

**Original citation:**

Donaghey, Jimmy and Reinecke, Juliane. (2017) When industrial democracy meets corporate social responsibility – a comparison of the Bangladesh Accord and Alliance as responses to the Rana Plaza disaster. *British Journal of Industrial Relations*

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**When Industrial Democracy meets Corporate Social Responsibility – A Comparison of the Bangladesh Accord and Alliance as responses to the Rana Plaza disaster**

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**Abstract**

Corporate Social Responsibility (CSR) and Industrial Democracy are two paradigmatic approaches to transnational labour governance. They differ considerably with regards to the role accorded to the representation of labour. CSR tends to view workers as passive recipients of corporate-led initiatives, with little attention paid to the role of unions. Industrial Democracy centres on labour involvement: Those affected by governance need to be part of it. Examining the Bangladesh Accord and Alliance as governance responses to the 2013 Rana Plaza disaster, this article offers a comparative perspective of how Industrial Democracy-oriented and CSR-oriented translate into differences in implementation. The paper highlights that while CSR can foster effective problem-solving in the short run, Industrial Democracy is necessary to build governance capacities involving workers in the long run.

*Final accepted version of article to appear in British Journal of Industrial Relations*

## **When Industrial Democracy meets Corporate Social Responsibility – A Comparison of the Bangladesh Accord and Alliance as responses to the Rana Plaza disaster**

On 23 April 2013, large cracks appeared in the eight-storey Rana Plaza building in the Savar district of Dhaka, Bangladesh. A bank, shops and offices in the lower floors closed the next day. But several thousand garment workers, who lacked a strong collective voice, were prompted to enter the building despite safety concerns. The building collapsed, killing over 1,100 workers, highlighting the absence of worker voice to refuse unsafe work. The name “Rana Plaza” has become synonymous with the problems of labour rights in global supply chains, but also with the failure of social auditing adopted by brands as part of their Corporate Social Responsibility (CSR) commitments: two of the factories in the complex had been audited shortly before the disaster. While CSR provides a mechanism to step in where public regulation is absent, Rana Plaza also highlighted the problem of the lack of worker voice.

CSR is typically seen as a corporation’s voluntary engagement with its stakeholders, including consumers and civil society actors to work towards the improvement of social and environmental standards. Yet, organised labour itself has been conspicuously absent from the definition, design and governance of CSR. This is surprising given that many CSR initiatives are aimed at the improvement of labour standards (Fransen and Burgoon, 2013; Locke, 2013). An alternative approach to the regulation of labour within global supply chains that puts workers at the centre of the design and implementation of initiatives to improve their conditions is grounded in Industrial Democracy. These two approaches, as will be outlined below, are built upon different normative assumptions and this article seeks to understand empirically how differences in the design of such initiatives plays out.

This article compares the implementation of two competing governance initiatives to improve workplace safety in the Bangladesh ready-made garment sector post-Rana Plaza: The “Accord for Fire and Building Safety in Bangladesh” (Accord) and the “Alliance for Bangladesh Worker Safety” (Alliance). The Alliance is built upon a fairly traditional CSR-based approach, resulting in collective, transnational industry self-regulation. The Accord is broadly based on principles of Industrial Democracy, resulting in a form of transnational co-determination. However, unlike traditional Industrial Democracy, where collective bargaining rights are underpinned to a lesser or greater extent by the state, in the Bangladesh case, the consistent failure of the state to enforce effectively worker rights has meant that brands, rather than states have become the ultimate enforcer in employment relations. Being rooted in significantly different logics presents a unique opportunity to compare the interplay between the Industrial Democracy and CSR approaches to transnational labour governance. The article investigates these different logics underlying supply chain labour governance from a conceptual approach, followed by the research methods and key findings. Finally, insights are derived on how the interplay between Industrial Democracy and CSR shapes global labour governance.

### **Transnational labour governance in global supply chains: two approaches**

The fragmentation of global supply chains and the outsourcing of production to countries where labour standards are weak and enforcement even weaker have severely challenged traditional labour governance mechanisms of collective bargaining and public regulation. In the absence of such mechanisms embedded within the national context where production is carried out, regimes of “private labour governance” (Hassel, 2008) and “global labour governance” have emerged (Meardi and Marginson, 2014). Yet, there has been significant contestation about how these regimes should function. Should they mirror traditional forms of labour governance based on democratic principles of trade unionism and/or state regulation or should they leverage the

market power and reach of private corporations? Unsurprisingly, trade unions seeking to protect workers globally have sought to develop mechanisms based on bringing domestic collective bargaining into the international realm (Marginson, 2016). But as O'Rourke (2003; 2006) highlighted many governance responses are driven by corporations seeking to protect their brand image. Corporations emphasise voluntary, business-centred company decision making in the form of CSR.

For this reason, many industrial relations academics have shown scepticism about initiatives that claim to be socially responsible, yet exclude democratic representation of workers and are not embedded within regimes of state regulation. This is reflected in “a degree of reluctance in both the HRM and IR communities to actively engage with CSR” (Preuss et al, 2009: 954), mirroring the reluctance of unionists to lend legitimacy to an approach that does not provide appropriate representation to labour actors (Preuss, Gold & Rees, 2015). To understand better this political contestation in the construction of global labour governance, this article next examines the different logics underpinning Industrial Democracy and CSR.

***Industrial Democracy.*** The notion of Industrial Democracy (Webb and Webb, 1898) underpins much of the industrial relations approach to transnational labour governance. Its core principle is the need for the democratic participation of worker representatives in the governance of labour conditions (Kaufman, 2000). Kaufman (2000) highlights four key components underscoring the Industrial Democracy approach: democratic methods for worker participation in decision making; those within the organisation can hold those in authority to account; due process to be followed in disputes; and a balance in power between the employer and workers through collective organisation. Thus, the involvement of unions representing the interests of workers in developing labour regulation is seen as crucial (Egels-Zanden, 2009). Global Union

Federations (GUFs), seen as the legitimate representatives of global labour, take a prominent role in the emerging global labour governance architecture (Fairbrother et al, 2013). GUFs have created International Framework Agreements as negotiated agreements with MNCs. While not panaceas, these provide a mechanism for creating transnational industrial relations and supporting collective bargaining across the global supply chain (Sobczak, 2007).

**CSR.** CSR is broadly understood in terms of socially beneficial activities that go beyond a corporation’s legal obligations to stakeholders (Carroll, 1979). Jones (1980: 59) defines CSR as “the notion that corporations have an obligation to constituent groups in society other than stockholders and beyond that prescribed by law and union contract.” In global supply chains, CSR activities typically take the form of voluntary, private social auditing initiatives, such as codes of conduct and other forms of industry self-regulation (Fransen and Burgoon, 2013). Corporate-driven CSR codes have the advantage that brands can impose them upon their suppliers using contractual relationships. But corporations, subject to activist campaigns and media exposés, often make CSR commitments to reduce reputational risk emanating from poor labour conditions (Khan et al., 2007; Wells, 2007). Given this instrumental orientation, CSR has often been criticised as a form of “greenwashing” or “organized hypocrisy” (Krasner 1999) where multinational corporations adopt a few, isolated social projects doing good to distract from a continuing self-interested, socially harmful approach to profit generation.

As will be developed, CSR and Industrial Democracy differ in their approach to transnational labour governance. Table 1 summarises the two approaches and identifies four key dimensions of difference: (1) conception of the firm (2) different criteria for input and (3) output legitimacy and (4) credible commitments versus flexible voluntarism.

