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Adequacy of Transparency and Sustainability in Fashion Supply Chain to Protect the Fashion Workers

A divatszakmában dolgozó munkások védelmének helyzete

ABSTRACT

The global fashion industry is characterized by a dynamic and complex supply chain. Clothing products and footwear reach consumers through various brands, from developing countries to Western countries. The exploitation of workers at the bottom of the supply chain goes hand in hand with huge benefits for those at the top of the supply chain. Due to the lack of direct contact with workers, brand owners and resellers often ignore the abuse of workers' rights in the production of their products. Labor law rules alone are not enough to improve working conditions and ensure the rights of workers in the fashion industry. Brand owners and resellers have a vital role to play in changing their working conditions. By incorporating "soft law" solutions such as the UN Business and Human Rights Guidelines and the Organization for Economic Co-operation and Development's Screening Guide, responsible business conduct can be achieved. Incorporating voluntary initiatives into the business behaviors of brand owners and resellers has a significant impact on improving employee rights. In this study, I assess how the 2016 Transparency Draft has affected the protection of workers in the global fashion industry, how much the inclusion of Transparency and Sustainable Development Goals has improved the situation of exploitation of workers. The ILO regularly examines the issue through its analysis of human rights reports.

Keywords: sustainability, transparency, RMG workers, brands and retailers, CSR, government responsibility

ABSZTRAKT

A globális divatipar jellemzője, hogy dinamikus és összetett ellátási láncsal rendelkezik. A ruházati termékek, illetve a lábbelik különböző márkákon keresztül jutnak el a fogyasztókhoz, a fejlődő országoktól a nyugati országokig. Az ellátási lánc alján dolgozó munkavállalók kizsákmányolása együtt jár azzal, hogy az ellátási lánc tetején lévő szereplők óriási haszonra tesznek szert. A munkásokkal való közvetlen kapcsolat hiánya miatt a márkák tulajdonosai és a viszonteladók gyakran figyelmen kívül hagyják a munkások jogaival való visszaélést a termékeik előállításának során. A divatipar dolgozóit érintő munkakörülmények javításához és a jogaik biztosításához a munkajogi szabályok önmagukban nem elegendőek. A márkák tulajdonosainak és a viszonteladóknak létfontosságú szerepük van a munkakörülmények megváltoztatásában. Olyan "puha jogi" megoldások beépítésével, mint az ENSZ üzleti és emberi jogi irányelvei, valamint a Gazdasági Együttműködési és Fejlesztési Szervezet átvilágítási útmutatója, a felelősségteljes üzleti magatartás elérhető. Ha az önkéntes kezdeményezéseket beépítik a márkatulajdonosok és a viszonteladók üzleti magatartásaiba, jelentősen javulnak a munkavállalók jogai. A tanulmány azt vizsgálja, hogy

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a 2016-os átláthatóság tervezet hogyan befolyásolta a munkavállalók védelmét a globális divatiparban, és az átláthatósági és fenntartható fejlődési célok beépítése mennyire csökkentette a munkások kizsákmányolását. Az emberi jogok védelméről szóló jelentések elemzésével az ILO rendszeresen vizsgálja a kérdést.

Kulcsszavak: fenntarthatóság, átláthatóság, RMG munkavállalók, márkák és viszonteladók, CSR, kormányzati felelősség

The global garment and footwear industry, hereinafter (global fashion industry) accounts for \$3 trillion in 2011¹ and \$2.4 trillion in 2016.² The global fashion industry directly employs about 75 million people around the globe, more over one out of eight people in the globe are involved in the global fashion industry supply chain.³ It was the most dynamic and complex example of the global supply chain. A finished garment product comes through a complex process. First, growers grow cotton, ginners collect cotton from numerous growers and sell it to the international market through traders. Second, spinning mills use cotton from a range of origins to produce yarn. From which mills produce fabric to produce clothes. Third, brands place their order at the manufacturing factory, where textiles go through the cut make trim (CMT) process. Then embroidery painting and washing process to complete the product. Sometimes manufacturing factories subcontracted another factory to complete the order if the workload was out of their capacity.⁴ This process clarifies that a finished product comes through a lot of hands. It has been reported by many researchers and international organization, that the fashion industry lacks decent working conditions. Especially in the developing countries, (the host or suppliers countries) workers encountered numerous labour abuse like long hours and inadequate occupational safety and health standards, low wages, verbal and sexual harassment of workers, deprivation of maternity leave etc. The global fashion industry becomes the biggest employer for billions of workers around the globe and becomes a key contributor to the economic progress of many countries, historically catalyzing national growth and industrialization.⁵ As one of the firstborn industries which included developing coun-

¹ Maximilian Martin, 'Creating Sustainable Apparel Value Chains: A Primer on Industry Transformation' (2013) Impact Economy <https://www.impacteconomy.com/papers/IE_PRIMER_DECEMBER2013_EN.pdf> (Accessed 14 January 2021).

² Imran Amed, Achim Berg, Leonie Brantberg and Saskia Hedrich, 'The State of Fashion 2017' (2017) McKinsey & Company <<https://www.mckinsey.com/~media/McKinsey/Industries/Retail/Our%20Insights/The%20state%20of%20fashion/The-state-of-fashion-2017-McK-BoF-report.pdf>> (Accessed 11 January 2021).

³ 'Global Garment And Textile Industries – Workers, Rights and Working Conditions' (2019) Solidarity Center <<https://www.solidaritycenter.org/wp-content/uploads/2019/08/Garment-Textile-Industry-Fact-Sheet.8.2019.pdf>> (Accessed 10 January 2021).

⁴ Brian Stauffer, 'Follow the Thread: The Need for Supply Chain Transparency in the Garment and Footwear Industry' (*Human Rights Watch*, 7 April 2017) <<https://www.hrw.org/report/2017/04/20/follow-thread/need-supply-chain-transparency-garment-and-footwear-industry>> (Accessed 9 January 2021).

⁵ Karina Fernandez-Stark, Stacey Frederick and Gary Gereffi, 'The Apparel Global Value Chain: Economic Upgrading and Workforce Development' (2011) Center on Globalization, Governance & Competitiveness, Duke University <http://www.cggc.duke.edu/pdfs/2011-1111_CGGC_Apparel-Global-Value-Chain.pdf> (Accessed 14 January 2021).

tries to its supply chain and created job opportunities for the under-educated population, especially women in developing countries. But the fashion industry has equally turned a blind eye to environmental and social effects and the general sustainable concept. It is still deficient in the industry.

