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## **THE TWILIGHT OF CSR**

### Life and Death Illuminated by Fire

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In the years since the Interfaith Center on Corporate Responsibility (ICCR) was founded (1971–1973, see ICCR 2011) most of the corporate world has adopted nominal policies that project individual firms as ethical citizens, compliant with environmental and social standards and concerned about the well-being of employees—including those it indirectly engages through contracting arrangements. Corporate codes of conduct have become common and multiparty codes are proliferating. This is especially so in the global apparel business, where sweatshop, child labor, and forced labor abuses have proved extremely embarrassing and potentially harmful to reputation-sensitive brands and retailers (Esbenshade 2012 and in chapter 3 of this volume; Anner, Bair, and Blasi 2012). This paper places the issue of labor standards in the strategic context of a global “race to the bottom” in the apparel business, using US trade data as evidence for worldwide cheapening of garments and the labor of the people who make them.

In this context, researchers concerned about global labor standards and the activist antisweatshop movements have been skeptical about voluntary codes of conduct and self-policing, internally held social compliance audits. This paper examines factory fires and building collapses in Bangladesh as a serial case study in CSR efficacy. It uses quantitative data jointly developed by the author and staff members of the International Labor Rights Forum and the Clean Clothes Campaign and briefly reported in the ILRF document “Deadly Secrets.” From that data are gleaned six high-mortality incidents for further study. For each of these fires (including two building collapses), the brands and retailers who were supplied from the factory are examined in terms of CSR policies. Very high proportions

of the traceable customers of the fire-damaged and collapsed factories have had outwardly clear CSR policies that seem to hold them and their business partners to high standards of health and safety in the workplaces with which they are engaged. The conclusion is that CSR policies have neither prevented nor could they in themselves prevent the death and injury of thousands of workers in this particular place and era. Alternative policies and strategies are discussed at the end.

## The Dawn of CSR

In a pathbreaking 1957 article in the *American Economic Review*, the economist Carl Kaysen called the modern corporation “soulful” (Kaysen 1957, 314). Kaysen’s much-commented-on essay argued that the modern corporation was:

No longer the agent of proprietorship seeking to maximize return on investment, management sees itself as responsible to stockholders, employees, customers, the general public, and, perhaps most important, the firm itself as an institution. To the customers, management owes an improving product, good service, and fair dealing. Where customers are themselves firms, not households, the emphasis on fair dealing is especially strong. To the employees, management owes high wages, pensions and insurance systems, medical care programs, stable employment, agreeable working conditions, a human personnel policy. Its responsibilities to the general public are widespread: leadership in local charitable enterprises, concern with factory architecture and landscaping, provision of support for higher education, and even research in pure science, to name a few. To the firm itself, as an institution, the management owes the primary responsibility of insuring the maintenance and, if possible, the expansion of its long-run position; in other words, sustained and rapid growth. (Kaysen 1957, 313)

Kaysen’s perspective on the evolving global political-economic process proved eventually and largely parochial. Bounded by an American economy that was then more or less autarchic, and an American state that was thoroughly hegemonic in the world political economy, Kaysen did not anticipate the emerging era of global capitalism and the price competition that would supplant the “monopoly capital” era of which he was one of the high priests.<sup>1</sup> The high-price, high-wage economy of the Keynesian era was not sustained under the withering fire of global competition.

Despite the structural limits of the “soulful corporation” conception, its cultural projection was spot-on. When the low-income areas of US cities occupied

by African American residents were the scene of repeated civil disturbances in the 1960s, many US firms—some with headquarters or other facilities at risk—began to deploy some resources to acknowledge “responsibility” to local communities. By 1973 the ICCR had taken the “radical” campaign for disinvestment from firms invested in apartheid South Africa into shareholder activism led by church-held pension funds.

Vernon Jordan, the Washington, DC, political and corporate insider who headed the Urban League, captured the CSR concept in a speech quoted by the *Washington Post* (1989):

“The philosophy of corporate social responsibility, as it has evolved in America, is rooted in the belief that such behavior is an essential precondition for the continued existence of the free enterprise system. It was also recognized that in a free society, *image is important—and that a good corporate image is both a defense against attacks on corporations and a policy supportive of business success . . .* Those beliefs were supported by surveys that showed that companies with strong social responsibility programs enjoyed greater financial success than others. *Put bluntly, in America, corporate social responsibility is good business.*” (*Washington Post*, January 24, 1989. Emphasis added)

By the middle of the 1990s a quarter-century of deindustrialization and outsourcing had already provoked both journalistic and academic attention to labor conditions in the factories abroad producing for the US market (Buck 1979; Flannery 1978; Ross and Trachte 1983). In 1995 California and federal authorities raided El Monte, an apartment complex near Los Angeles, where seventy slave laborers had been held captive while producing clothing for name brands. The next year, the investigator Charles Kernaghan revealed that clothing branded by a major daytime television personality, Kathie Lee Gifford (who had pledged some profits to children’s causes), and which was retailed by Walmart, had been implicated in child labor in Honduras and sweatshop labor in New York (Su 1997; Ross 2004, 223–27). These, among many specific and general exposés, subjected major brands and retailers to significant reputation damage by association with sordid labor conditions.

The 1990–2000 period was called by one group of researchers a “momentum building” phase of the evolution of CSR. The period saw a rise in concern from citizens, consumers, public authorities, and investors, which can be attributed to an increase in media attention to business practices and the modern communication technology that made the spread of this information possible. Membership organizations were founded and social auditing began (Katsoulakos et al. 2004, 15–17; chapter 3 of this volume).

## Codes of Conduct

The typical embodiment of a firm's commitment to social responsibility is its adoption of a code of conduct. Eighty-six percent of the Fortune Global 200 had codes of conduct as of 2007. This was double the rate of a decade ago (KPMG 2007). Of those with codes, 88 percent monitor compliance in some way and 40 percent use external auditing. Sixty percent of code users, that is, about 103 of the top 200 firms, screen "business partners" against their code criteria. All of the code users have some form of reporting to the company board (KPMG 2007, 18–19).

In our studies of Bangladesh fires we did not come across a single prominent Western brand or retail buyer that did not have a code of conduct, and they all contained references to worker safety. Although codes of conduct are the basic statements of firms' CSR commitments, they are implemented in a variety of ways. Self-auditing, hired auditors, and membership in and use of third-party auditors are among these. Esbensen discusses implementation in detail (2012; and in chapter 3 of this volume). Subscribing to industry-wide codes and monitoring initiatives often entails inspection of a firm's contractor factories and in one way or another certification of them as satisfying the code.