<<<<<<<<<< Insert Table 1 >>>>>>>>>>>>>

*Conception of the firm.* Unitarist versus pluralist frameworks in industrial relations differ in terms of whether managers and employees are seen as pursuing common or divergent objectives, interests and values. Industrial Democracy is built upon a pluralist conception of the firm: the firm is composed of a plurality of competing and divergent interests which are represented by different actors. Central to the pluralist approach is that the interests of workers and management are underpinned by “structured antagonism” (Edwards, 1986). As such, workers need to be free to choose their own democratic representatives to pursue their interests as managerially dominated agendas will inevitably be designed to further the interests of the firm. Thus, collective bargaining and other forms of worker participation are necessary to achieve trade-offs between management and worker interests. For instance, the notion of “worker co-determination,” often narrowly applied to the German works-council model, is broader in origin and to use Muller-Jentsch’s terms (2003:40) “the dominant theme of co-determination was labour’s claim to a legitimate role in the running of companies and the economy”.

In contrast, CSR often operates on the basis of unitarist assumptions of aligned interests. CSR is employed as a strategy to sustain competitive advantage (McWilliams and Siegel, 2001; Smith, 2003). As Margolis and Walsh (2003) observe, the mainstream CSR debate centres on the financial contribution of CSR activities to profit maximization and shareholder value as the overarching objective. At best, CSR initiatives generate “win-win” opportunities where there is a business case for doing good (eg. Mintzberg, 1983). Critics argue that CSR-type concepts such as “shared value” ignore the complex tensions between different stakeholder interests (Crane et al, 2014). CSR is viewed as inherently exaggerating corporate concern for the common good (Whelan, 2012) and, rather than democratic embeddedness, is driven by the

corporate concern to “look good” and protect their brand in the face of “naming and shaming” by activist groups (O'Rourke, 2006; Den Hond and De Bakker, 2007; Fransen and Burgoon, 2013).

***Input legitimacy.*** Given global labour governance regimes have no recourse to an overarching, democratically mandated authority, legitimacy is a crucial and contested dimension of transnational governance. Governance legitimacy has often been discussed in terms of Scharpf's (1997, 1999) distinction between input-oriented and output-oriented legitimacy. The democratic ideal of input legitimacy means that “political choices should be derived, directly or indirectly, from the authentic preferences of citizens” (Scharpf, 1997: 19). Industrial Democracy is based upon the belief that workers are the citizens of the corporation, and democratic processes require their representation and participation primarily through independent worker representatives (Webb and Webb, 1898; Kaufman, 2000). Their participation in the design, structures, and processes is regarded as an important activity in itself (Royle, 2005; Sobczak, 2007). Thus unions, elected representatives of labour interests, are necessary participants in what we call “*transnational* co-determination”.

CSR also requires input legitimacy, and multi-stakeholder forms of CSR are generally seen as having greater input legitimacy than unilateral codes of conduct (Fransen, 2012; Mena and Palazzo, 2012). But critics have pointed out that CSR-type stakeholder representation often relies on what Koenig-Archibaldi and Macdonald (2013: 517) call “solidaristic proxies”, such as NGOs and activist groups, rather than being controlled by workers themselves as the beneficiaries. Fransen (2012: 188) describes this as a situation of “business-driven programmes are trying to have their cake and eat it too: they want the external support that engagement with



various stakeholder groups offers, without actually allowing these groups a central place in governance.”

***Output legitimacy.*** Output legitimacy refers to “the capacity to solve problems requiring collective solutions” (Scharpf, 1999: 11). For proponents of Industrial Democracy, output legitimacy is interwoven with input legitimacy, suggesting that effective solutions can only be developed through the input of workers and preferably agreement of workers (Rees et al, 2015). Rather than monitoring outcomes (Niforou, 2015), the focus is on process rights, particularly Freedom of Association including the right to form a union, to strike and to collective bargaining with the aim of enabling workers to defend their own interests. The CSR approach is outcome driven and tends to emphasise instrumental and pragmatic activities to solve governance problems, where protecting brands can take priority (O'Rourke, 2006). It is based on economic-instrumental rationality where the effectiveness of governance as a problem-solving mechanism is the key element of legitimate governance. Managerial experts or outside contractors, rather than workers themselves, may be best placed to design and implement solutions. But the absence of labour representation means that CSR programmes are more likely to favour effective solutions to perceived supply chain reputational risks, such as wage, hour, health & safety violations over worker rights that have the potential to weaken managerial control over supply chain operations (Anner, 2012).

***Credible commitments vs flexible voluntarism.*** A final point of comparison relates to how much “teeth” approaches have. The Industrial Democracy approach stresses parties making *credible commitments* through agreement in contrast to *flexible voluntarism* in the CSR approach. Developing credible commitments where parties are expected to deliver their side of an agreement is key to industrial relations scholars (Williams et al, 2015). As such, institutions

develop which are mutually reinforcing in terms of holding parties to the commitments which they make: it is through these institutions that penalties for breaches of commitments and incentives for adhering to commitments are enacted (Hall and Soskice, 2001).

In contrast, a recurring assumption in the CSR debate is its conception as discretionary and *voluntary* rather than a societal obligation. As Matten and Moon (2008: 405) observe, responsibilities “lie at the discretion of the corporation”, rather than on sanctions that can be authoritatively applied (e.g. Carrol, 1999). Brammer, Jackson and Matten (2012: 3) note this contradiction underlying CSR between “a liberal notion of voluntary engagement and a contrary implication of socially binding responsibilities”. Rather than defined by law or through committing agreements negotiated with trade unions, voluntary CSR regulation involves a “market” for standards (Reinecke, Manning and Von Hagen, 2012) where corporations can shop around to select those standards that are best suited to business interests. Locke (2013) highlights that this leads to lack of enforcement of CSR-driven social auditing in that brands do not always withdraw orders when non-compliance arise, thus not providing credible sanctions necessary to commit suppliers to comply with standards.

### **Interplay between Industrial Democracy and CSR in global supply chains**

While it is still debated whether CSR is a step forward or backward in the fight for labour rights in the global economy (Anner, 2012; Wells, 2007, 2009), an emerging literature is exploring complementarities between union activities and CSR in global supply chains (Bartley and Egels-Zanden, 2015; Donaghey et al, 2014; Preuss et al, 2015; Reinecke and Donaghey, 2015). Industrial relations scholars have begun to recognise that the fragmentation of production challenges the ability of trade unions to govern labour standards (Marginson, 2016). First, effective collective bargaining requires embeddedness in a framework of supporting

institutions (Howell, 2005), which is often lacking in many developing economies. This often leads to brands taking on the role of enforcement traditionally carried out by the state. As such, a blurring of the distinction between Industrial Democracy and CSR takes place. Secondly, “chicken or egg” scenarios arise where strong unions are needed for a collective bargaining approach to emerge but strong unions often do not emerge until they have meaningful collective bargaining rights (Niforou, 2015).