The reverse of this growth and the acceleration in production, is poor working conditions and heavy pollution, violation of human and labour rights.⁶ As the main reason for the spread of the supply chain to the developing countries is the availability of low wage workers and weak labour law and its implementation. The workers in supplier's factories in different countries, their labour rights protection depend on that specific country labour law and the owners of the factory. But we must recognize that, because of the spread of the supply chain, the other actors in the supply chain like brands, retailers, investor, the export and import countries government, suppliers and consumers can play a vital role in the protection of labourers' rights of garments workers. Besides the labour law, other non-legal/soft law mechanism can contribute a vital change to the fashion industry workers' rights. The transparency pledge 2016 and sustainable development goals SDGs we can consider these two as soft laws. By incorporating these two mechanisms in responsible business behaviour by the supply chain actors may have a positive impact on the global garments supply chain workers.

This article enlightens the root causes of labourers abuse and the lack of a sustainable supply chain. To solve the labourers' abuse in the garments industry, it is important to understand that other than the weak labour law and regulations and its implementation on the national level, what other factors are responsible for labour abuse. The major causes are the growth of fast fashion, the purchasing practice and the lack of transparency. How the responsible behaviours of supply chain actors' example, brands, retailers, suppliers, investors, the government of supplier and import countries and consumers can mitigate the labourers' abuse issues in the supply chain.

How the brands, retailers (as multinational enterprise) can contribute to stopping labourers abuse, through changing their purchasing practice and revealing their suppliers' factories list and other details, like working conditions in factories. By incorporating the UN Guiding Principles on Business and Human Rights (UN Guiding Principles)⁷ and the Organization for Economic Cooperation and Development Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector (OECD Due Diligence Guidance on Garments)⁸ through their corporate social responsibility (CSR). As the OECD Guidelines for multinational enterprises (MNEs) promote positive contributions of business to economic, environmental and social progress, but it also requires the enterprises to identify prevent and mitigate the adverse impact of their business activity on the supply chain workers human and

⁶ Martin (n 1).

⁷ UN Guiding Principles on Business and Human Rights (A set of guidelines for States and companies to prevent, address and remedy human rights abuses committed in business operations). (2011) <https://www.ohchr.org/Documents/Publications/GuidingPrinciplesBusinessHR_EN.pdf> (Accessed 25 December 2020).

⁸ OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector (2018) OECD Publishing, Paris <<http://dx.doi.org/10.1787/9789264290587-en>> (Accessed 25 December 2020).

labour rights.⁹ The brands and retailer's acceptance of the International Framework Agreement (IFA) or Global Framework Agreement (GFA). As IFA works on the relationship between a multinational enterprise and a Global Union Federation (GUF) to ensure that the company follow the ILO labour standard at the same level in every country in which it operates.¹⁰ It is to observe how far these volunteer initiatives of the brands and retailers to full their corporate social responsibility. Under international and national trade principles, rules and agreements like (UN Guiding Principles, OECD Guidelines, and IFA) are efficient to protect the fashion industry workers in the supply chain and the brands' observation of its suppliers, to following the code of conduct (CoC).

How the transparent supply chain can change the consumers attituded and governments initiative in safeguarding the fashion industry workers in the global supply chain. As the fashion industry volumizes because of customers consumptions, that leads to fast fashion brands. The consumers change in buying obsession of cheap clothes and awareness about the factories where their clothes are made, who made their clothes can put a positive impact on sustainability.¹¹ Analyze the development of new law by the producing countries and brands headquarter countries government which was demanded under transparency pledge may have an impact on the garment's workers' rights.

The qualitative method was used in this article. By analyzing the different reports of labour and trade agreements, like ILO reports, human right watch reports, better works, IndustriALL and other labour organisations report. As the transparency pledge 2016, the sustainable development goals are still in the development process, this limits the research for a concrete conclusion. The analysis on the reports explained, how far the brand and other supply chain actors achieved, transparent and sustainable garments supply chain.

1. Fundamental Causes of Labourers' Abuse

The run for increased profits by bulk production at low costs and with cheaper raw materials was the main factor in the decisions by apparel brands and retailers to "go global," especially for the growth of fast fashion. The nature of the business practice by the brands and retailers causes human and labour rights abuse in the supply chain. Which have a direct impact on the workers' rights like, excess overtime, low wages, workplace safety gender inequality. And the competitive behaviours of the brands made the supply chain non-transparent.

⁹ OECD Due Diligence Guidance for Responsible Business Conduct (2018) <<https://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf>> (Accessed 26 December 2020).

¹⁰ <<https://www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary/international-framework-agreement>>; 'International Framework Agreements in the food retail, garment and chemicals sectors: Lessons learned from three case studies' (2018) ILO, Geneva <https://www.ilo.org/wcmsp5/groups/public/-ed_dialogue/-sector/documents/publication/wcms_631043.pdf> (Accessed 26 December 2020).

¹¹ 'Threading the needle: Weaving the Sustainable Development Goals into the textile, retail, and apparel industry' (2018) KPGM <<https://tax.kpmg.us/content/dam/tax/en/taxwatch/pdfs/2018/kpmg-threading-needle-report.pdf>> (Accessed 5 January 2021).

Besides the labour law to stop labourers abuse, it was important to understand how the brand's practice is rooted in labour abuse. Which is illustrated in the given sections below. How the change in business practice can contribute positively to labourers rights protections.

1.1. *Fast fashion*

Fast fashion can be defined as cheap, trendy clothing, that models design from the catwalk or celebrity sophistication and turns into garments in high street stores at rapid speed to meet consumer demand. The idea is to get the newest styles on the market as fast as possible, so consumers can buy them up while they are still at the height of their popularity, and then sadly discard them after a few wears. Some of the fast fashion brands like Zara, H&M, Forever 21, Nasty Gal, and Fashion Nova producing cheap and disposable clothes without considering environmental and labour conditions in their supply chain. The brands bring the garments to the market when is in high popularity and competes to launch different seasons of fashion in a short time. This put excessive work pressure on the workers, leads to a long working hour and over time, more target to finish product in a short time, the workers are deprived of toilet and lunch break by the suppliers. This causes a breach of maximum working hours according to the law, as well as have an adverse effect on the worker's health.¹²

1.2. *Brands Purchasing Practice*

Numerous reports by NGOs, ILO, Human Rights Watch (HRW), Clean cloth campaign (CCC) and researchers reports identified the issue of brands purchasing practice as a vital reason for labour and human rights abuse in the supply chain. For brands to put the machinery to work out, it requires complex and facilitated effort. It needs estimation, plan and sourcing, costing, and negotiation of cost with suppliers, prediction, setting terms of payment with suppliers and alignment of all these with brands obligations on labour and social issues at supplier's factories. This complex process can be defined as "purchasing practice."¹³ Often, bad purchasing practices straightly undermine brands efforts to guarantee the rights-regarding workers conditions in the factories that produce their products. The brands purchasing practice involves low purchase prices and shorter periods for manufacturing products, linked with inadequate forecasting, unfair penalties, and poor payment terms, aggravate risks for labour abuses in factories.