The evolution of CSR initiatives has taken on more importance as the form of global capitalism becomes more complete, more dominant, and more institutionally embedded (see Ross and Trachte 1990). The most recent and most elaborated ideology in the era of globalized capital is economic neoliberalism. That is, the perception and the prescription that international markets and trade are best left to operate freely without government intervention. As the prevailing ideology (but not the necessary condition) of global capitalism, neoliberalism is also the ideology that dominates the global policymaking process (Rosen 2002, 13).<sup>2</sup>

Absent effective legal regulatory mechanisms that operate at global scale—or governments willing to use them—social actors attempt to pressure directly the multinational corporations and firms of global capitalism. These, in turn, adopt various CSR policies, like the codes and attendant auditing, as protection from criticism, brand damage, and legal liability. Taken together—activist movements and corporate response—there emerges a reified theory of dubious validity—consumer sovereignty. Derived from neoclassical economists, the proposition has been put in equally naïve terms by both consumer activists and libertarian zealots.

With entirely different intent, F.A. Hayek's American acolyte, Representative Ron Paul, told the US House of Representatives: "The consumer is king, not the businessman . . . we should crown the consumers king and let them vote with their money on who should succeed and who should fail . . . Consumer

sovereignty simply means consumers decide who succeeds or fails in the market. Businesses that best satisfy consumer demand will be the most successful. Consumer sovereignty is the means by which the free market maximizes human happiness” (Paul 1999, H11683–H1168).

The size of the sales effort including advertising stands as the simple refutation of the proposition regarding consumer sovereignty. As of 2009 the combined marketing and advertising expenditures was an estimated \$778 billion (Myers 2007), and advertising agencies alone employed 411,000 persons; we may surmise that products are not selling themselves.<sup>3</sup> There is some evidence such expenditures are growing faster than the GDP.

## Lack of Effectiveness

At its heart CSR is based on an aspiration: that maximum profitability can simultaneously be maintained with internationally acceptable labor standards. Although rarely committing firms to paying workers a living wage, these codes universally commit firms to obeying the local legal minimum wage and overtime laws (see chapter 3).

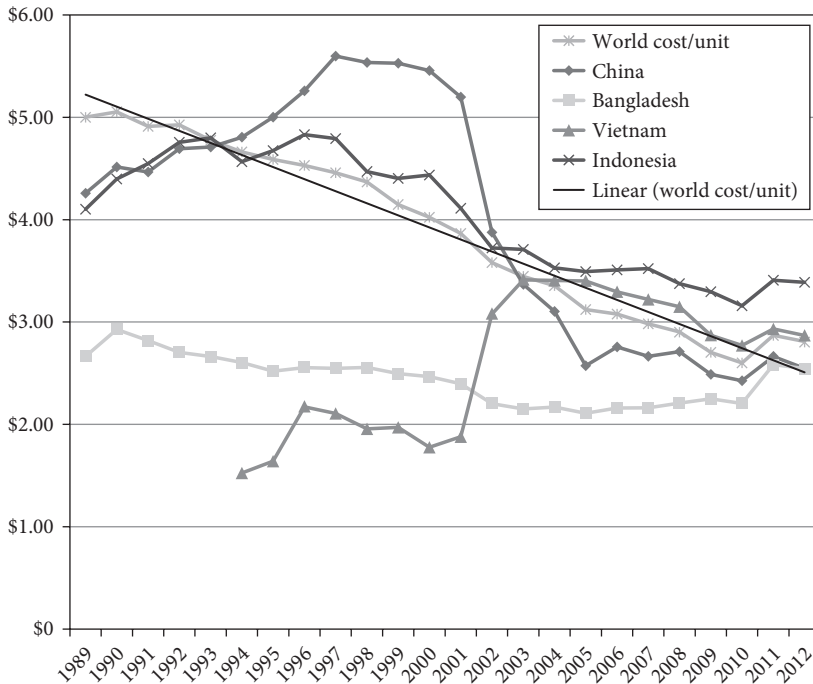
What is the likely outcome, however, if profit maximization or lowest price supply comes in conflict with maintaining high standards? Below I will show why this is apt to be the case, but in principle the problem with a nonbinding, self-imposed, self-monitoring system is that the incentives are not aligned so as to produce good behavior when good behavior is challenged by cost considerations. Should an audit show a contractor is out of compliance with this or that item on a checklist, the firm may ignore it, give its business partner some time to correct it, remind itself to look at the situation again at some later date, *or do nothing*—a firm may turn to another factory entirely. The factory owners have only the last option to fear; the former responses can all be “worked out.” The firm’s interest in finding another factory that will cost more to produce the same or future items hinges only on discovery by external agents, in particular retail consumers, that some embarrassing lapse has been found. In almost all cases the compliance audit report has been held closely; it is either entirely confidential or aggregated among others in a way that holds no one accountable (see chapter 3).

The empirical reality is that the global apparel context is one of ruthless competition and descending prices: the firms have not been willing to sacrifice low cost for worker safety or decent wages. Data gleaned from US government and World Trade Organization sources document the global context and Bangladesh’s place in it.

### The Race to the Bottom

The context of CSR and the Bangladeshi fires is set by global clothing prices and costs. The United States Office of Textiles and Apparel (OTEXA 2012), a division of the Commerce Department, maintains an online database of imports by item, country, volume, and dollar value. The volume measure is a notional unit—SME (square-meter equivalent). By dividing an annual dollar volume by the annual unit volume, the result is the per-unit cost of an imported item for any year from 1989 to the present (see Ross 2009; and Anner, Bair, and Blasi 2012 for prior uses of this method). Having done this for 1989–2012 we then used the Bureau of Economic Analysis GDP deflator index (BEA 2015) to convert all values to 2005 dollars. The result is figure 4.1.

The real, inflation corrected, world cost per unit of imports has declined steadily. Not shown is that after 2005, that is, the end of the Multi-Fiber Arrangement, there was an abrupt shift of suppliers from the Western Hemisphere to Asia (see Ross 2009). For example, Mexico’s share of imports has



**FIGURE 4.1** Real per-unit cost of imported clothing, US, 1989–2012 (2005 dollars), author’s calculations

Source: Office of Textiles and Apparel, US Department of Commerce

dropped from about 15 percent to under 5 percent; there was a high correlation between source shift and GDP/capita: the work flowed away from the better paid to worse paid.