Unions have increasingly engaged in complementary activities that induce companies to take responsibility (Compa, 2004, Egels-Zanden, 2009). This has prompted a growing relationship between unions and NGOs in terms of building international alliances to leverage CSR commitments of brands and retailers (Preuss et al, 2015; Reinecke and Donaghey, 2015). In a study of Indonesian apparel unions, Bartley and Egels-Zanden (2015) found that leverage points include whistleblowing in cases of major grievances, “naming & shaming” campaigns and local capacity-building. However, gains were modest, fragile and overall limited by the risks of leveraging CSR, rendering CSR a weak and unreliable platform. Other scholars have argued that CSR holds promise to contribute to promoting labour standards as transnational corporations assume quasi-governmental governance duties and fill regulatory voids left by the retreating state. Matten and Crane (2005; Williams, Abbott and Heery, 2015) observed forms of “civil regulation” where corporations co-design forms of oversight of global employment relationships. This line of scholarship has somewhat “mutated” the CSR concept in arguing for a more political conception of CSR in global supply chains where corporations take on the traditional functions of the state as supporting institutional frameworks (Scherer and Palazzo, 2011). Yet, even in this broader, more political conception of CSR, rather scant attention has been paid to the role of democratic participation of workers. Scholars have mainly focused on

the role of NGOs and activists (Den Hond and De Bakker, 2007), while organised labour has generally been seen as excluded from the definition and practice of CSR (Royle, 2005).

In sum, CSR offers opportunities for promoting labour rights due to the global reach of transnational corporations especially in contexts of ineffective industrial relations and weak government institutions. But the absence of democratic labour participation is problematic because corporate-driven CSR systems lack accountability towards its purported beneficiaries. This begs the question whether CSR can be infused with principles of Industrial Democracy to become more democratic? If yes, how would such an approach differ from a normal CSR-driven approach in terms of the design and implementation? The governance responses to the 2013 Rana Plaza collapse in Bangladesh, the Accord and the Alliance, were chosen as a revealing case to understand how differing global labour governance logics shape their design and implementation. The Accord is designed according to principles of Industrial Democracy but with corporations taking on a political CSR role, creating an interplay of Industrial Democracy and CSR. The Alliance is driven by corporations taking on a political CSR role alone. Thus, the research question driving the paper is to examine how differences in the logic of global labour governance translate into differences in design and implementation on the ground.

### **Research context: The Bangladesh Ready Made Garment Sector**

After China, Bangladesh is the second largest garment producing economy, with over 5,000 factories employing approximately four million, mainly women, workers. Since the garment sector emerged in 1976, it has dwarfed all others with \$21.5bn (approximately 80% of total) in annual exports and 13% of GDP, according to 2012/13 figures. Despite Rana Plaza, the sector grew to \$26.5bn in 2015 with the ambition to reach \$50bn by 2021. Anner (2015) describes

Bangladesh as “despotic market labor control” where workers lack market power alongside ineffective state protection. Since Rana Plaza, the government has publicly criticised efforts to increase regulation and unionisation in the ready-made garment sector. A hostile context for trade unionism, low density, lack of unity with 34 union federations in the garment sector alone (ILO, 2015), an immature system of industrial relations and political corruption point to the limitations of traditional labour governance in the sector. Following a change in the labour law post-Rana Plaza, the International Labour Organisation (ILO, 2015) reported a rise in factory-level union registrations to 437 by March 2015 out of at least 4,500 officially registered garment factories. Yet, according to the AFL-CIO Solidarity Center, only 200 are still active with many fewer functioning properly due to both employer resistance and lack of organising capacities and, with international pressure subsiding, the government rejected 73% of applications for new union registrations in 2015.

Weak labour power and hyper-competitiveness have not only depressed wages but investment in factory safety. As a result, the sector has been bedevilled by a series of fatal industrial accidents, including the 2012 Tazreen disaster which killed 112 workers and the Rana Plaza disaster of 23<sup>rd</sup> April 2013, often *despite* factories having been certified by reference to CSR auditing standards. Shortly before the collapse, two factories in the Rana Plaza complex, Phantom Apparels and New Wave Style, were audited against the Business Social Compliance Initiative’s standard. While legally, brands had no legal duty of care, pressure grew on them to take responsibility for the health and safety of garment workers after Rana Plaza. Two parallel initiatives emerged in response: The Accord in May 2013 followed by the Alliance in July 2013<sup>1</sup>. On the surface, they appear to be comparable, having as their central rationale worker

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<sup>1</sup> Assessments of factories not covered by the Accord and Alliance are carried out by engineering teams led by Bangladesh University of Engineering and Technology (BUET) and overseen by the Tripartite Committee in Bangladesh with the assistance of the ILO.



to where responsibility for employment issues (i.e. with the brand or the Bangladeshi employer) is located in the supply chain, as well as the degree to which workers are themselves involved in pursuing their interests. Workers' voice was theoretically significant because voice brings to the fore the issue of divergent interests between management and workers.

## **GOVERNANCE DESIGN**

The governance design of the Accord and Alliance reflects the different commitment of each initiative to principles of Industrial Democracy and CSR as outlined above: pluralist versus unitarist interest representation, credible commitments versus flexible voluntarism and orientation towards in- and output legitimacy.

### **Pluralism versus unitarism in governance structure**

*Labour-Driven governance in the Accord.* The Accord presents a pluralist structure in which labour is recognised at the highest decision-making level and acts an example of transnational co-determination. GUFs were heavily involved in the design of the first governance response to Rana Plaza: The Accord. IndustriALL and UniGlobal, representing garment workers in Bangladesh and retail workers in developed countries respectively, were to the forefront of negotiations with brands to push them to sign up to an agreement which labour actors had previously drafted but which had lacked sufficient commitments from brands to become live (Reinecke and Donaghey, 2015)<sup>2</sup>. This led to a negotiated, collective agreement between two GUFs, eight Bangladeshi unions (all IndustriAll affiliates) and over 200 buyer companies ("brands") from Europe, North America and Asia, with four labour rights NGOs as witness

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<sup>2</sup> The Worker Rights Consortium and the Clean Clothes Campaign in collaboration with Bangladeshi unions attempted to establish a 'Memorandum of Understanding' in 2012 for brands to invest in building safety in Bangladesh and Pakistan, yet it failed to gather the necessary support of at least four companies. Nevertheless, the 'Memorandum of Understanding' became the precursor to the Accord. For more information, see Reinecke and Donaghey, 2015.

signatories. Interviewees highlighted that the clear demarcation between the brands and unions as signatories, with the NGOs being “witness signatories” marked the Accord as being a collective agreement, distinct from CSR. Part of the rationale for GUFs to champion the Accord was the argument that traditional CSR initiatives failed due to not involving labour actors. As an experiment in transnational co-determination, the Accord presented an opportunity to integrate principles of Industrial Democracy to develop more robust mechanisms of worker representation.

The labour caucus insisted on the Accord being not just a voluntary commitment but a legally binding agreement, previously unseen in transnational supply chain labour governance. Brand signatories are legally bound to contribute financially on a sliding scale up to US \$0.5 million; members agree to maintain their purchasing volumes from Bangladesh for two years; and disputes go to binding arbitration which can be enforced through the legal system in the home country of signatory brands. The fact that the International Labour Organisation (ILO) took on the role of independent chair of the Accord Steering Committee is indicative of the pluralist governance structure. Having both labour and business interests at the table, the Accord more closely resembled the ILO’s tripartite governance structure than a CSR initiative, even if international brands rather than local employers of Bangladeshi workers represented business interests at the table. The Accord thereby sought to leverage the power of the brands, via enforceable commitments, while minimizing the degree to which the process is vulnerable to obstructionism by local employers, who were excluded from the agreement. By leveraging brand power to constrain local employer behaviour, the Accord created space for unions to play a meaningful role on safety issues, space that did not previously exist.