¹² Jasmin Malik Chua, 'The environment and economy are paying the price for fast fashion – but there's hope' (Vox, 12 September 2019) <<https://www.vox.com/2019/9/12/20860620/fast-fashion-zara-hm-forever-21-boohoo-environment-cost>> (Accessed January 4, 2021).

¹³ Aruna Kashyap, 'Paying For a Bus Ticket and Expecting To Fly' (Human Rights Watch, April 2019) <<https://www.hrw.org/report/2019/04/24/paying-bus-ticket-and-expecting-fly/how-apparel-brand-purchasing-practices-drive>> (Accessed January 3, 2021).

By analyzing different types of reports on brands purchasing practice, some of the main reasons are:

- Brands delay in the per production period, taking time to finalize the sample, order specifications or approvals, and sudden changes to order volumes. This delay in per production period, constrain the production time. Suppliers stated that this pre-production delay, put them in a difficult situation to meet the shipment deadline. Buyers (brands) very often reconsider the production time or never pay for the shipment cost in case of delay. In terms of delay, the supplier must bear the cost of shipments which put them at a financial loss.¹⁴
- Squeezing the suppliers for price. Suppliers often stated that the buyers (brands) negotiate so rigid about the price, that they mostly agreed to supply garments at lower than the production cost. The brands are not interested to know about the costing, they only focus on sourcing products at the lowest cost. Consequently, the only way to get the purchase order is to quote the lowest price even if suppliers confront loss. For example, according to the suppliers, the brands reduced the prices up to 5 % for orders with the same quality and quantity, even for repeat orders in the last 5 years.¹⁵ According to the ILO survey report in 2016 on 1454 suppliers and the Better Buying Purchasing Practices Index 2018, stated that 78% of garment suppliers said price remain the “core standard” for brands. 52% of garment suppliers said prices paid were often under production costs.¹⁶ About 60% of suppliers said they did not receive any incentives for fulfilling their buyers’ codes of conduct.¹⁷
- Poor forecasting by brands. Brands often did not consider the increase in legal minimum wages in different countries. For example, brands buying products from a factory for a long time repeat the same order and quantity most of the time they did not consider the increased minimum wages or cost of social security for workers. European buyers (brands) are a little flexible about it, but American buyers want the same price most of the times.¹⁸
- Brands use a third party to source products from manufacturing countries. Sometimes brands because of the lack of their on-sourcing team, often use a third-party agent to source for them and do payment through them. Because of the third-party agent, the supply chain was not transparent to the brands. Brands did not get the idea; how much was paid to the supplier at the end.¹⁹ Not getting any exact impression about the factories condition and workers’ rights abuse. Sometimes the third-party agent makes more profit source products from the factories, where they hire workers daily basis and pay them cash or use places for produc-

¹⁴ Ibid 5.

¹⁵ Ibid 17.

¹⁶ ‘Purchasing practices and working conditions in global supply chains: Global Survey results’ (2016) ILO, Issue Brief No. 10, 7, 10. <http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/-travail/documents/publication/wcms_556336.pdf> (Accessed 16 January 2021).

¹⁷ ‘Better Buying Index Report Spring 2018’ (*Better Buying*, 22 May 2018) <<https://betterbuying.org/better-buying-index-report-spring-2018-released/>> (Accessed 8 January 2021).

¹⁸ Kashyap (n 13) 18.

¹⁹ Ibid.

tion which was also temporary. Even third-party agents ask for a commission per piece according to the supplier. Which force them to compromise cost price by squeezing the labour cost.²⁰

- Short production time and unfair penalty clause also put supplier in a constrained situation. Brand's competition to bring new designs in a competitive market, they give a very short time to the supplier to ship the products at the specified time. To meet the production deadline supplier increased overtime, subcontract to another factory and hire casual workers on daily basis with cheap payment.²¹ According to the ILO survey report 2016, 5% of the suppliers face the penalty for failing to meet order specifications.²² Moreover, by Better Buying Purchasing Practices Index Spring 2018 found that about 9% of the buyers were said to be uncompromising about deadlines and prices even when they were liable for the delays.²³

This type of brands purchasing practice not just giving discomfort to the suppliers. They force the suppliers to act unethically and incentivize labourers' and human rights abuse. Developing countries like Bangladesh, Pakistan, Indonesia and Myanmar are often overloaded with work pressure to produce more. To meet the shipment deadline often workers toilet, lunch and training time were reduced. Even suppliers shorten the water drinking break and overtime payment, they stole minutes from hours, e.g., count 50 minutes an hour. The brands are maybe not exactly having hands-on labour rights abuse in their supply chain, but their purchasing practice from supplier instigate labour abuse to some extent. Some change in brands purchase practice can contribute to stopping labour abuse in the supply chain. For example, placing the order on time, be reasonable with the deadline of the shipment and providing adequate cost for a product.

1.3. Lack of transparency

The global fashion industry is the least transparent industry because of its complex supply chain. Garments produced in a developing country, Eastern Europe, or Latin America, are sold in western countries. Often customers do not have any idea about who made their clothes, in which factory and in which country the garments were produced. All these facts were unknown to the customers, investor, trade unions and human rights organization. Two decades ago, the brands were not willing to disclose their supplier's link. Because of competitive business. Therefore, the picture of labour abuse in the supply chain remains hidden in the factory surrounding.²⁴

²⁰ Ibid 21.

²¹ 'Purchasing practices and working conditions in global supply chains' (n 16) 6.

²² Ibid.

²³ 'Better Buying Index Report Spring 2018' (n 17).

²⁴ Priscilla Robledo and Muriel Triebich, 'Position paper on transparency' (*Clean cloth campaign*, 16 October 2020) <https://cleanclothes.org/file-repository/transparency_position_paper_ccc_2020-10-15.pdf> (Accessed 9 January 2021).