Bangladesh consistently has been the world's low-price supplier. Surprisingly, these data show that China—despite widespread reports of wage increases in the export sector (Fung 2011)—is still a low-price supplier. World per-unit cost has dropped 44 percent since 1989, 30 percent since 2000, and 16 percent since 2004.<sup>4</sup> In the meantime, import penetration has risen to over 97 percent (AAFA 2012). It is in the face of this global regime of price cutting that pious declarations become aspirational, not operational. The result is that a declining fraction of American expenditure is devoted to clothing. In 1984, 6.2 percent of the average household's expenditure was on clothing; in 2011 it was 2.8 percent.<sup>5</sup> Household average incomes rose 34 percent from 1984 to 2011, but apparel costs increased only 22 percent (US Bureau of Labor Statistics 2012).

Although it is arguably the case that firms have some control over their prices—they are highly concentrated, with but a handful of chain department stores controlling most sales—the aggressive discounters, led by Walmart, put a downward pressure on all of them. In the meantime, the tens of thousands of contractor factories in the global export business are price takers: they scramble for bids with differences at pennies per garment. The iron discipline of the race to the bottom is not a friendly context for piety. In what follows we will show how declarations of corporate social responsibility become epitaphs.

## Fires and Collapses in Bangladesh

Bangladesh has a singular history of factory fires in its apparel industry. A mixed-method study that included the years 1990–2012 produced an estimate of over one thousand deaths in factory incidents (through 2011, prior to the Rana Plaza collapse in April 2013), almost all of these from fires in apparel factories (Claeson 2012).<sup>6</sup>

The total of 1,071 deaths, of which 982 were from fires, is no doubt an underestimate. Some of the data were generated through searches in the English-language sources of the news database LexisNexis. For the period 2006–2009, the database searches on factory fires in Bangladesh produced a mortality figure of 128 persons. However, Bangladesh's Fire Service and Civil Defense Department reported 414 factory fire deaths for the 2006–2009 period. For the years before and after 2006–2009, our estimates are based largely on LexisNexis searches.

Despite this apparent underestimation by our source, the question arises as to whether Bangladesh has a distinctive history of factory fires. A LexisNexis search

**TABLE 4.1** Deaths from factory fires, Bangladesh 1990–2012

YEARS	DEATHS	DEATHS FROM FIRE
1990–2012	1,071	982
2006–2009	414	414
2010–2012	206	198

Data from NGO and LexisNexis sources, as compiled by the author and reported in Claeson 2012.

**TABLE 4.2** Relative story counts, factory fires, selected countries

COUNTRY	NO. OF STORIES	DATETIME YEARS OF STORIES
Bangladesh	595	1995–2013
Pakistan	332	1993–2013
China	219	1992–2013
India	65	1995–2013
Thailand	52	1993–2013
Vietnam	9	1994–2011
Mexico	3	2000–2001
Philippines	2	2007–2010
Indonesia	1	2004

Source: LexisNexis.

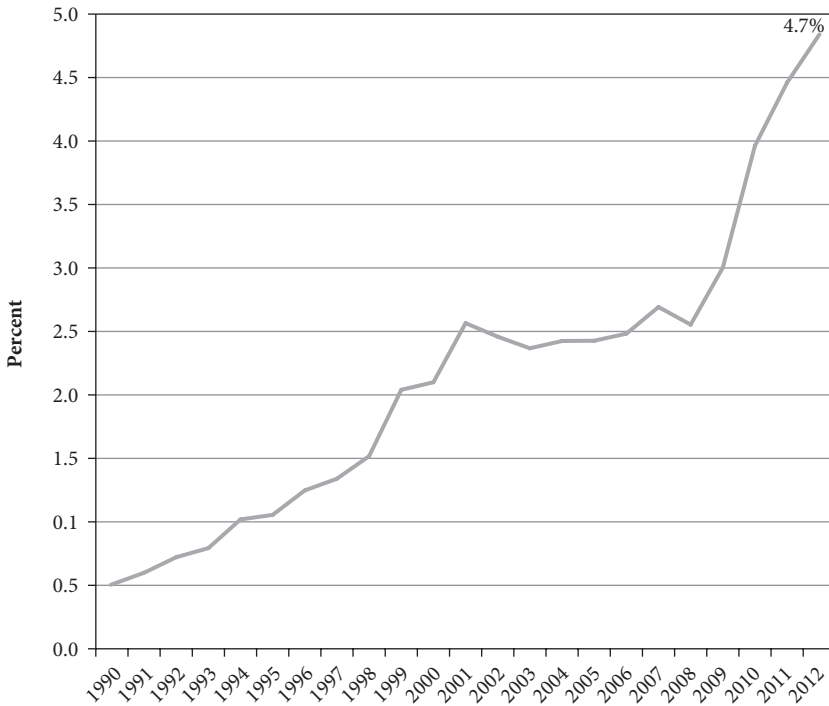
of “all available dates” and “all news” (English) was performed with the following protocol. The search term was “Bangladesh w/10 factory fire AND LEAD (Bangladesh AND fire),” with Bangladesh, Philippines, Thailand, etc. successively inserted. “W/10” means the words occur within ten words of the first term. “LEAD” means the words were found in the lead paragraph. The search returns, in big events, many stories. It is clear that recent events also are covered more than they were in the past. Further, not all stories are reports of current fire incidents; some refer, for example, to an anniversary of a fire or reportage of fires in other countries. The earliest years of coverage in each country may be uneven. Nevertheless, it seems appropriate to judge that the volume of stories is an *indicator of the relative volume* of fire incidents. The comparisons were performed on April 25, 2013. The results are in table 4.2.

These data are not corrected for population or number of factories, they do not include reports of collapses, but they do provide evidence about some contentions. First, the distinctively higher number of press mentions in Bangladesh cannot be attributed to its relatively free press having more political leeway to report catastrophes. India, Indonesia, and Thailand all rank higher on a Press Freedom Index and lower on fire stories (Reporters Without Borders 2013).



Similarly, the use of English as a language of commerce is at least as common in India, so using English-language sources is not apt to distort that comparison. Additionally, given that Pakistan’s manufacturing sector is much smaller than Bangladesh’s (Pakistan Bureau of Statistics 2013), the large number of stories is a reminder that before the Rana Plaza collapse of April 24, 2013, the largest industrial loss of life had occurred in a fire in Pakistan on September 12, 2012 when almost three hundred persons died. It begs further scrutiny, but the conclusion remains. Bangladesh has a distinctively high profile for fires and factory disasters.