The Accord's governance structure creates a balance between the interests of labour and corporations. This created accountability and inevitably also rendered governance processes more conflictual. Ultimately, unions can hold companies accountable to the Accord's terms through binding arbitration, which rendered them powerful partners. As members of the Accord Steering Committee, unions raised controversial issues, such as brand responsibility for financing costly compensation and remediation. Unions were also the actors who handled complaints filed by Bangladeshi workers and raised them through the Accord which may otherwise not have been addressed.

*Corporate-Driven governance in the Alliance.* Led by Gap and Wal-Mart – a determinedly anti-union employer – some US-based brands, who were criticised for not signing the Accord, due to its legally binding nature, launched a parallel initiative two months after the Accord on July 10, 2013: The Alliance. Consistent with its CSR underpinning, the Alliance is essentially a voluntary sector approach by 29 brands, all bar one coming from North America. Respondents described the Alliance as a “me too” initiative which tried to make itself look like the Accord by adopting similar features: It is a collective approach by brands; shares broad commitments to workers' safety, training and voice; includes specialised auditing for structural, electrical and fire safety; and publishes auditors' reports online.

While on the surface the Accord and Alliance appear similar, the Alliance does not include unions as signatories. The Alliance involves local unions only in an advisory capacity through the Board Labor Committee: Workers have no formal voice in decision-making. Its board of directors is dominated by business interests: It includes four brand representatives, three outside experts, and an independent chair, and, until July 2015, the President of the Bangladesh Garment Manufacturers and Exporters Association (BGMEA) as representative of local

business interests. Described as learning from the “shortcomings of the Accord”, which faced strong criticism in Bangladesh for excluding local employers, the Alliance was instrumental in engaging with factory owners and the BGMEA. This explicit inclusion of local business actors rendered the Alliance more legitimate in the eyes of Bangladeshi employers and policy makers. Nevertheless, the BGMEA President resigned his seat on the board in July 2015 over differences with the Alliance, leaving neither body having the BGMEA on its governing body.

### **Credible commitments versus flexible voluntarism: Binding versus voluntary agreement**

A key difference is the legally binding nature of the Accord in contrast to the more traditional, unenforceable CSR approach by the Alliance. The rationale for requiring Accord signatory companies to maintain purchasing volumes from Bangladesh for two years was that employers could invest in developing workplace safety while having a steady stream of orders to fulfil. Thus the Accord was designed to develop stability while employers made the structural adjustments necessary to fulfil the principles of the Accord. Commitment to a legally binding agreement and funding a five-year programme was described as assurance that brands would not “cut and run” out of Bangladesh but were prepared to take responsibility.

In contrast, the Alliance is strongly aligned to Carrol’s (1999) notion that CSR as “soft” regulation is a voluntary commitment by corporations that is typically motivated by the business case. Voluntarism and the primacy of business interests are stressed in the deeds of the Alliance:

“The Corporation [Alliance] is a voluntary association of business organizations the primary purpose of which...is to further their common business interests by strengthening worker safety conditions at ready-made garment (“RMG”) factories within the business organizations’ supply chains in Bangladesh.”

While the Alliance also emphasises that it is legally binding, this is limited to fee payments. Brands pay relative to their purchasing volumes up to US \$1 million per year for an initial minimum of two years followed by a one-year notice period. Unlike the Accord, there is no commitment to maintain purchasing volumes or to legally binding arbitration. Where included, stakeholders are used in an advisory capacity rather than through a negotiated co-management approach. As such, worker safety is seen as an issue between the business interests in the supply chain, rather than an issue for both workers and business to solve. Thus, the Alliance resembles the legal construction of voluntary codes of conduct whose intended beneficiaries are companies rather than workers. This point about voluntary codes was clarified in 2007 when the International Labor Rights Forum brought a suit in California against Wal-Mart on behalf of workers for code prohibitions on overtime and non-payment of overtime wages (ILRF, 2015). Wal-Mart admitted to the courts that its code of conduct was intended to protect it from reputational harm, which meant that workers had no standing to sue.

### **Input and output legitimacy: Interacting to level up**

The Accord and Alliance were not simply competing initiatives, but their co-existence created strong legitimacy pressures to perform under the global spotlight, especially since comparisons were drawn (Labowitz & Pauly, 2014). Thus, the co-existence of the Accord and Alliance led to a “levelling up” effect. To begin with, input legitimacy was scrutinised from different sides. In the US, student-led actions and protests were initiated against the Alliance and its member brands for having no worker representatives, while in Bangladesh criticism was levelled against the Accord for excluding employers. To placate local employers, the Accord introduced formal meetings twice a year between the Accord steering committee and the BGMEA but without offering a seat on the steering committee.

Yet, overall, the Accord had established a high bar in terms of worker representation, brand commitments, inspection quality and transparency commitments. To be able to defend their program as credible, Alliance brands had no choice but to embrace some of the elements of the Accord (though not all of them), including commitments that no brand had previously made. For instance, by establishing a “Board Labor Committee” the Alliance created quasi-representation for workers that they had previously excluded. However, this was criticised as a “token” board with only advisory function. Unions are not part of the Alliance Board of Directors and thus have no institutional power to hold corporate signatories like Wal-Mart, Target or Gap to account. Both IndustriALL and the International Trade Union Confederation made it clear they expected their affiliates to decline invitations to participate. This led to the ironic situation that a Wal-Mart-led initiative drew legitimacy from the participation of unions affiliated with the Marxist-Leninist “World Federation of Trade Unions”.

Nevertheless, the creation of the Alliance Board Labor Committee created a slightly more pluralist approach that led to important changes: Nine months into its life, and following requests from the Board Labor Committee, an amendment to the bylaws introduced a clause to prevent reprisal against workers, which had hitherto been missing. However, while the Accord clause merely requires a worker to believe the building is unsafe to benefit from its protection from “undue consequences”, the Alliance requires “an imminent and serious danger to his/her life”. In addition, under the Accord, a factory found to be taking retaliatory action against workers for raising safety concerns becomes ineligible to supply for all Accord signatory brands, while the Alliance declares the supplier as being in breach of the byelaw but leaves the decision about whether to continue business at the discretion of individual brands.

In addition to pressures regarding input legitimacy, pragmatic and operational considerations placed pressures in terms of output legitimacy on both initiatives to harmonise their approaches. As Accord and Alliance brands often sourced from common factories, consistency necessitated common structural, fire and electrical standards. Harmonisation was achieved through an “intense and ongoing period of coordination and collaboration” in which the ILO (2015: 9) played “a central role in facilitating stakeholder cooperation in what have at times been complex negotiations”. Both initiatives agreed a common set of standards based on the Bangladesh National Building Code and a common reporting template to ensure consistency between inspection reports produced by the different initiatives, as well as mutual recognition of audits in factories that were shared between Accord and Alliance brands. Remediation plans followed the inspections and follow up inspections are carried out at factories. Where these are not carried out to a sufficient level, both agreements can declare non-compliant and ineligible to supply signatory companies. By September 2016, the Accord had severed relations with 41 factories with the Alliance suspending relations with 97 and escalating action against a further 138 factories. In sum, the high bar set by the Accord created a strong motivation for the Alliance to engage in leveling up. Thus, governance competition with a high-level initiative led to a stronger programme than would have been the case had the Alliance existed alone. But also the Accord faced comparison with the Alliance and thus was motivated to showcase the rigour of its approach. Yet, as outlined below, the implementation of the two initiatives also revealed the significance of the differences in their underlying logics.