But after the 2013 Rana Plaza incident, put a spotlight on the labour's abusive condition in the supply chain. Transparency in the supply chain becomes more trending issues than before. Although brands took many private initiatives to make the supply chain transparent, by an individual or collective approaches to fulfil their corporate social responsibility (CSR).²⁵ In the early 1990s multitude of corporate-led initiative claimed to disclose the adverse impact of globalization on the working conditions in supplier factory in developing countries. After the media attention on child labour exploitation in China,²⁶ Central America and Pakistan.²⁷ Some major brands like Nike, Levi's, Gap and Walmart introduce the Code of conduct (CoC) for their suppliers. The code of conducts is a set of standards weakly focused on the international labour standard and started the factory supervising the program. Which the brands enforced at a different level. It is mainly focused on the prohibition of child labour, forced labour, freedom of association, collective bargains, and non-discrimination etc. The main reason for this voluntary initiative was to mitigate the gap of government enforcement of labour law and to moderate the reputational risk relater to human and labour right abuse in their supply chain.²⁸

After this at the beginning of 2000, the United Students Against Sweatshops (USAS) campaigned against supply chain disclosure as part of their licensing agreements with top athletic apparel companies, that produced their college logo apparel.²⁹ This led to the formation of the U.S. based Fair Labor Association (FLA), which was the first form of multi-stakeholder initiatives (MSIs). The Multi-stakeholder initiatives can be considered as a modified version of CoC.³⁰ Afterwards, in 2005, Nike and Adidas went a step further by publishing information about all of their supplier factories for all products, not just collegiate licensed clothing products. Later on, other brands walked in their footsteps and published their supplier list. The apparel brands have also banded together to promote stronger ethical behaviours and promote transparency practices, introduced multi-stakeholder initiatives.³¹ Some of the MSIs claim that they improved business practices in the supply chain, as they are made up of corporate members and trade unions and sometimes of government representatives. Some examples of MSIs initiatives are amfori (formerly Business Social Compliance Initiative) or BSCI, the Dutch Agreement on Sustainable Garments and Textiles (AGT), the Fair Labor Association (FLA), the Fair Wear Foundation (FWF), the German Partnership for Sustainable Textiles (PST), the Sustainable Apparel Coalition (SAC) and the UK Ethical and Trading Initiative (ETI).³²

²⁵ Stauffer (n 4).

²⁶ Elena Arengo, 'Future of Fashion' (*International Labor Rights Forum*, 13 February 2019) <<https://laborrights.org/futureoffashion>> (Accessed 9 January 2021).

²⁷ Jonathan Silvers, 'Child Labor in Pakistan' (*The Atlantic*, February 1996) <<https://www.theatlantic.com/magazine/archive/1996/02/child-labor-in-pakistan/304660/>> (Accessed 9 January 2021).

²⁸ Arengo (n 26).

²⁹ Stauffer (n 4).

³⁰ Alan Howard, 'Will the Fair Labor Association be Fair?' (*Asian Monitor Resource Center*, 1 February 2001) <<https://www.amrc.org.hk/content/will-fair-labor-association-be-fair>> (Accessed 20 January 2021).

³¹ Stauffer (n 4).

³² Robledo and Triebich (n 24).

It was observed that all these MSIs have a different way of transparency and factory inspection system. For example, amfori, AGT and SAC continue to insist, zero transparency from their members.³³ On the other hand, FLA has altered its requirements for membership to include full disclosure in machine comprehensible format by 2022.³⁴ The Fair Labor Association estimates over 50 brands and retailers will be required to follow this new policy and, from April 2022, may be subject to a special board review if they do not comply. Through these MSIs the brands can make the supply chain more transparent, can stop labourers abuse and can improve the working condition in the factories. However, the voluntary attitude of brands and member of MSIs, and the absence of workers representatives and government, made these MSIs weak approaches to transparency. It was more focused mainly on monitoring suppliers instead of addressing the brands' role in eliminating labourers rights violations.³⁵ As for the supply chain, transparency methods vary massively among companies. Among those apparel companies that embrace transparency, the details they publish are inconsistent.³⁶ The different approach to transparency by the companies led to inconsistency and confusion between consumers. To address these problems in 2016 the Clean Clothes Campaign, together with eight additional labour and human rights organizations formed a coalition to campaigner for transparency in the apparel supply chains. The coalition introduced a minimum standard of transparency pledge, which required all the brands to sign the pledge and to follow the minimum standard mentioned in the pledge. The Transparency Pledge set the five basic information to disclose to maintain consistency (full name of all authorized production units and processing facilities; site addresses; parent company of the business at the site; type of products made; worker numbers at each site).³⁷

When publishing supplier factory information, global apparel and footwear brands should pay particular attention to transparency pledge standard. They must provide information easily and freely accessible on their websites. Make information available in formats that have downloadable files and enable machine-readable searches to cut down on the time needed to manually sift through these lists.³⁸ Out of which few replied within June 2016 to 2017, some agreed with the pledge terms, others agreed to it partly. Since the introduction of the Transparency pledge in 2016, the coalition approached 72 brands. Out of 72 brands, 22 companies are either fully allied or committed to allying with the Transparency Pledge standard. 29 companies publish at least the names and street addresses of their supplier factories, but still fall short of the pledge standard. 18 companies have yet to publicly disclose supply chain information.³⁹ Additionally, until November 2019, 17 other companies which

³³ Ilona M. Kelly, Christie Miedema, Ben Vanpeperstraete and Ilana Winterstein, 'Fig Leaf for Fashion' (2019) Clean Clothes Campaign Social Auditing Report <<https://cleanclothes.org/file-repository/figleaf-for-fashion.pdf>> (Accessed 23 January 2021).

³⁴ Arengo (n 26).

³⁵ Ibid.

³⁶ Stauffer (n 4).

³⁷ <<https://transparencypledge.org/the-pledge>> (Accessed 23 January 2021).

³⁸ Stauffer (n 4).

³⁹ Ibid.

are not included among 72 are already publishing their supplier factories list in full alignment with the Transparency Pledge standard or committed to do so by 2020.

After the introduction of the transparency pledge 2016, it was observed that transparency is a powerful tool that promotes corporate accountability for garment workers' rights in global supply chains. The coalition said Voluntary corporate action has limitation. But the initiative would be more fruitful by the passage of national laws that require companies to conduct human rights due diligence in their supply chains, including public disclosure of at least the factories they are using.⁴⁰ Subsequently in 2018, the coalition has additionally engaged with seven Responsible Business Initiatives (RBIs), groups of companies and others pursuing to drive ethical business methods by their corporate members to encourage supply chain transparency through their policies and actions. The coalition advised RBIs to play a leading role by imposing a condition of membership, that the companies must publicly disclose information about their supply chains by January 2020, in alignment with the Transparency Pledge standard.

