated in this quote, the divergence on the approaches and the absence of a common agenda led the network to question the need for a more in-depth consideration on the complexity of the labour GVC governance challenges, including corporations, financial and political elites power relations.

This analysis suggests that a loss of coherence allowed with the scarcity of resources can refrain the network from a more in-depth analysis of the complexity of the challenges faced, thus moving away the mobilisations from achieving structural changes. This lack of discussion brings a more hesitant understanding of the resource's mobilisation contribution inside the CCC, as complemented by activists:

“What I see is that we are not obtaining victories anymore with the cases (urgent appeals), because of the limit of our approach. Because we are quite weak in this capacity to gather, to strategise and see where the weakness of these dynamics on a global level is”³⁰.

“It is not like 1996 anymore (Nike scandal). We need to be better on strategy, better on knowing where we want to go. Moreover, it takes time, time of reflection. Not in being less radical, but we can appear too naive when talking to companies. The French Law was five years of constructed arguments. Our strategies cannot be the same as it was ten years ago”³¹.

Another set of difficult on establishing a structural change in the CCC strategies lies in a paradox that the network has faced on the calls for boycott, in which the CCC partners in the South opposed for fear on the negative impact on employment (Palpacuer 2017:66). Likewise, the rationale of the French Law is that French companies will avoid outsourcing production in countries with weak regulatory regimes, and possibly contributing to capital flight from these countries. This assumption would lead to the same paradox of having an impact on employment in developing countries, with negative consequences on livelihoods. In Bangladesh, around 80% of the workforce are women that have found in the garment industry a source of emancipation (World Bank 2017). On the other hand, in the long run, this rationale could avoid race-to-the-bottom dynamics, in a possibility to strengthen institutions in production countries. This paradox demonstrates the complexity in touching in some of the structural aspects of the hegemonic model, and the difficulties in establishing a counter-hegemonic war of position.

Looking through another perspective, by taking from a premise that tensions are inherent of a collaborative process, the divergence of strategies bring the possibility of joint actions and co-creation with different perspectives inside the network. Thus, “grasping, shaping and expanding opportunities on different levels, pressuring different targets and gaining new allies” (Keck and Sikkink 1998, as cited in Bendel and Ellersiek 2012:80-81).

Other activists positioned with a more pragmatic point of view about these divergencies, underpinning that different strategy must be pushed together. The interviews revealed the necessity to push for different frameworks to leverage the impacts, claiming that, in theory, the EBAs could improve local institutional capacities and urgent matters in a short-run. At the same time, suggesting that this can lead elites to understand that their activities should be regulated, giving a step towards the approval of related laws in the long-term. On the other hand, a national extraterritorial law could push for a broader reform on framing the necessity of regulation from a regional point of view, as such as in the EU, in the case of the French Law, serving as a new sight of contestation to contribute reducing capital flight and de-regulation dynamics in developing countries. Thus, the two approaches could be mutually reinforcing each other in a concerted effort towards the construction of meaning on the binding goal, having a long-term influence on a broader policy framing and at the same time

³⁰ Fieldwork interview (Aljoutoni N., France CCC, 5 June 2018).

³¹ Fieldwork interview (Aljoutoni N., France CCC, 5 June 2018).

serving to reach short-term goals as such as remediations. This understanding could avoid the network to spend its scarce resources in a binary discussion and put efforts on its real goals that are empowering workers and reduce “race-to-the-bottom” dynamics (Bendell and Ellersiek 2012:85, Seidman 2007:139).

In summary, this chapter presented some of the internal key challenges faced by the CCC in bring sustainable structural change to transnational labour governance, that consequently have shaped the activists’ goals to short-term corrective responses. Interestingly, the discourses and cases analysed revealed advances on workers enabling-rights, yet oriented to short-term corrective goals, such as getting workers remediation on the case of damages and leveraging worker’s capacity to raise complaints. This analysis suggested three main reasons for this corrective approach, including:

- The resources scarcity suggests a need to prioritised the network demands, that are naturally focusing on urgent matters.
- The resources scarcity can also undermine the resources mobilisation aspect and networking leveraging. The lack of in-depth discussions within the network can lead to weakening strategical alignments.
- The nature of campaigns mobilisations against corporations. Historically, the campaigns have focused on denouncing precarious working conditions, aiming to bring workers corrective measures due to labour violations (Schrempf-Stirling and Palazzo 2016). Yet, the nature of Western activism itself reviews the necessity to frame a global issue as urgent in order to have a language of negotiation with the public (Seidman 2007:32-33).

In conclusion, the concept of ‘hegemony’ helps illuminate the coexistence of apparently contradictory discourses in transnational labour governance (Levy 2008:958). A neo-Gramscian approach suggests that the focus on urgent corrective aspects also relies on the difficulty in promoting a counter-hegemonic movement that is able to manage fundamental changes in hegemonic structures, as observed in this research.

This difficult does not only rely on the capacity of accommodation of the hegemonic order, but also in the degree of entrenchment of it within society and institutions, contributing with contradictions on the non-hegemonic mobilisations, and constraining the improvement of working conditions with a pro-worker approach.