## **IMPLEMENTATION: CAPACITY BUILDING VERSUS PROBLEM-SOLVING**

The Accord and Alliance differ in terms of the extent to which they aim to empower workers to solve problems on their own behalf, with important implications for their legacy as both initiatives are due to end in 2018. This was summed up by one interviewee who stated that “the

real difference between the Accord and the Alliance is...that the Accord is trying to build something for after 2018 [when it expires], while the Alliance is just trying to solve a problem in the short-term.” The Accord emphasises capacity-building because it is underpinned by an approach that workers need to be enabled to act on their own behalf and make safety self-sustaining rather than business taking care of their interests. Putting democratic worker voice at the core of safety processes, it has taken a proactive role in including workers in safety management and protecting them from retaliation.

### **Building Worker Voice under unfavourable conditions**

Both the Accord and Alliance aim to establish Organisational Safety and Health (OSH) committees with elected worker representatives, in line with Bangladesh Labour Law and in recognition of the need to create an internal, workplace-based mechanism to address safety concerns. However, given that in most factories worker representatives are selected rather than elected, this has proven to be a highly significant obstacle. Both initiatives established safety committee pilot programmes with the aim of rolling them out more broadly. In late 2015, the Accord started with approximately 70 unionised factories. While this picked the low hanging fruit as these factories did not require the organisation of elections, the fact that these OSH committees were overseen by the Accord meant that worker representatives enjoyed additional protection from retaliation over safety-related issues. Realising this, unions leveraged OSH committees as a protection mechanism for the union officers they placed on the committees. By framing the Rana Plaza disaster as an issue of worker disempowerment and lack of voice rather than just poor infrastructure, the Accord attempted to harness international pressure on Bangladesh to accept the need for effective industrial relations against resistance from local industry.

While both the Accord and the Alliance grant unionised workers – or representatives in non-unionised workplaces – the right to be present during inspections in principle, the Accord offered active intervention, which was necessary as implementation proved challenging in practice. Worker participation is unparalleled. In the prevailing social auditing model, workers are excluded from inspections and reports are proprietary to corporate clients. Participation of worker representatives required the Accord to work closely with unions to overcome resistance from factory managers, as well as the willingness to address violence and threats to union members. The Accord employed field workers who trained and worked proactively with union leaders of all fourteen IndustriAll affiliates in Bangladesh to inform them about their rights under the Accord to participate in inspections and obtain copies of inspection reports, made available in the local language. In cases where management refused to let unions participate in inspections, informed workers were able to get Accord case handlers to intervene and ensure their participation.

While inspections with the input of genuine labour voice occurred in relatively few factories, where it occurred, it was a powerful mechanism to strengthen worker voice by legitimising their representation. In the societal context of factory hierarchies where workers enjoy very little respect, interviewees highlighted the symbolic importance of workers seeing union leaders actively participating in factory inspections. For a local union president “to be seen walking through the factory with those inspectors” was considered a powerful demonstration that workers were eligible to speak on the same level with outside authorities and managers. In sum, the Accord realised it had to invest in longer-term capacity-building to support and defend workers facing threats, violence and intimidation to enable and sustain their genuine participation beyond one-off external interventions.

## **Worker compensation and factory closures**

The way the Accord and Alliance dealt with the issue of worker compensation for loss of earnings in cases of (unsafe) factory closures reveals key differences in their approaches: brand-benevolence versus labour-negotiation. While closures following the initial inspections only affected a small proportion of workers, it was heavily politicised. Out of 1454 Accord and 662 Alliance inspections, 34 Accord and 26 Alliance factories went to the Review Panel, established under the Bangladeshi National Action Plan, to decide on factory closures. These were factories that potentially posed immediate threats to life. This led to 16 closures under the Accord and 8 under the Alliance, of which 4 were shared. Bangladeshi law (Labor Act, 2006, Art. 20) requires that when workers' employment is terminated due to retrenchment (akin to redundancy), the affected employees must be paid compensation in the amount of 30-days wages for each year of service. Yet, in practice, it was often difficult for workers to pursue their rights. Thus, both the Accord and Alliance put in place different compensation mechanisms to deal with the employment implications of factory closures.

*Alliance – A brand-benevolence approach.* The Alliance pursued a “brand-benevolence” approach that relied not on workers to pursue their interests but on brands to act benevolently on the behalf of workers. The Alliance requires both employers and brands to pay two months' compensation each. The contribution by brands is paid directly from the Alliance member-funded Worker Safety Fund, which reserves 10% of its resources for the support of temporarily displaced workers. This provided a quick response mechanism to make interim payments of up to two months' salary paid directly by the Alliance. However, once this payment was made, the remaining two months' severance was an issue to be dealt with by the employer. The extent to which this was paid was unclear as workers often moved onto other jobs quickly and legal enforcement in Bangladesh is limited.



*Accord – A labour-negotiation approach.* Under the Accord, workers are entitled to six months’ compensation if the factory is temporarily shut and four months, in line with Bangladeshi law, if the factory is permanently shut. Out of eight factories which shut (with 18 re-opening after remediation and eight factory relocations), workers received full benefits in one and 2-3 months’ compensation (i.e. short of the legal requirement) in three cases. In four cases, compensation is yet to be finalised. Where a need for compensation arose, the Accord pursued a negotiation approach that was premised on the principle that compensation should be negotiated between employers and workers, that workers should be enabled to pursue their own interest, and that employers, rather than brands, should be made to take responsibility. Both brands and unions agreed that it was important to create a strong expectation of employer responsibility within the Bangladesh context and end a culture in which factory owners could “cut and run” with the profits while abandoning their legal responsibilities towards workers.

In the few cases where workers were only paid a lump sum severance, the Accord heavily relied on workers to raise the issue and put pressure on employers and brands. While some brands were responsive, overall the minutes of the Accord Steering Committee meetings recorded general criticism of brands not making adequate efforts. “This was the most frustrating part...They were really slow to step in and put pressure on the suppliers,” as one labour rights activist recalled. GUFs took an active role in supporting negotiations across the supply chain. IndustriAll employed one staff member in Europe and two in Bangladesh to facilitate conversations among workers, unions and brands. If needed, they would put pressure on the brands presently sourcing from closed factories by documenting non-compliance with the Accord, which could result in legal arbitration. Working in collaboration with IndustriAll and other international partners such as the Workers’ Rights Consortium, provided local unions

with an important opportunity to build capacity in pursuing negotiation skills, which were often absent due to a confrontational tradition of union-management relations. Moreover, once compensation payments were achieved, it allowed local unions to showcase their capacity to pursue workers' interest.

However, in the context of low-paid, female migrant workers with low literacy from rural areas, the Accord's negotiation approach was perceived as a cumbersome, "very slow process." Delays in compensation payments were seen as inadequate help to low paid workers who needed the money immediately to sustain their livelihoods. At time of writing, and more than a year after closure, unions are still negotiating compensation in the case of the closure of one factory. The case is complicated by the fact that it involves multiple buyers and a "yellow" union (that was *not* a signatory to the Accord) who agreed a compensation deal that undercut both the legal and Accord minima. Negotiating in permanently closed factories is difficult as neither unions nor brands have much leverage. Yet, the Accord provides a platform for negotiations to take place whereas without the Accord, the pathway for workers to receive any payment would be shut off on closure.