It was observed that the AGT has not made supply chain transparency of individual members a condition of membership but requires its members to disclose information about their supplier factories to the AGT secretariat that is made public in aggregate form through the Open Apparel Registry. The Open Apparel Registry is an easy-to-access and searchable database that provides information about factories' affiliation to brands and RBIs. The OAR was launched in March 2019 and is a non-profit organization with a multi-stakeholder Board of Directors representing civil society, the open data sector, factory groups, industry MSIs and brands. The OAR collects data from several sources involving large datasets from MSIs, brand and retailer supplier lists, facilities and factory groups.⁴¹ The Fair Wear Foundation took progressive steps to improve the supply chain transparency of its members. The Sustainable Apparel Coalition, amfori, and the German Partnership on Sustainable Textiles have not taken measures to link supply chain transparency to its membership requirements. All the initiatives impact will be observable with time.

2. Brands' Role in Transparency

The brands' alignment with the transparency pledge will advance the identification of human and labour abuse in their supply chain in the suppliers' factories. But to mitigate the human and labour abusive condition, incorporating and considering the international trade principles, rules and agreements in their decision-making process also can play a vital role.

As Multinational Enterprise's (MNEs) the brands should follow the OECD guidelines for Due Diligence. This requires that brands must identify, prevent and mitigate the adverse impact of their business activity on the supply chain worker's, human and labour rights, along with the economic, environmental and social progress. This

⁴⁰ 'Surge in Garment Industry Transparency' (*Clean Cloth Campaign*, 18 December 2019) <<https://cleandclothes.org/news/2019/surge-in-garment-industry-transparency>> (Accessed 23 January 2021).

⁴¹ <<https://openapparel.org/>> (Accessed 19 January 2021).

is because some business operations, products or services are inherently risky. On the other hand, business operations may not be inherently risky, but because of circumstances e.g., rule of law issues, lack of enforcement of standards, the behaviour of business relationships may result in risks of adverse impacts. Due diligence will help enterprises to anticipate, prevent or mitigate these impacts. Sometimes enterprises may decide whether or not to go ahead with or discontinue operations or business relationships as the last resort, when the risk of an adverse impact is too high or because mitigation efforts are not successful. The OECD Guidelines for MNEs are non-binding recommendations addressed to multinational enterprises by governments on responsible business conduct (RBC). The brands' consideration of the Due Diligence guidance should be an integral part of their internal decision making as RBC. The OECD Guidelines for MNEs provide principles and standards of RBC consistent with applicable laws and internationally recognized standards. According to the Guidelines obeying domestic laws in the jurisdictions in which the enterprise operates or where they are domiciled is the first obligation of enterprises. Due Diligence helps enterprises to observe their legal obligations on matters concerning the OECD Guidelines for MNEs. In countries where domestic laws and regulations conflict with the principles and standards of the OECD Guidelines for MNEs. Due diligence supports enterprises to honour the OECD Guidelines for MNEs to the maximum extent which does not position them in violation of domestic law. The garments brands must follow the OECD Due Diligence Guidance on Garments and footwear industry and should consider it in their business decision to make the working condition safe and mitigate the human and labourers abuse in their supply chain.⁴²

The brands also need to take into account the international framework agreement (IFA) or global framework agreement (GFA). It is an instrument to negotiate between a multinational enterprise and a Global Union Federation (GUF) to establish an ongoing relationship between the parties and ensure that the enterprises respect the same ILO standards in all the countries where it operates. As supply chains are now becoming more and more international, IFAs are being used to promote decent work beyond the enterprises' borders. As described by the International Labour Organization (ILO) "most of the IFAs signed after 2009 also contain provisions to the suppliers of the multinational enterprise."⁴³ In the garments industry, five IFAs agreements were signed by the brands and retailers and two sectorial trade unions in the home country of the multinational enterprise. The brands and retailers who signed the agreements are H&M in 2004 with Union Global and with Industrial All and IF in 2015, they signed the permanent agreement in 2016⁴⁴. Others are Inditex, Mizuno, Tchibo and ASOS. Among these five brands, four of them are European based, except Mizuno the Japanese sportswear brand signed the only non-European agreement, together with IndustriALL, UA ZENSE and Mizuno's workers' union (2011).

⁴² OECD Due Diligence Guidance for Responsible Business Conduct (n 9).

⁴³ Brian W Burkett and Heenan Blaikie, 'IFAs: an emerging international regulatory approach or a passing European phenomenon?' <[https://content.next.westlaw.com/8-508-4057?_lrTS=20210506025939358&transitionType=Default&contextData=\(sc.Default\)&firstPage=true](https://content.next.westlaw.com/8-508-4057?_lrTS=20210506025939358&transitionType=Default&contextData=(sc.Default)&firstPage=true)> (Accessed 1 February 2021).

⁴⁴ International Framework Agreements in the food retail, garment and chemicals sectors (n 10).

A comparison of the five IFAs in the sector shows that all of them refer to the ILO fundamental conventions and the majority of them went beyond the ILO fundamental principle in respect to minimum wages, working hours, occupational safety and health, and benefits such as maternity leave and disabilities, union formation and collective bargaining. The IFAs which was signed by H&M, Inditex, and Tchibo, ASOS incorporated a provision the multinational enterprise must work with their suppliers and subcontractors. According IFAs multinational enterprises should be informed on a timely basis in case any of the provisions of the IFAs are breached by any of the suppliers or subcontractors so that enterprises can take a step to remediate the problem. But the provision was silent about the termination of business, in case of breach of IFAs provisions by supplier and subcontractors. For the implementation of IFAs, all five brands realized that cooperation and collaboration are important. As per agreement cooperation between the multinational enterprise and the global union federation primarily focused on the development and implementation of joint training programmers, policies and programmers on labour issues, and annual meetings to review the application of the agreement at the factory and national levels.⁴⁵

To evaluate the IFA agreement, the IFA signed by H&M with IndustriALL and IF is a good example. As the agreement contains provisions on what the company should do to work with its suppliers. As the H&M supply chain is widespread in 36 countries and employees 1.6 million workers are employed by its suppliers and 65% of the workers are women.⁴⁶ H&M does not have it is own factories, they buy products from different suppliers and subcontractors for Asian counties. H&M often challenged because of the labourer's abusive conditions in their supply chain. The agreement includes all the following members, H&M's direct suppliers and their subcontractors produce merchandise and ready-made goods sold throughout H&M group's retail operations, trade unions and worker representatives present at these production units". The agreements also contain provisions includes all the workers in the suppliers' factories, even if they produce goods for other company. It explains that as MNEs, H&M has a responsibility towards its supply chain workers.