Deadly working conditions have not prevented a rising tide of orders from Western brands. Bangladesh’s share of the world garment export market has steadily increased, reaching 4.8 percent in 2011 (see figure 4.2). This is an over 90 percent increase since 2005—the year twenty-three workers were killed in the Shan knitting factory and sixty-four were killed in the Spectrum building collapse.<sup>7</sup> The rising tide of death, it seems, was balanced by the continuation of Bangladesh as the world’s low-cost provider.



**FIGURE 4.2** Bangladesh share of world clothing exports, 1990–2012

Source: World Trade Organization statistical database, online

## Codes of Conduct and Factory Fires

Although many writers (for example Anner, Bair, and Blasi 2012; and Esben-shade in chapter 3 of this volume) report their perception of near-universal consensus that CSR policies have been ineffective in maintaining labor standards, there is reason to doubt that consensus is universal and thus there is cause to revisit the matter. Knowledge about such matters does not travel well across disciplines or political subcultures. Observers and commentators nested in fashion institutes do not seem to share sociologists' skepticism about codes of conduct—courses on CSR are plentiful in these settings. Business and management journals with CSR themes continue to proliferate in number even as the number of academic and other articles concerning labor issues multiplies. In the JSTOR electronic database of over fifteen hundred academic journals in 2000, six articles had “corporate social responsibility” in the title or the abstract; in 2012, sixty-five did.

As Scott Nova and Chris Wegemer show in chapter 1 of this volume, the voluntaristic version of CSR maintains a firm grip on the higher reaches of the corporate world in the United States. Whereas the loss of 1,138 lives in the spectacular Rana Plaza building collapse has become the apparent pivot of historical change in Bangladesh, only a handful of US-based firms have joined 190 mainly European firms in signing a binding agreement on factory safety and worker empowerment (Accord on Fire and Building Safety in Bangladesh 2015a). American firms represent 22 percent of Bangladesh's apparel export market, but the big American firms (prominently Walmart and The Gap) have refused to join the Accord, saying they will fund their own factory safety efforts (the “Alliance”) and balking at the binding nature of the commitments (see Brudney and Fisk 2013; Greenhouse 2013).<sup>8</sup>

## Case Studies

We have assembled information on six high-mortality incidents in Bangladesh since 2000. For each of these we investigated to the extent possible the retail brands or retailers that had purchased material from the factories involved. For each of the firms that we found, we investigated their codes of conduct concerning worker health and safety. We also attempted to find out if the factories in question had been audited or otherwise certified by a third party. The sources for these investigations were the LexisNexis database and NGO reports as published on their websites. These prominently included the Clean Clothes Campaign, the Worker Rights Consortium, and others.<sup>9</sup> There is at least one notable exclusion from these cases.

The Choudhury (sometimes Chowdury) Knitwear fire in Narsingdi in 2000 killed fifty-three people. In the Choudhury case, “The factory building did not have a proper fire exit and the staircase was narrower than is required. The fire exits were locked and the workers were trapped inside the factory building . . . They did not have a fire hose . . . There were no trained workers who could help the unfortunate to escape” (Ahmed and Hossain 2012, 8). We exclude the case because we could find no information about buyers from the factory. The case studies below are examples of the hundreds of fires and collapses in the Bangladesh apparel industry over the last two decades. In what follows, we trace the firms that bought from the factories and their statements on relevant labor standards.

## Mirpur (2001)

On August 8, 2001, a fire broke out at the Mirpur factory in Dhaka, Bangladesh. Twenty-four garment workers died as a result of the fire. Many workers were trampled to death in the building’s staircase by others stampeding out of the fire zone. Of the four factories in the building, only one had fire drills. Emergency exits were locked. The Dutch retailer C&A was confirmed to have conducted an audit of the factory. C&A’s audit company, SOCAM, visited the Mirpur facility two weeks before the fire and reported that although both exits were open, the staircases were partially blocked by boxes. In response to this report, C&A contacted its Taiwanese supplier who subcontracts to MAICO Sweaters—a shop housed in the fifth through seventh floors of the Mirpur factory. No other known measures were taken by C&A. The company’s code of conduct for the supply of merchandise stated the following: “Suppliers must ensure that all manufacturing processes are carried out under conditions which have proper and adequate regard for the health and safety of those involved . . . Where we believe that a supplier has breached the requirements set out in this code either for C&A production or for any other third party, we will not hesitate to end our business relationship including the cancellation of outstanding orders. We also reserve the right to take whatever other actions are appropriate and possible” (C&A Buying 1998; CCC 2001).<sup>10</sup>

The Swedish retailer H&M also had its clothing produced in the Mirpur factory, and although the company did not conduct an audit of the facility it does have a code of conduct for its suppliers. H&M’s products from Mirpur were made by Four Wings, a supplier located on the second floor of the building. After the fire, Ingrid Schullstrom, H&M’s code of conduct manager, claimed that Four Wings regularly performed fire drills. Four Wings’ execution of regular fire drills was in compliance with one clause of H&M’s code of conduct, which

states: “Everyone working on the premises, including managers and guards, must be regularly trained in how to act in case of fire or other emergency. Regular evacuation drills for all employees are required; evacuation plans and fire fighting equipment must be in place” (H&M 2010).

Despite allegedly being in compliance with this one clause, the fact that Four Wings was located in the unsafe Mirpur facility is in direct violation of another clause in H&M’s code of conduct: “We require our suppliers and other business partners to make employees’ safety a priority at all times. No hazardous equipment or unsafe buildings are accepted” (CCC 2001; H&M 2010).

## Spectrum-Shahriyar (2005)

Although not a factory fire, the Spectrum-Shahriyar facility located in Savar, an industrial town some 30 kilometers northwest of Dhaka, collapsed on April 11, 2005 shortly before 1 a.m.<sup>11</sup> The building’s collapse killed sixty-four workers, wounded seventy-four, and left hundreds of others without jobs. Yet the structural instability of the Spectrum facility was not unknown. On several occasions before the collapse workers tried to report their concerns regarding the safety of the building, including one worker who noticed cracks in the factory wall five days before the building crumbled to the ground. This worker was told to keep his mouth shut and work. Other structural problems that workers knew about at Spectrum were: (1) the equipment was too heavy for the factory floor, (2) exposed wiring, and (3) only bricks and sand composed the foundation of the building. Prior to its collapse, Spectrum was violating not only its construction permit but also the minimum wage and one day off per week laws (CCC 2005a, 2006).