Trade unionists interviewed, including some Accord signatories, expressed greater satisfaction with the Alliance on the speed of compensation, which workers often received in part within days and could seek alternative employment. Even though the Accord requires an extra two months' payment, in taking a principled position that the employers pay compensation, it was much more difficult to enforce. However, while the Alliance provides a straightforward solution in the short-term, it does little to develop longer term associational capacity and negotiation skills for union federations to address other employment-related issues. In sum, the Alliance's focus on problem solving *for*, not *by*, workers proved more effective in terms of

compensation speed, leading to more immediate income payments for workers in need. In contrast, the Accord relied on the active role of labour actors in demanding compensation, thus trying to develop capacity, even if this was seen as slow and insufficient to serve workers' immediate needs.

### **Dealing with complaints - Utilization of workers' voice**

Both the Alliance and the Accord emphasised the need for workers to be able to voice critical safety concerns. Yet, they pursued different mechanisms; an individualised versus a collective mechanism of voice. The focus on worker voice grew out of the recognition that Rana Plaza could have been prevented if workers had had a voice to refuse unsafe work. But given low union density – with a union registered in only 21 out of 598 Alliance and 65 out of 1,500 Accord factories at the time of the disaster– facilitating worker voice was a challenging task

### ***Alliance Helpline 'Amader Kotha' - Utilization of individual voice***

The Alliance set up a toll-free worker helpline to provide workers with an independent reporting channel to raise safety concerns anonymously. The local Bangla name 'Amader Kotha' (= "Our Voice") implies a collective approach. But the helpline is designed as an individualised channel helping the Alliance to trouble-shoot problems where they occur. The Alliance (2015) marketed this mechanism as a "new, innovative approach to workplace problem solving" that aligned with the interests of factory managers as it "can be used to boost worker morale", consistent with a more unitarist approach. 'Amader Kotha' provides a "bridge between management and workers", as the hotline manager described it. Once implemented, each of the estimated 537,214 Alliance factory worker will be required to wear the 'Amader Kotha' helpline card in his/her badge. By November 2016, the hotline was implemented in 806 factories, covering almost all Alliance and some non-Alliance factories. Given the lack of

collective representation and functioning worker-management dialogue, the helpline was easily accessible to workers with low levels of education. Cooperation with the NGO ‘Phulki’, which had a long-term presence in factories as a childcare provider, was an attempt to gain workers’ trust. When a complaint is received, issues are passed onto factory managers and where serious safety concerns are raised, and Alliance technical experts become directly involved.

Statistical diagnostics provides a tool for the Alliance to analyse caller trends. Since its inception in July 2014 until October 2016, 98,580 calls were made. 21% of reported issues categorised as “safety” issues, while 79% were “non-safety” issues. Urgent safety issues included factory fires, locked exits, cracks in beams, columns and walls, shaking walls or windows and sparking or short circuits. This indicates that the hotline serves a useful mechanism to report life threatening issues such as locked fire exits, the cause of 112 deaths in Tazreen in November 2012. However, the crude classification system of worker concerns into what counts as “safety” or “urgent safety” raises questions over how workers, who are routinely silenced and punished for raising concerns by factory management, can voice complex grievances that may not be easily classifiable. The fact that 67% calls are made from outside of the workplace indicates that the helpline is used as a one-way communication channel for individual voice that workers find easier to access away from the workplace, rather than a mechanism to raise grievance collectively in the workplace where they occur. With 67% of helpline users being men, the helpline also suffers from the underrepresentation of women, potentially perpetuating the existing silencing of women voices in the workplace. In sum, the Alliance Worker Helpline illustrates a problem-solving mechanism that offers speed and scope in implementation but relies on brand-sponsored external intermediaries rather than utilising or developing workers’ own capacities to solve such problems.

### *Accord complaints mechanism – Utilization of collective voice*

The Accord sought to develop a mechanism of collective voice alongside the capacity for individual complaints. The Accord developed a complaints mechanism through which workers, unions or brands may collectively bring a complaint against a factory for unsafe workplaces or worker victimisation. After hearing the facts, the Accord takes on an arbitrator role, produces a “Resolution” which decides the Accord position on the case. The Accord received 67 complaints up to October 2016, 24 of which were filed by unions (see <http://bangladeshaccord.org/safety-complaints/>).

The strengths and the weaknesses of this approach have been demonstrated in two cases. The first time the Accord complaints mechanism was truly tested on a freedom of association issue involved the “Dress and Dismatic” factory in Rampura, Dhaka. Management was resistant to allowing worker representatives to accompany a factory inspection in 2014. This escalated six months later when union members, using the Accord inspection report, reported weight overload to the Accord. This prompted an unannounced visit by the Accord. When the factory management retaliated against nine workers by forcing their resignation, they complained to the Accord. Despite it being a rather long, drawn out process, the workers decided to keep fighting with support of their union. After six months of investigation under the official complaints procedure, the Accord drew up a resolution ordering the reinstatement and back-payment of wages for the nine workers, and made clear that the factory had to comply if they wanted to supply Accord brands. In December 2015, this was implemented by management.

The second case involves “BEO Apparel,” a supplier to the German discounter Lidl, which employed approximately 1000 workers in Gazipur, a suburb of Dhaka. The factory-level union complained to the Workers’ Rights Consortium about a number of workplace issues in

September 2014. One was related to a boiler explosion, making it an Accord-related issue of worker safety. When the Accord got involved, BEO management first retaliated against the unionised workers who complained, claiming it was over performance issues, and later sacked 48 workers who had participated in an Accord-convened meeting. Acting on the complaint filed on the grounds that BEO fired workers in retaliation for raising safety issues, the Accord subsequently issued a resolution against the factory and ordered reinstatement of the workers. Despite numerous meetings and negotiations between management, owners, unions, and the Accord with the involvement of the Workers' Rights Consortium and UNI Global, the factory management refused to reinstate the workers. The conflict erupted in violence on 16 February 2015 when Accord negotiators and staff from Lidl importers Distra and Chicca witnessed the beating with sticks and iron bars of the union general secretary and employees, and were themselves only able to leave factory premises after summoning the police. Fifteen days later, the factory owner decided to close the factory, as well as another factory as Accord brands were required to refuse to source from a factory under the same ownership. Workers were paid the legal severance payment and back payment to the union members who were sacked. At time of writing, Article 49 of the Accord, which requires brands to facilitate workers getting alternative employment where factories close, is being used in an attempt to find the workers jobs.

In both cases, workers went for over six months without pay but eventually received it, even if factory closure was a highly unsatisfactory outcome in one case. However, such cases set important precedents in terms of the Accord enforcing standards including freedom of association. Both cases contributed to capacity building as the unions had to develop skills to make claims supported by evidence, negotiate with employers, and leverage brand relationships to exert pressure.

In comparison, the Alliance’s approach was primarily one of identifying individual voice first. This approach viewed safety as being an issue for the Alliance and factory management to solve rather than being an ongoing capacity issue for workers to negotiate. External support can provide effective and immediate intervention but lacks a longer-term mechanism for when funding is withdrawn. In contrast, the Accord focused on developing collective worker capacity to create a self-sustaining mechanism. However, the complaints mechanism was a long process and difficult for non-unionised workers to access. In addition, developing collective processes requires a favourable institutional framework supported by legal enforcement and the willingness of management to support, both of which are lacking in the Bangladesh context.