H&M publishes a list of first-tier suppliers and a limited list of second-tier suppliers, which are involved in 50 per cent of their production, including fabric and yarn mills.⁴⁷ The IFA signed by H&M requires its suppliers and subcontractors to respect the ILO standards, Conventions and Recommendations and rights at work, working conditions like wages and benefits; working hours and part-time work; occupational safety and health and employment strategy. The agreement requires respect for other international principles and frameworks, like the Universal Declaration of Human Rights, the UN Conventions on the Right of Child, the UN Global Compact, the UN Guiding Principles on Business and Human Rights, the ILO MNE Declaration and the OECD MNE Guidelines. It was expected that the IFA provisions could impact

⁴⁵ Ibid 36.

⁴⁶ H&M Group Sustainability Report 2017 <https://about.hm.com/content/dam/hmgroup/groupsite/documents/masterlanguage/CSR/reports/2017%20Sustainability%20report/HM_group_SustainabilityReport_2017_FullReport.pdf> (Accessed 1 February 2021).

⁴⁷ H&M Group Supplier List <<https://hmgroup.com/sustainability/leading-the-change/transparency/supply-chain/>> (Accessed 1 February 2021).

more than the 1.6 million workers within H&M's supply chains. As H&M confronted by labour and human rights violation in their supply chain, they decided to transform its corporate strategy and develop its corporate social responsibility to include measures concerning the forced labour in its supplier factories that are not in an exclusive business relationship with H&M., In brief, we can say the IFA has objective to structure industrial relations. This is an essential component for H&M's sustainable production, it will enable the productivity of the business and will ensure decent work with respect and dignity. As H&M committed to respecting human and labour rights in their supply chain.⁴⁸

But the problem with the IFA is it is a non-binding agreement between the MNEs and international trade unions. Currently, there are no legal enforcement mechanisms for IFAs at the global level. The process of implements can be done by the following process. According to the IFA states that management and workers' representatives should cooperate and negotiate at the workplace. At the country level, through the National Monitoring Committee (NMC). It is possible to implement the IFA by setting up long term and short-term goals and strategies to build confidence and by providing and facilitating peaceful conflict resolution between the relevant social partners e.g. employers' and workers' representatives. At the global level, to implement IFA the JIRDC has been established. It is a committee consists of representatives from each signatory party, including the CEO of the company the General Secretary of IndustriALL and the President of IF Metall. The JIRDC meets annually and is accountable for supervising the implementation of the IFA at a global level, exploring the possibilities for cooperation projects to promote industrial relations, and, wherever necessary, deliver advice to the NMCs at the national level.⁴⁹

To evaluate the positive impactive of the transparency pledge and IFA, Bangladesh would be a good example. In December 2016, labour unrests and protests occurred in Ashulia, a suburb of Dhaka, more than 30 factories workers demanded an increase in wages. More than 1,600 workers were illegally dismissed of whom more than 800 worked in H&M suppliers' factories.⁵⁰ To solve the problem along with 20 other brands, H&M sent a joint letter to the Prime Minister of Bangladesh, calling to protect the rights of workers and take measures to improve industrial relations. During the ongoing protests, in January 2017 the IFA's provision to promote collective bargaining supported the Somnilito Garments Sramik Federation (SGSF) – an affiliate of IndustriALL – in the negotiation of two collective agreements with ready-made garment manufacturers and H&M's suppliers in Ashulia. After this a national level initiative took places, the Tripartite Consultation Committee was formed including the Ministry of Labour, the BGMEA and representatives of IndustriALL Bangladesh Council. The Committee reached an agreement on the release of the arrested trade

⁴⁸ International Framework Agreements in the food retail, garment and chemicals sectors (n 10).

⁴⁹ 'International Framework Agreement (IFA)' <<https://www.eurofound.europa.eu/observatories/eurwork/industrial-relations-dictionary/international-framework-agreement>> (Accessed 25 January 2021).

⁵⁰ Nadim Hossain, '30 factories closed amid RMG workers' protest' (Dhaka Tribune, 19 December 2016) <<https://www.dhakatribune.com/bangladesh/2016/12/19/30-factories-closed-amid-rmg-workers-protest>> (Accessed 25 January 2021).

unionists and garment workers, as well as a plan of action to settle the crisis.⁵¹ As a consequence, of the 1,074 workers that had been made terminated in the six factories, 984 received termination benefits, while two workers were reinstated, and a further 11 workers applied for a re-deployment. The other 76 workers have been given the right to collect their severance payment from the factories.

Again, in December 2018 and January 2019 thousands of workers in Bangladesh took to the streets to protest their low wages and the unequal distribution of the new minimum wage rise. Because of the retaliation around 30 factories, fired workers and brought criminal charges against many workers. When labour activists failed convinced the factory owners to drop the criminal charges.⁵²

They turned to brands and retailers who are sourcing from these factories. From the supplier lists on brand websites, and activists in the CCC network contacted 20 brands sourcing from these factories. Put pressing the brands to address the oppression in their supply chains. By early 2020, 14 cases had been dismissed by the court, a large majority of which had major brands among their buyers who engaged with factory management.⁵³ The transparency gave a bypass way to the worker and activist to knock on the brands' door to put pressure on suppliers to stop labour abuse and to improve the working condition and IFA involved the brands to intervene to mitigate the works rights abuse.

3. Investor Roles in Transparency

Investors are also an important supply chain actor, who can have an impact on fashion industry workers' rights. Investors should endorse the Transparency Pledge as part of broader efforts to promote effective human rights due diligence. Today according to CSR all companies need to respect human rights and must follow UN Guiding Principles on Business and Human Right. The MNEs need to disclose about human and labour rights conditions in the supply chain in case of any risk must clarify their initiative to mitigate the problem and future plan to safeguard the workers. Investors can indirectly ensure human and labour rights, by checking the companies' profile and their initiatives to mitigate and prevention of human and labour rights before investing.