Most of the brands who sourced from the Spectrum factory stated that they did not commission any audits at the factory. However, one of the largest retailers in the world, the French corporation Carrefour, did have an audit commissioned but did not make the results of the audit public (CCC 2005a). In addition to Carrefour, other brands with codes of conduct that had their clothing produced at the Spectrum factory were: Inditex from Spain, Solo Invest from France, Cotton Group from Belgium, Karstadt Quelle and Bluhmod from Germany, Scapino from the Netherlands, and New Wave Group from Sweden (CCC 2006).

Spectrum’s poor construction conditions, as well as its minimum wage and one day off per week violations, illustrate a clear lack of compliance with the codes of conduct of the brands who produced at the facility. Carrefour’s code of conduct states that the company joined the United Nations Global Compact in 2001 to comply with and promote its principles regarding human rights and labor standards in Carrefour’s supply chain (Carrefour 2011, 7). Solo Invest, the

other French company that had suppliers in the Spectrum factory, also applies the rules of the UN's Global Compact in its CSR charter (SOL's Europe 2013).

The Spanish corporation Inditex was named one of the "100 Most Sustainable Corporations in the World" in 2007, two years after the Spectrum building collapse (Corporate Knights 2007). The company's code of conduct for manufacturers and suppliers in regard to working conditions states: "Manufacturers and suppliers shall provide a safe and healthy workplace to their employees, ensuring minimum conditions of light, ventilation, hygiene, fire prevention, safety measures and access to a drinking water supply . . . Manufacturers and suppliers shall take the required steps to prevent accidents and injuries to health of their workers, by minimizing as much as possible the risks inherent to work" (Inditex 2001).

Additionally, Inditex has this to say about wages: "Manufacturers and suppliers shall ensure that wages paid meet at least the minimum legal or collective bargain agreement, should this latter be higher. In any event, wages should always be enough to meet at least the basic needs of workers and their families and any other which might be considered as reasonable additional needs. Manufacturers and suppliers shall not make any withholdings and/or deductions from wages for disciplinary purposes, nor for any reasons other than those provided in the applicable regulations, without the express authorization of workers." Finally, regarding days off for workers, Inditex's code of conduct for manufacturers and suppliers had stated: "Manufacturers and suppliers shall not require their employees to work, as a rule of thumb, in excess of 48 hours a week and workers shall be granted at least one day off for every 7 calendar day period on average" (Inditex 2001).

The Belgian retailer Cotton Group bases its code of conduct on the Fair Wear Foundation's (FWF) Code of Labour Practices, which is in turn based on the Conventions of the International Labour Organization (ILO) and the Universal Declaration of Human Rights. Among the standards laid out in FWF's code, the ones of relevance to Spectrum state: "safe and healthy working conditions . . . payment of a living wage . . . no excessive hours of work" (Fair Wear Foundation/Cotton Group 2009).

Spectrum's four remaining buyers, Karstadt Quelle and Bluhmod from Germany, Scapino from the Netherlands, and the Swedish New Wave Group, all participate in the Business Social Compliance Initiative's (BSCI) code of conduct for their suppliers (New Wave Group 2012; Bluhmod 2013; Macintosh Retail Group 2013; Miller 2013, 35–36). Karstadt Quelle additionally had a quality audit conducted, reportedly using the firm Société Générale de Surveillance (SGS) (CCC 2005b). BSCI is an initiative of the Foreign Trade Association (FTA) and states that its code of conduct is: "Based on the most important international labour standards protecting the workers' rights such as the International

Labour Organization (ILO) Conventions and other important Declarations of the United Nations, the OECD guidelines for multinational enterprises and the UN Global Compact” (FTA 2013).

Among the provisions laid out in BSCI’s code of conduct are that: “legal minimum and/or industry standards wages are paid,” “the workplace is safe and healthy,” and “working hours are compliant with national laws and do not exceed 48 hours regular + 12 hours overtime” (FTA 2013). Spectrum violated all these provisions. Later, after the Rana Plaza catastrophe, a BSCI spokesperson said “BSCI considers its work a social audit and doesn’t examine the structural soundness of the building . . . Social auditors are not technical engineers or architects. What they usually will look at is whether there is a building permit. That’s pretty much where it stops” (Ensign 2013).

## Garib & Garib and That’s It Sportswear (2010)

The beginning of the 2010s marked a deadly start to a deadly decade for Bangladesh. In particular, among twenty-six factory fires, two had large fatalities: one at the Garib & Garib Sweater Ltd.’s factory in February, and another at a factory called That’s It Sportswear in December (Claeson 2012, 22).

### GARIB & GARIB

The Garib & Garib factory in Gazipur caught fire on February 25, 2010 and caused the deaths of twenty-one apparel workers. According the International Labor Rights Forum:

A government-authorized probe into the cause of the fire said the fire was started by an electric short-circuit on the second floor of the factory. It quickly spread to the other floors filled with inflammable materials such as wool threads and other goods. Lasting nearly two hours, the fire created a thick black smoke and consumed the oxygen in the air, suffocating the workers. The smoke could not escape because of poor ventilation and the presence of unauthorized sheet metal structures that were being used for storage of highly inflammable materials on the roof of the building. Workers could not escape because exits were locked and materials blocked the stairways. The factory’s fire-fighting equipment was “virtually useless”, according to the Dhaka Fire Service and Civil Defence, and reportedly none of the security guards on duty knew how to operate fire extinguishers and hydrants. (ILRF 2012)

Garib & Garib was found to have produced sweaters for both the Swedish brand H&M (whose code we have discussed previously) and Mark’s Work

Wearhouse, a Canadian retailer. Mark's Work Wearhouse explained that it conducted "social compliance audits, mainly with our partner Bureau Veritas (BV), based on BV's audit standards, which follow the ILO's base standards" (Claeson 2010).