## **Discussion**

While there are tensions between the Industrial Democracy and CSR approaches to transnational labour governance, the findings of this article highlights that the two approaches are not mutually exclusive: The Accord, as a form of transnational co-determination, is rooted in the organising principles of Industrial Democracy but with elements of CSR as well. The Alliance, as a form of industry self-regulation, is rooted in the principles of CSR. These differences are summarised in Table 3 following the dimensions outlined at the beginning of the article.

<<<<<<<<<< Insert Table 3 >>>>>>>>>>>>

The Accord demonstrates a strongly pluralist orientation with inclusion of worker representatives in its core governance structure, while the Alliance demonstrates a more unitarist approach but with the addition being made of worker representatives in an advisory capacity. This shift in the Alliance towards some, if limited, representation of labour illustrates

the pressures for input legitimacy it faced especially following its comparison to the Accord. In terms of input legitimacy, the Accord contains significant institutional actors in transnational employment relations. However, it must be noted that in terms of both density and coverage in Bangladesh, the unions are far from being encompassing groups in the Olsonian sense. In addition, the exclusion of the actual employers diverges somewhat from the Industrial Democracy ideal. In terms of output legitimacy, a key feature of the work of the Accord has been to develop a context where workers become agents for their own interests, which is aligned with the underpinning logic of Industrial Democracy. Without doubt, this is one of the most difficult tasks the Accord has set itself as there is little existing institutional support nor political appetite for worker agency in Bangladesh. The CSR approach of the Alliance has favoured external intervention, with for example, an external contractor providing its helpline and then intervening rather than assisting workers in bringing and processing threats collectively. Similarly, in the area of worker compensation for factory closures, providing quick and efficient recourse for workers comes at the expense of developing worker agency. In terms of credible commitment versus flexible voluntarism, the Accord's legally binding nature in three areas meant that brands were legally accountable in terms of ensuring that contracts with non-compliant factories were suspended or terminated. This level of enforceability is a major departure from voluntary social auditing, where credible sanctions are rarely applied. The Alliance followed this approach and, while legally binding in a narrower sense, the co-existence of the Accord has helped to ensure that inspection standards remain high. These factors combine to lead to a number of key lessons that can be drawn from Industrial Democracy and CSR logics in developing labour rights in global supply chains.

### **Lessons from engagement with CSR**



Engagement with CSR can provide leverage points for unions and labour rights NGOs to develop improvements in labour conditions in the context of a lack of national institutions. The case of the Accord and Alliance shows how global governance initiatives can leverage the power and transnational reach of consumer-facing brands, the former via enforceable commitments, to put pressure on local employers. Thus, market-based pressures on corporations' brand image rather than a real threat of disrupting production at the workplace is where the Accord and Alliance find their real leverage. In its mobilisation of this CSR mechanism, the Accord hence differs from traditional collective bargaining under Industrial Democracy in terms of both design and implementation. In terms of design, the Accord is based upon an agreement with brands at the buyer end of the supply chain rather than the employers who are party to the employment relationship. In terms of implementation, the Accord is seen as breaking new ground in using private enforcement capacity in absence of meaningful governmental regulation<sup>3</sup>. Making sourcing contracts with international brands contingent on compliance with the Accord and/or Alliance increases the extent to which Bangladeshi employers can be held to account. In sum, by engaging with brands rather than employers, the unions are utilising tools of the CSR approach to gain leverage to support workers. This leverage undoubtedly was enabled by the unique circumstances of the Rana Plaza disaster. However, the model of utilising pressure on brands proved an invaluable tool from which global unions can learn.

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<sup>3</sup> Strictly speaking, the Accord and Alliance are not exclusively private initiatives, but build on and intersect with the enforcement institutions of the state. In both initiatives, the ultimate legal authority to close factories lies with the Ministry of Labour and Employment (MoLE) Inspector General. Recommendations for closure of factory buildings are assessed by the MoLE Review Panel, established in May 2014. Both the Accord and Alliance build on existing law and policy making in Bangladesh, such as the National Action Plan on Fire Safety and the National Building Code. Yet implementation of these laws is often lacking. In the Accord, firm compliance is embedded in international commercial arbitration mechanisms so that state courts would ultimately rule over businesses if they do not abide by factory safety standards of the Accord.

While CSR alone does not bring about meaningful institutional change (Bartley and Egels-Zanden, 2015), a key advantage of the CSR approach is that it can bring about immediate problem solving when there is a lack of an institutional framework in global supply chain contexts, demonstrating the need of external intervention through market power. By using brands' financial resources, the Alliance was able to make short-term effective interventions by paying compensation directly out of a central fund. In doing so, while workers may not have received as much as they would have been entitled to under the Accord, the speed at which payments were made, enabled workers to move into new jobs more quickly and with less financial precarity.

The strengths and limitations of CSR is also illustrated in the related case of providing compensation for Rana Plaza survivors and the dependents of the dead. Primark offered immediate short-term aid to all survivors and developed a compensation programme for those who were employed by Primark supplier New Wave Bottoms (Primark, 2016). This ad-hoc CSR response was exemplary and unparalleled. But of course it could not ensure that all workers would receive accident compensation in the future. In contrast, the ILO's approach of developing a collective Rana Plaza Compensation Arrangement is illustrative of the Industrial Democracy approach (ILO, 2015). Negotiated with representatives from the government, the local garment industry, brands, trade unions and NGOs, this took comparatively longer to be put in place. Yet, it aimed at creating a lasting legacy in terms of building local governance capacity and laying the foundation for a National Employment Injury Insurance scheme. Even if effective for problem solving in the short term, reliance on brands cannot be a long-term solution, as it makes workers' rights contingent on continuing external support, thus highlighting the need for capacity building going forward.

## **Lessons from engagement with Industrial Democracy**

The Industrial Democracy approach offers lessons in terms of the need to build a participatory mechanism for labour involvement to empower labour actors to pursue their own interests in the long term, thereby building self-sustaining mechanisms of worker voice. The Accord places significant stress on building capacity to enable workers to develop meaningful collective representation in the area of health and safety as a preventative mechanism, but also in the area of workers' rights more generally such as compensation and complaints. Capacity building requires a longer time horizon with discussions taking place what will come on the expiration of the Accord and Alliance in 2018.

However, capacity building for worker representation is contingent on embeddedness within functioning institutional frameworks, both at the national and international level. The absence of collective worker representation capacities and weak legal support test the ability to develop meaningful collective, representation mechanisms. Unions are then more dependent on collaboration with other governance actors. By bringing together actors from along the global supply chain, the Accord demonstrated an effort to build effective processes of “transnationally co-ordinated global labour solidarity” (Wells, 2009: 577).

Finally, while much of the mainstream CSR literature tends to downplay tensions between corporate interests and those of other stakeholders, including workers, transnational co-determination based on Industrial Democracy affords a more open acknowledgement and accommodation of diverging interests. CSR-based self-regulatory initiatives often seek to “look like” more socially controlled initiatives and are thus “remarkably similar in their organizational design, processes and rhetoric” despite lacking pluralist control (Dingwerth & Pattberg, 2009; 708; Fransen, 2012). But the risk is that diverging voices are marginalised and

resulting policy instruments deviate significantly from those preferred by beneficiaries (Khan et al., 2007; Koenig-Archibaldi and Macdonald, 2013). This underlines the importance of transnational co-determination where recognised labour representatives participate in both the design and implementation of global labour governance.