Because if companies failed to respect human and labour rights, will have a negative impact on brands reputation. Once a brands reputation at risk, then it will eventually adverse the investors investment. If brands want to hide transparency in their supply chain, they may lose their investor. With the fear of losing investor, the companies will be more careful about the workers' rights. So, the transparency of the business supply chain is also important for investors to get a clear idea of how far the

⁵¹ 'H&M group sends letter to the Government of Bangladesh' (*H&M Group*, 11 January 2017) <<https://hmgroup.com/news/hm-group-sends-letter-to-the-government-of-bangladesh/>> (Accessed 25 January 2021).

⁵² 'Bangladesh strikes: thousands of garment workers clash with police over poor pay' (*The Guardian*, 14 January 2019) <<https://www.theguardian.com/world/2019/jan/14/bangladesh-strikes-thousands-of-garment-workers-clash-with-police-over-poor-pay>> (Accessed 25 January 2021).

⁵³ Robledo and Triebich (n 24).

company mitigated the human and labour rights problem, what steps taken by the companies. Depending on the information investors can invest or may stop investing in case of human and labourers abuse.

Correspondingly under the soft laws like UN Guiding Principles on Business and Human Rights, the revised ILO Tripartite Declaration of Principles Concerning Multi-national Enterprises (MNE Declaration), the OECD's Responsible business conduct for institutional investors and the UN Sustainable Development Goals all the regulations also increased the prospects for investors to identify human and labour rights impacts within their range, and to use their power to address impacts and risks, prioritizing depend on severity.⁵⁴

4. Government Roles in Transparency

The producing and brands headquarter countries government can also play an important role to make the global fashion industry supply chain transparent. The government can introduce new laws, to put an obligation on companies to respect human and labourers rights in their supply chain. The Clean Clothes Campaign 2016 transparency position paper, which contained a set of demands to the governments. For more details of the demand check Clean Clothes Campaign position paper 2016.⁵⁵

In response to the demands, the EU enacted Directive 2014/95/EU on the disclosure of non-financial and diversity information by certain large undertakings and groups in 2014.⁵⁶ According to the Directive, companies must disclose their policies and risk assessments on their social and environmental impacts, and issue annual reports on their nonfinancial impacts, providing Key performance indicators (KPIs) and evidence. While this Directive represents a positive first step towards increased corporate transparency, it is extremely limited because it only covers large companies which have more than 500 employees.

The other brands headquarter countries also legislate new laws in response to the demands. The United Kingdom adopted transparency in the supply chain clause in its Modern Slavery Act in 2015, this clause requires companies domiciled or doing business in the UK to report on the measures they take to prevent slavery or human trafficking in their supply chains.⁵⁷ France has enacted the Duty of vigilance Act, in 2017. Under this act, the parent companies in France require to address the adverse impact on human and the environment because of their business activity and to publish an annually public vigilance plan and must mitigate the human right risk

⁵⁴ Threading the needle: Weaving the Sustainable Development Goals into the textile, retail, and apparel industry (n 11).

⁵⁵ Robledo and Triebich (n 24).

⁵⁶ Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups. OJ L 330, 15.11.2014, p. 1–9.

⁵⁷ Modern Slavery Act 2015 <<https://www.legislation.gov.uk/ukpga/2015/30/contents/enacted>> (Accessed 25 January 2021).

in the supply chain. The act includes the parent company, subsidiary company and any activity with suppliers and subcontractors. In case of breach of obligation, an aggrieved party may take action against it and the company may face a fine of € 10 million to € 30 million.⁵⁸ Australia enacted the Modern Slavery Act in 2018. The Act requires some companies to report on the risks of modern slavery in their operations and supply chains and actions to address those risks, and for related purposes. The companies may report voluntarily, and the report will be kept in the Modern Slavery Statements Register in the Ministry. The report is accessible by the public on the website.⁵⁹ The Netherlands adopted the Child Labour due diligence law in 2019⁶⁰ which will come to force in 2022. The act requires companies selling goods or services to Dutch consumers to identify and prevent child labour in their supply chains.⁶¹

It would be observed that the brands headquarter countries passing new laws after the transparency pledge 2016 and in response to the coalition demand. The above-mentioned countries passed a new law imposing human rights reporting requirements on companies. As human rights due to diligence is a process by which companies identify, stop, mitigate, and account for how they address their adverse human rights impacts. It is a core concept in the UN Guiding Principles on Business and Human Rights. According to the Principles, states have to protect human rights, and companies have a responsibility to respect human rights. The recent changes in the legislation appreciate this responsibility to respect human rights in law. But how far these laws will make the garment supply chain transparent. It is noticeable that these laws, impose an obligation on large companies, and requires voluntary reporting and focused on child labour. Though the imposition of the fine will have a positive impact on the companies to respect Human rights due diligence in their supply chain.

In response to the Clean Clothes Campaign demand in 2016 governments of the suppliers' countries still have not introduced any law in non-financial reporting. The publication of a report on labour inspection was not achieved yet, some progress can be observed in the form of Bangladesh ACCORD.⁶² The Bangladesh government involved in the ACCORD as a third party and the Bangladesh Department of Inspection for Factories and Establishments also publishes information on factories and safety.

⁵⁸ Corporate Duty of Vigilance Law 2017 <<https://respect.international/french-corporate-duty-of-vigilance-law-english-translation/>> (Accessed 25 January 2021).

⁵⁹ Modern Slavery Act 2018 <<https://www.legislation.gov.au/Details/C2018A00153>> (Accessed 25 January 2021).

⁶⁰ Child Labour Due Diligence Law 2019 <<https://zoek.officielebekendmakingen.nl/stb-2019-401.html>> (Accessed 25 January 2021).

⁶¹ Anneloes Hoff, 'Dutch child labour due diligence law: a step towards mandatory human rights due diligence' (*Oxford Human Rights Hub*, 10 June 2019) <<https://ohrh.law.ox.ac.uk/dutch-child-labour-due-diligence-law-a-step-towards-mandatory-human-rights-due-diligence>> (Accessed 25 January 2021).

⁶² <<https://bangladeshaccord.org/>> (Accessed 28 January 2021).

5. Fashion and Sustainability

Nowadays fashion becomes a reflection of our personality. What we wear, how we dress is an essential part of our life. Most of the clothes and shoes we have in our closet, come across many countries around the world. The USA, Canada, and the EU is the home of the biggest apparel and footwear brands. Where consumers buy products in the stores, most of them are produced in Asian developing countries like Bangladesh, India, Pakistan, Indonesia, Vietnam, China, Latin America, and Eastern Europe.⁶³ In the last 30 years, the fashion industry became more globalized and incorporated developing countries into its supply chain.⁶⁴ The significant reasons behind this globalization were cheap labour cost and weak labour law. The Western brands to reduce the production cost of garment and footwear moved their factories to develop countries or sourced their products from different factories. Because of the complex supply chain, from the production of raw material to cut make trim (CMT) process. The competition between the brands and contractual obligation hinders the disclosure of the working condition and labour abuse.⁶⁵

In the fashion industry, the brands' retailers and suppliers need to realise that the sustainable global fashion supply chain is a major issue of concern to run business and they must consider the United Nations' innovative sustainable development targets for 2030, which came into force in 2016 with 17 sustainable development goals (SDGs).⁶⁶ They should consider SDGs, UN Guiding Principles and OECD Due Diligence Guidance for human and labourers' rights as a part of responsible business practice, not a burden.