According to the Mark's Work Wearhouse website, the brand has implemented a Supplier Code of Business Conduct, called the Code, through Canadian Tire Corporation, Ltd. (CTC), its parent organization. The employment standards section of the Code's Expectations Of Suppliers states: "Suppliers will employ employees who are, in all cases . . . not put at risk of physical harm due to their work environment." The workplace environment section affirms: "Suppliers will provide workers with a safe and healthy working environment consistent with all applicable laws and regulations" (CTC 2008). Mark's then, as stated above, conducts social compliance audits with their partner BV, whose audit standards mirror the ILO's base standards. Article 4, Section 2 of the ILO's 1981 Occupational Safety and Health Convention decrees the following regarding safety of the workplace: "The aim of the policy shall be to prevent accidents and injury to health arising out of, linked with or occurring in the course of work, by minimizing, so far as is reasonably practicable, the causes of hazards inherent in the working environment" (ILO 2012).

The audits conducted by BV on behalf of Mark's and its code of conduct either were not made public or communicated to the workers or did not register the safety violations in the factory. H&M was confirmed to have had an audit of the Garib & Garib Sweater factory conducted on its behalf just four months prior to the fire. The company reported that it found nothing remarkable in its audit. Garib & Garib's inadequate firefighting equipment, lack of emergency exits, and absence of smoke detectors were not mentioned (Claeson 2012). On the contrary, H&M's audit stated that there were clearly marked escape routes and emergency exits, as well as fire extinguishers (ILRF 2012).

The reality of the poor fire-safety conditions found in Garib & Garib are all violations of H&M's code of conduct, as previously quoted. In addition to being audited by H&M, and by BV on behalf of Mark's Work Wearhouse, Garib & Garib was also certified by Worldwide Responsible Accredited Production (WRAP), an industry monitoring organization. WRAP found Garib & Garib to be compliant with WRAP 12 Principles (Claeson 2012, 22). The principle that covers the conditions of the workplace states: "Facilities will provide a safe and healthy work environment" (WRAP 2015).

## THAT'S IT SPORTSWEAR

Ten months after the Garib & Garib fire, on December 14, 2010, twenty-nine workers were killed in a fire at the That's It Sportswear factory in Dhaka. Owned

by the HaMeem Group,<sup>12</sup> That's It Sportswear produced clothing for The Gap Inc., the owner of Gap, Old Navy, and Banana Republic brands, and PVH, the owner of the Tommy Hilfiger, Calvin Klein, Izod, Van Heusen, Bass, and Arrow brands. JC Penney, VF corporation, Abercrombie & Fitch, Carters, Kohls, and Target also were buyers from the factory. Each of them, with the exception of Carter's, has a publicly available statement requiring suppliers to protect the health and safety of their workers.

Survivors of the fire reported that the building's emergency exits were closed, thus trapping the workers on the ninth floor. Desperate to escape the smoke and heat, workers jumped out of the windows and fell to their deaths. "The fire, which broke out in what was considered a modern building, was, like so many others, caused by an electrical short-circuit and substandard wiring. It was reported that proper fire drills were not carried out, that the exits were blocked, that the workplace was not properly supervised and that the company only had a permit for the lower floors" (CCC 2011).

A Gap spokesperson confirmed they were sourcing from the factory at the time, and that they had performed audits both in April and August prior to the fire (Hammadi and Taylor 2010). That The GAP sourced from the HaMeem factory is interesting given GAP's highly detailed Code of Vendor Conduct (COVC). Part 4, Working Conditions, Section A, Occupational Health and Safety, contains the following provisions that are related to the fire at That's It Sportswear:

1. The factory complies with all applicable laws regarding working conditions, including worker health and safety, sanitation, fire safety, risk protection, and electrical, mechanical and structural safety . . . 4. There are sufficient, clearly marked exits allowing for the orderly evacuation of workers in case of fire or other emergencies. Emergency exit routes are posted and clearly marked in all sections of the factory. 5. Aisles, exits and stairwells are kept clear at all times of work in process, finished garments, bolts of fabric, boxes and all other objects that could obstruct the orderly evacuation of workers in case of fire or other emergencies. The factory indicates with a "yellow box" or other markings that the areas in front of exits, fire-fighting equipment, control panels and potential fire sources are to be kept clear. 6. Doors and other exits are kept accessible and unlocked during all working hours for orderly evacuation in case of fire or other emergencies. All main exit doors open to the outside. 7. Fire extinguishers are appropriate to the types of possible fires in the various areas of the factory, are regularly maintained and charged, display the date of their last inspection, and are mounted on walls and columns throughout the factory so they are visible and accessible to workers in



all areas. 8. Fire alarms are on each floor and emergency lights are placed above exits and on stairwells.” (Gap Inc. 2007)

PVH’s code of conduct, which the company calls “A Shared Commitment—Requirements for Suppliers, Contractors and Business Partners,” states: “Our business partners must provide a safe and healthy workplace designed and maintained to prevent accidents, illness and injury attributable to the work performed or the operation of the facility and machinery. In doing so, our business partners must comply with all national laws, regulations and best practices concerning health and safety in the workplace, as well as provide all required and appropriate workers compensation coverage in the event of injury or fatality” (PVH 2011).

## Tazreen Fashions (2012)

On November 24, 2012, fire broke out at the Tazreen Fashions apparel factory in Dhaka, taking the lives of 112 workers. The origin of this fire is obscure. Fatalities were exacerbated by the factory’s lack of open and secure fire exits, the extra floors added to the building, fire extinguishers that were not used (and perhaps not functional), and the refusal of floor managers to let workers leave their sewing machines even after fire alarms had begun sounding (Manik and Taylor 2012; Maquila Solidarity Network 2012b).

Owned by the Tuba Group, Tazreen produced clothing for a large number of brands and retailers. Walmart, Sears, Kik, Dickies, Disney, C&A, and Li & Fung were all buyers at Tazreen and all had CSR codes of conduct (Maquila Solidarity Network 2012b). Delowar Hossain, the owner of the Tuba Group facility, stated in an interview that a team from Walmart’s local office conducted a compliance audit in 2011. He then said that the audit faulted the factory for excessive overtime, but made no mention of fire safety or other issues. In contrast to Mr. Hossain’s statement, Kevin Gardner, a Walmart spokesman, has said that the company stopped authorizing production at Tazreen “many months before the fire.” He did not say why the company made that decision, however. Mr. Gardner then went on to explain that accredited outside auditors inspected the factory on Walmart’s behalf at least twice in 2011. That May, auditors gave Tazreen an “orange” rating, meaning there were “higher-risk violations.” Three months later, the factory’s grade improved to “yellow,” meaning there were “medium-risk violations” (Yardley 2012).