Thus, these contradictions should be understood in the context of a multilevel complexity of hegemony. As mentioned before, it involves a “broader context of neoliberal ideologies and institutions, geopolitical interstate structures, and patriarchal gender relations” (Levy 2008: 945). In the case of transnational advocacy networks and garment GVC, these “relations of power in geopolitical interstate structures and patriarchal gender relations” are extremely relevant to be considered if the CCC, as a counter-movement, aims to work to its own claims of change.

Chapter 6 Conclusion

This research paper discussed elements that were conducive to the CCC mobilisations on policy change and reflected on the extent that these mobilisations responses could potentially contribute to the labour governance gap in the transnational arena. The data demonstrated a complex dynamic of interactions, including internal and external network aspects, both at the international and national level. These elements contributed to shaping activists' coalitions, resulting in different strategies.

I have argued that ongoing tensions inside the network have resulted in different ways in which solutions are framed. However, the findings of this analysis indicate that these solutions, despite being different, are generated by common goals. The analysis revealed an evident focus on short-term corrective goals whether by leveraging workers capacity to raise complaints; or guaranteeing remediation to workers, in the case of human-rights violations. In a neo-Gramscian sense, long-term preventive changes on labour are often constrained by hegemony and the passive-revolution, by prioritising commercial conditions and relations of power in GVC.

Besides, a neo-Gramscian analytical framework was also useful to elucidate on the coalitional power of the CCC network mobilisations. The CCC demonstrated a central political and social role in the GVC labour governance, in confronting hegemonic elites. By leveraging the weakness of the strategies that businesses and political elites developed in their accommodation process, the movement has directly influenced policy reform, being able to achieve concrete responses from governments and corporations.

Based on the French Law on Duty of Vigilance and the Bangladesh Accord, a neo-Gramscian approach suggests that activists gained an advantage in the war of position, by developing a legal backbone to their claims. This gain of position has opened new proposals for change and leveraged venues as identified in chapter four and five. Particularly, by considering the trend in using the human right's due diligence operational framework, I suggest that contestation will resort in a long run struggle of interpretation on this framework's meanings. In addition, by considering that hegemony is resilient, activists will need to keep on with the struggle in harnessing labour governance in laws and binding regulations. This is not an easy task, diminishing GVC power relations seems necessary whether by enhancing enabling-rights and empowering workers options to claim for their rights by themselves, as such as by diminishing corporation's power making them accountable to their commercial activities.

Activists will need a great deal of commitment and opportunities in confronting hegemonic manoeuvres while sustaining their internal coalitions tensions around capacity demands and legitimacy.

Meanwhile, there is still a significant divergence between the mechanisms rhetoric and its impacts on labour in GVC. After five years of Rana Plaza collapse, labour precariousness is still a reality in garment factories. This is partly because there are prevalent hegemonic modes sustained and silenced in the core of the labour governance mechanisms. Although this research does not include voices from the South in respect to their opinion about the analysed governance tools, silences in the mechanisms' rationales and the interviews in regard of Southern actors as agents of change, are remarkably present. From a pro-worker approach, this rationale demonstrates that transnational labour governance is still far from sustaining stringency on the ground, risking of promoting top-down practices without connection with local practices, while businesses keep prioritising commercial imperatives, maintaining and controlling their fundamental power structures in the labour governance.

For future research, a long-term analysis in the passive revolution dynamics is necessary. A snapshot of this dynamics hides a broader understanding that activists' war of position can possibly lead to long-term changes, and thus collaborating, for example, to create a social-political transformation in the acceptance of legislation on corporations' rationales.

(word counting: 16178)

Appendices

Appendix 1 Interviews

1. Ineke Zeldenrust and Frieda de Koninck, CCC International Secretariat, 13 March 2019.
 2. Tim Zahn, Coordinator for civil society at FEMNET eV – German CCC, 10 April 2018
 3. Dominique Muller, Coordinator at Labour Behind the Label – UK CCC, 13 April 2018
 4. Suzan Cornelissen, Schone Kleren Campagne – Dutch CCC, 7 May 2017
 5. Nayla Aljoutoni, Coordinator at Collectif Éthique sur l'étiquette – France CCC, 5 June 2018
 6. Christa de Bruin, Coordinator urgent appeals at Schone Kleren Campagne – Dutch CCC, 7 June 2018
 7. Ineke Zeldenrust and Frieda de Koninck, CCC International Secretariat, 14 June 2018
 8. Sanne van der Wal, Senior researcher at SOMO, Amsterdam, 26 June 2018
 9. Suzan Van der Meij, Coordinator at MVO Platform – Dutch ECCJ, 10 July 2018
 10. Jean-Marc Caudron, Urgent Appeal responsible at achACT – Belgium CCC, 11 July 2018
 11. Enrico Partiti and Antoine Duval, Researchers at Asser Institute, The Hague, 11 July 2018
 12. Deborah Lucchetti, Coordinator at Campagna Abiti Puliti – Italian CCC, 26 July 2018
 13. Adriana Espinosa Gonzales, Policy Officer at ECCJ, 8 August 2018
 14. Veronique Camerer, Head of Monitoring at Bangladesh Accord, 7 September 2018
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