### **Interacting to levelling up**

Finally, while scholars have debated whether co-existing governance initiatives lead to a race to the bottom (Reinecke et al, 2012), this paper suggests that it may also create a process of “levelling up.” The labour-driven Accord established a high bar in terms of brand commitments, inspection quality and transparency against which any follower initiative would be measured. This placed the Alliance under greater scrutiny to perform and deliver on its promise. Thus, a levelling up effect is likely to be contingent on the existence of, first, a robust initiative where labour is included as a party, and second, strong legitimacy pressures. When negotiating the Accord, the labour caucus placed a high emphasis on developing credible commitments through a legally enforceable mechanism rather than voluntary CSR mechanism, which created greater constraints on business interests. Thus, even if business-dominated initiatives remove elements seen as counter to business interests, such as litigation risks in the Alliance, the existence of a more stringent alternative places them under greater scrutiny to perform.

Crucially, levelling up worked because of dynamics of legitimacy: the initiatives were subjected to scrutiny at both ends of the supply chain. Under public scrutiny and pressures for legitimacy, co-existence of competing initiatives may lead to common “meta-standards” (Reinecke et al, 2012), such as, in our cases common inspection standards, mutual recognition of inspections of shared factories and public reporting. Scrutiny is likely to depend on the watchdog roles of unions and labour rights groups, such as the Workers’ Rights Consortium,

criticizing the Alliance over worker participation and repeatedly calling for Alliance brands to sign the Accord. As a corollary, the Accord faced more scrutiny and political pressure in Bangladesh in terms of the need to engage with local actors.

## **Conclusions**

This article highlights that the underpinning logic of transnational governance initiatives has a significant role in shaping their design and implementation, resulting in transnational co-determination with an emphasis on capacity building versus industry self-regulation with an emphasis on (business) problem solving. Did the co-existence of two competing initiatives mean that they mutually undermined each other, or positively influenced each other? From a pragmatic point of view, both initiatives are positive interventions to ensure safety. The co-existence of competing initiatives meant that both had to demonstrate that each was as effective as the other, and that levelling up took place. The best indication of the effectiveness of the Accord and Alliance is that, to date, there has been no other major industrial accident in Bangladeshi garment factories since Rana Plaza, despite serious safety issues being identified in almost all factories. Compared to the rate of accidents prior to Rana Plaza, this meant that many lives were saved. Moreover, both initiatives have proved that collective oversight over inspections can overcome some of the limitations of previous auditing approaches, such as lack of specialised expertise and lack of effective sanctioning. However, while the capacity building supported by the Accord in particular will have a lasting impact beyond 2018, governance efforts need to go beyond the five-year time horizon to continue to address institutional constraints and strengthen worker voice.

## **Acknowledgements**

We thank Gregory Jackson and three anonymous reviewers for their valuable guidance. We also thank Jennifer Bair, Sean Buchanan, Ian Greer, Laura Gutierrez, John Kelly, Paul Marginson and Dirk Matten for their insightful suggestions on earlier versions of this article, as well as participants at the BJIR conference on CSR and Labour Standards at the LSE 2015, ILERA Capetown 2015, Academy of Management 2016, LERA 2016 and GLOBE Warwick Law School 2016.

## **Funding**

This work was financially supported by the British Academy/Society for the Advancement of Management Studies SG141754 grant “Developing innovative international labour governance: the response to the Rana Plaza disaster”.

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**Table 1: Industrial Democracy versus Corporate Social Responsibility**

	<b>Industrial Democracy</b>	<b>Corporate Social Responsibility</b>
<b>Conception of the firm</b>	Pluralist <ul style="list-style-type: none"> <li>• Recognition of the capital-labour divide</li> <li>• Competing interests and political struggle</li> <li>• Governance agreements as negotiated balance of worker and corporation interest</li> </ul>	Unitarist <ul style="list-style-type: none"> <li>• Assumes shared interests</li> <li>• Possibility of win-win / shared value</li> <li>• CSR should be instrumental to profit maximization and shareholder value</li> </ul>
<b>Input legitimacy</b>	Participative representation <ul style="list-style-type: none"> <li>• Democratic representation of workers</li> <li>• Worker participation in democratic process of decision-making</li> </ul>	Corporate control limited by legitimation pressures to include societal stakeholders <ul style="list-style-type: none"> <li>• Brands retain control, yet adoption of multi-stakeholder governance structures to gain legitimacy</li> </ul>
<b>Output legitimacy</b>	Focus on process rights for workers <ul style="list-style-type: none"> <li>• Freedom of Association</li> </ul>	Focus on measurable outcomes <ul style="list-style-type: none"> <li>• Hours, wages, health &amp; safety</li> <li>• Effective solutions</li> <li>• Consumer oriented</li> </ul>
<b>Accountability</b>	Credible commitments <ul style="list-style-type: none"> <li>• Aim is to negotiate binding agreements</li> <li>• Corporate accountability</li> </ul>	Flexible voluntarism <ul style="list-style-type: none"> <li>• Voluntary participation beyond legal obligations</li> <li>• Corporate reputation and image</li> <li>• A “market” for CSR programmes</li> </ul>

**Table 2: Comparison of Accord and Alliance (as of October 2016)**

	<b>Accord</b>	<b>Alliance</b>
<b>Governance model</b>	Transnational co-determination	Industry self-regulation
<b>Coverage</b>	1646 factories	770 factories (50% shared with Accord)
<b>Unsafe factories reported to review panel</b>	34	26
<b>Duration</b>	5 years (2013 – 2018)	5 years (2013 – 2018)
<b>Legal commitments by signatory brands</b>	5 years' participation Membership fees Maintaining purchasing volumes Binding arbitration process in legal system of home country	Minimum 2 years' participation Membership fees
<b>Constituency</b>		
<b>Brands</b>	>200 International brands from 20 countries.	28 North-American retailers representing 90% of RMG exports to the United States from Bangladesh plus one Australian retailer.
<b>Organised Labour</b>	IndustriALL, UNIGlobal, 6 Bangladeshi unions (IndustriALL Bangladesh Council, BIGUF, BGWIF, ...)	None on Board. Five members of Labor Committee
<b>Other</b>	Four international labour rights NGOs are “witness signatories.” (Clean Clothes Campaign, Workers Rights Consortium, International Labor Rights Forum, Maquila Solidarity Network)	“Supporting associations”: North American trade associations and the NGO BRAC. Li & Fung serves in an advisory capacity.
<b>Governance</b>		
<b>Steering Committee</b>	3 Brands + 3 Unions, chaired by ILO	4 Brands + Bangladesh industry member + experts + elected chair
<b>Advisory</b>	Board of Advisors with Bangladesh industry associations BGMEA/BKMEA	Board of Advisors with 12 multi-stakeholder industry experts Labour Committee of the Board

**Table 3: Accord and Alliance in Comparison**

	<i>Accord</i>	<i>Alliance</i>
<i>Conception of firm</i>	Pluralist, resulting in trans-national co-determination	Predominantly unitarist, resulting in industry self-regulation.
<i>Input legitimacy</i>	Inclusion of union representatives but low density and coverage. Exclusion of actual employers	Business driven representation but introduced some labour representation to establish credibility
<i>Output legitimacy</i>	Focus on developing solutions through inclusion of worker representatives. Focus on institution building though from very low baseline	External intervention driving provision of solutions. Focus on developing rapid solutions
<i>Credible commitment or flexible voluntarism</i>	Legally binding agreement.	Voluntary except fee payment.