Walmart’s inspections were conducted on May 16, 2011 and in December 2011; the December audit conducted by Underwriters Laboratories (UL). A third monitoring report was carried out by Walmart in April 2012 (Bustillo, Wright,

and Mattioli 2012; Greenhouse and Yardley 2012; CCC and Center for Research on Multinational Corporations 2013).

The work for Walmart was a subcontract. “The order for Walmart’s Faded Glory shorts, documents show, was subcontracted from Simco Bangladesh Ltd., a local garment maker. ‘It is an open secret to allow factories to do that,’” David Hasanat, “the chairman of the Viyellatex Group, one of the country’s most highly regarded garment manufacturers,” said. “End of the day, for them it is the price that matters” (Yardley 2012).

Walmart’s Standards for Suppliers repeats familiar language: “3. Labor Hours: Suppliers must provide workers with rest days and must ensure that working hours are consistent with the law and not excessive . . . 7. Health and Safety: Suppliers must provide workers with a safe and healthy work environment. Suppliers must take proactive measures to prevent workplace hazards” (Walmart 2012).

Given the spectacular failure of the self-regulated code of conduct in November at Tazreen and then the horrific failure in April 2013 at Rana Plaza, one notes with interest that Walmart has—along with The GAP—refused to join forty European retailers in a binding safety agreement.

Walmart’s failure (and refusal) is not unique, only uniquely large. Sears, Dickies (of the Williamson-Dickie Manufacturing Co.), and Disney all have similar standards statements. In Disney’s case, after the Rana Plaza disaster it stated it would withdraw from Bangladesh. Not so the others. They remain in Bangladesh as buyers, and remain committed to the voluntaristic strategy and self-monitoring strategy for securing worker rights and safety.

Also implicated as buyers from Tazreen were the German firm Kik and the Dutch firm C&A. C&A had performed an audit of Tazreen in December 2011 (CCC and Center for Research on Multinational Corporations 2013).

Walmart, Sears, and Disney refused to pay compensation to the victims. Li & Fung Ltd., the Hong Kong-headquartered multinational intermediary, had brokered some production at Tazreen and agreed to pay families the equivalent of \$980 for the death of a family member who worked in the factory.

## The Rana Plaza Collapse (2013)

On April 24 2013, in what may have been “the worst industrial disaster in history,” according to the Worker Rights Consortium’s Scott Nova (see chapter 1 in this volume), a building collapse killed 1,138 garment workers in Savar. The factory building housed five firms and had retail stores and a bank on the ground floor. It had been built without full permits and floors had been added on top beyond original permissions. Workers and inspectors had found large cracks in the walls on April 23, and on the morning of the 24th the retail

stores and bank did not open. As workers gathered at the building entrance that morning fearing to go in, they were ordered in and threatened with firing if they did not. Shortly after the beginning of the workday the building collapsed, killing 1,138 and hospitalizing 1,800 workers. A list of brands that sourced from the factories in Rana Plaza includes: Bon Marché, Camaieu, El Corte Ingles, Kik, Loblaw, Mascot, Matalan, Primark, Store Twenty One, Adler, Auchan, Benetton, C&A, Carrefour, Cato Corp, The Children's Place, Dressbarn, Essenza, FTA International, Gueldenpfennig, Iconix Brand, Inditex, JC Penney, Kids Fashion Group, LPP, Mango, Manifattura Corona, NKD, Premier Clothing, PWT Group, Texman, and Walmart. As discussed, almost all of these firms had codes of conduct, elements of which the factory building grossly violated.

The Rana Plaza disaster may be the crucible of historic change in Bangladesh and beyond (CCC 2013a). Spurred by outcry from campaigners in the West and tens of thousands of demonstrators in Bangladesh, a safety accord was negotiated that, for the first time, requires the firms to pay for remediation of the factories and requires worker participation in safety measures. An appeals procedure was built into the accord and also allows legal action in the home countries of the firms. The agreement has been signed by 190 firms, though only 5 of them are from the United States. Walmart and The GAP have formed their own Alliance with about 31 members, all from the United States, which does not have the same compulsory features.

## Summary of Cases

In these 6 cases, distinguished from the 250 others since 1990 (Claeson 2012, 19) only by their high mortality numbers and the detail we were able to glean about purchasers, 1,300 workers were killed and hundreds of others injured. In each case of fire, exits were blocked, fire-fighting equipment was deficient or absent, and training was nonexistent or minimal. Including the Spectrum and Rana Plaza collapse, in all 6 factories illegal construction was part of the hazard story.

In each case major European and North American brands were big buyers from the factories (since virtually all of Bangladesh's clothing exports go to these two markets). In each case these major brands had codes of conduct with specific reference to labor standards and health and safety standards and expectations of compliance among their contractors. In each case the disaster occurred in a factory that had recently been audited for compliance, either by one of the firms or one of their agents, or by an industry-oriented certification scheme. None of these audits were public record or available to workers.

## Discussion

Although the empirical critiques of CSR policies have been widely broadcast, they are usually at a macro level and take the general form: “with few exceptions workers toil in what can only be considered sweatshops—where pay is low and hours long, where workers are driven by quotas and powerless to complain” (Esbenshade 2012, 562; and see chapter 3 of this volume for a review of the literature). Let us now hone in on the micro: despite production for firms with explicit health and safety codes and in factories that have been audited, mortally dangerous conditions continue (see Finnegan 2013 for cases outside of Bangladesh). Analyzing the reasons for failure can lead to improved strategy.

The context of failure is the global competition among factory owners and managers to produce clothing more cheaply than a potential competitor. Circa 2007 there may have been two hundred thousand to three hundred thousand factories in the global export apparel sector, with small workshops potentially bringing the total closer to a million (Wells 2007, 63).

This dispersed supply faces relatively concentrated buying power in Western chains (see Bonacich and Appelbaum 2000; Ross 2004). Pricing power flows downward and forces prices down. In this context higher levels of labor-standard compliance would require factory owners to spend more, but the chains seem unwilling to pay more in the existing competitive context. There are few durable incentives for firms to weigh CSR policies more heavily than price considerations.

One demonstration of the nature of the incentive structure came in the latter part of 2012, after the Tazreen fire disaster. Fifteen firms, including Gap and eventually Walmart, pressed the Bangladeshi government to raise the minimum wage. This was a frank admission of the failure of the voluntaristic CSR strategy. They were not willing to pay more for products in order to improve workers' conditions unless there was a level playing field among them; a legal requirement would force a level playing field (Claeson 2012, 22).

After the 2010 fires at Garib & Garib and That's It Sportswear, lengthy negotiations began on fire safety. The large Western brands included Walmart, Gap, and PVH. Bangladeshi and global labor organizations were assisted in these talks by Bangladeshi and Western NGOs. Walmart left the talks early on. Various news outlets including the *New York Times* and the Associated Press obtained minutes of the discussion after the Tazreen disaster in 2012. The Times reported that “Sridevi Kalavakolanu, a Wal-Mart director of ethical sourcing, along with an official from another major apparel retailer, noted that the proposed improvements in electrical and fire safety would involve as many as 4,500 factories and would be ‘in most cases’ a ‘very extensive and costly modification.’ ‘It is not financially feasible for the brands to make such investments,’ the minutes said” (Greenhouse 2012).

Although the “hard law” of state enforcement contrasts with the “soft law” of civil society pressures and the “no law” of ethical intentions, even the strictest laws are only as good as their enforcement. That is a problem in Bangladesh (and elsewhere). In the instance of building safety, our cases show that Bangladesh is effectively lawless. The standards in Bangladeshi building and electrical utility codes are effectively ignored; Walmart’s spokesperson’s guess as to the number of factories that require remediation is effectively all of the garment export sector.

Any effective address to safety in Bangladesh would require both a short-term and long-term approach to endemic corruption and governmental ineffectiveness. Transparency International rates Bangladesh as perceived to be the most corrupt among the large clothing exporters (Transparency International 2013). No doubt related to this is the chronic lack of resources devoted to factory safety (Parvez 2013). The Dhaka *Daily Star* noted that the “Department of Inspection for Factories and Establishment is pathetically understaffed. 51 inspectors for so many factories spread all over the country is nothing but a farce” (Daily Star 2013). Human Rights Watch observed that “the Ministry of Labour’s Inspection Department, responsible for monitoring employers’ adherence to Bangladesh’s Labour Act, is chronically under-resourced. In June 2012, the Inspection Department had just 18 inspectors and assistant inspectors to monitor an estimated 100,000 factories in Dhaka district” (Human Rights Watch 2013). In some finite period of time, then, part of the solution to worker safety in Bangladesh is the creation of a competent inspectorate with integrity.

No bureaucracy or monitoring program, however, can substitute for informed and empowered workers who are, after all, on the job all the time. Informed in this context means they have undergone safety training and know how to recognize issues and defend their own lives. Empowered means they are protected from retaliation when reporting hazards and are full participants in safety planning. The same is true of adequate compensation. Minimum-wage laws may or may not be enforced, but workers’ best hope of obtaining a living wage is their ability to counter the pressures experienced by their employers from buyers who attempt to set very low prices.

## The Strategic Situation and a Historical Solution

The problem of worker protection has a familiar strategic context. A dispersed number of suppliers face a concentrated number of buyers in the context of a weak state. This was exactly the situation faced by apparel workers at the time of the Triangle factory fire in 1911 in the United States. Among the assets workers had was the male franchise (which would soon be expanded to include women) and relative freedom of speech. Associational rights at work were contested in

politics and in law; the state (especially the local inspectorate) had a tradition of neglect and corruption. The sweatshop then and there had a structural similarity to contemporary sweatshops. The differences are obvious—globalization and different levels of development and wealth, even with a time lag. Nevertheless it is worth observing that the aftereffect of the Triangle Fire may be similar to that of the Rana Plaza collapse: it galvanized reform efforts from responsive politicians and emboldened workers who had already begun organizing. In time (incrementally for the first twenty years and then qualitatively during the 1930s), state policy supported workers' associational rights, the social minima, and the reform of local government. There remained one large obstacle: the structure of the industry itself.

Among the foundations of what Ross (2004) called the era of decency for US apparel workers was the jobber agreement. "Lower and lower prices to contractors meant lower and lower wages to workers," wrote Emil Schlesinger. "The contractor who survived was the one who could sweat his labor most effectively. However much he might have desired to deal fairly and squarely with labor, the competitive stress drove him inexorably to a hard bargain. His income fluctuated so directly with what he had to pay to the workers in his shop that he was tempted to resort to almost every kind of petty extortion to maintain himself in business. It is for this reason that the sweatshop and the contracting system became practically synonymous terms" (Schlesinger 1951, 39).

As Anner, Bair, and Blasi show in detail in chapter 13 of this volume, jobber agreements were negotiated between the equivalents of today's brands (or their confederations) and the union and—for a time—were successful in protecting garment workers against the fragmentation of supply chains. They have detailed here and elsewhere (Anner, Bair, and Blasi 2012) the political and legal circumstances and the nature of bargaining power in those agreements and argued persuasively that the considerations are relevant to today's global commodity chains.

The much-discussed Accord on Fire and Building Safety in Bangladesh is basically, despite important differences, a jobber agreement. The reluctance of American firms to sign on (Ross 2013), as contrasted to the European brands, is consistent with US employers' generally more resistant attitude to labor organization. What is striking in the current agreement, however, is the large market share the current signers now represent—about 1,600 factories, which probably means upward of one-third of Bangladesh's export flow.

The American retailers were—for a short time in the spring of 2013—strongly encouraged by the US government to make concessions in general. In a somewhat surprising turn, the Republican-dominated US House of Representatives voted to require its military-base stores to sign the Accord and to favor sourcing from firms that have signed it (Dhaka Tribune 2013; ILRF 2013). Even in the

absence of the North American giants, the firms that have signed the Accord may represent as much or more of Bangladeshi production than the American firms. Nevertheless, there remain two gigantic steps before things can markedly change in Bangladesh and elsewhere: support by the Bangladeshi state and the global spread of the template for labor reform.

In a world where CSR is ineffective and the (Bangladesh) state is corrupt and weak, interim solutions lie in a legal reconceptualization of supply chains that give workers and/or international bodies effective capacities to monitor and reshape conditions. Scott Nova (2014) has shown that the Accord on Fire and Building Safety in Bangladesh is a first step in this direction, and Anner, Bair, and Blasi (2013) have shown jobbers' agreements provide a historical precedent to build on. What is clear, however, is that the sun is setting on societies' dependence on the voluntarism of corporate social responsibility polices to improve labor standards. One hopes the twilight is brief.