The introduction of sustainable development in this complex supply chain is a challenging matter. I consider the traditional definition of sustainability. "Sustainability focuses on meeting the needs of the present generation without compromising the ability of future generations to meet their needs."⁶⁷ We mostly consider that sustainability focuses on the environmental issue. But in the global fashion supply chain, we need to divide sustainability into two parts of first environmental sustainability and second human life sustainability in the supply chain.⁶⁸

Some of the tragic incidents in the supply chain were in Pakistan on 11 September 2012 (Ali Enterprise's factory fire where 289 people died⁶⁹) and in Bangladesh (Tazreen Fashions fire factory where more than 123 apparel workers died and left many

⁶³ Robledo and Triebich (n 24).

⁶⁴ Martin (n 1).

⁶⁵ Robledo and Triebich (n 24).

⁶⁶ UN Sustainable Development Goals 2016 <https://www.un.org/development/desa/statements/wp-content/uploads/sites/12/2016/01/Overview_SDGs_EN.pdf> (Accessed 28 January 2021).

⁶⁷ Mitchell Grant, 'Sustainability' (*Investopedia*, 12 October 2020) <<https://www.investopedia.com/terms/s/sustainability.asp>> (Accessed 28 January 2021).

⁶⁸ Avedis Seferian, 'Can the Apparel Industry Sustain Sustainability?' (*Sourcing Journal*, 28 May 2019) <<https://sourcingjournal.com/topics/thought-leadership/can-the-apparel-industry-sustain-sustainability-151117/>> (Accessed 27 January 2021).

⁶⁹ 'Death toll from Karachi factory fire soars' (*BBC news*, 12 September 2012) <<https://www.bbc.com/news/world-asia-19566851>> (Accessed 27 January 2021).

others permanently disabled).⁷⁰ On 24 April 2013 a poorly built, eight-story Bangladeshi factory complex called Rana Plaza collapsed, killing at least 1,134 apparel workers and leaving 2,500 injured and permanently disabled.⁷¹ It is the most tragic incident in the history of the fashion industry. It grabs the attention of the world, consumers and NGOs backlash on the brands. Demanded a sustainable supply chain in the fashion industry to protect human and labourers rights, improvement in working conditions. The Rana Plaza incident put the spotlight on the labour abuses in the supply chain, which still need more attention than an environmental issue. Because the supply chain not just put workers' rights at stake, but their life is in danger. Environmental sustainability is possible to achieve by changing the technology used in production. However, to protect the workers in the supply chain brands need to play a robust role, by their corporate social responsibility (CSR), taking action against any labour abuse in their supply chain, supporting the suppliers to make the workplace safer for the workers and by incorporation SDGs.

The fashion industry employs more than 75 million people globally mostly women and indirectly employs billions more.⁷² The actors in the supply chain, suppliers, brands, and retailers have more business opportunity which can be reached by clarity in their sourcing, production, sell and transportation. As per the Global Corporate Sustainability Report by Nielsen 2016, brands with sustainability commitment increased in the sale of consumer goods increased 4% globally, on the other hand, brands without sustainable commitment only increased by 1%.⁷³

6. Sustainability to Protect Labour Rights

Sustainability supply chain management is very important for business acts these days. The SDGs demonstrates the new objectives of economic, social and environmental developments, such as ending poverty, economic growth, environmental protection and protection of human and labourers rights and many more. SDGs expect everybody in the world to contribute to the goals, involving governments, companies, civil society and the public, too. A company with a sustainable business can have economic opportunities worth up to USD 12 trillion and increase employment by up to 380 million jobs by 2030.⁷⁴

The global fashion industry supply chain was characterized by labour-concentrated manufacturing, a long value chain and a relatively high degree of environmental, in comparison with other industrial supply chains. In the global fashion supply chain,

⁷⁰ 'Bangladesh textile factory fire leaves more than 100 dead' (*The Guardian*, 25 November 2012) <<https://www.theguardian.com/world/2012/nov/25/bangladesh-textile-factory-fire>> (Accessed 27 January 2021).

⁷¹ 'Bangladesh factory collapse toll passes 1,000' (*BBC news*, 10 May 2014) <<https://www.bbc.com/news/world-asia-22476774>> (Accessed 27 January 2021).

⁷² Fatima E. Mendez, 'Dress the world in wood, UN says in its 'Forests for Fashion' initiative' (*UN News*, 16 July 2018) <<https://news.un.org/en/story/2018/07/1014862>> (Accessed 27 January 2021).

⁷³ Nielsen Corporate Responsibility Report 2016 <<https://sites.nielsen.com/yearinreview/2016/global-responsibility-and-sustainability.html>> (Accessed 23 January 2021).

⁷⁴ 'Partnering for Resilient and Inclusive Societies: Contributions of the Private Sector' UN ECOSOC Partnership Forum, 4 April 2018 <<https://www.un.org/ecosoc/en/node/4965587>> (Accessed 23 January 2021).

from the economic and social perspectives, it was observed that the brands took the advantage of low labour costs in developing countries, such as Bangladesh, Cambodia, Vietnam, and many other countries. The factory accidents in the Tazrin factory and Rana Plaza collapse in Bangladesh reflects the serious social and economic problems buried in the supply chain of the global fashion industry, that arouse public awareness on the labourers' rights, their health and safety, wage payment, gender equality and decent working conditions.⁷⁵ Since the introduction of SDGs in 2015 many big fashion brands efficiently respond to the United Nations' SDGs. It was expected that sustainable business can provide \$ 12 trillion of economic opportunities in the private sector.⁷⁶ The SDGs can provide a unique opportunity to the fashion industry to align existing sustainability ideas via a common framework and will accelerate the industry's efforts to address important challenges in the supply chain.

The global fashion industry actors like brands, suppliers and investors can secure labour and human right in the supply chain by introducing the SGDs' goals in their business policy. The brands, suppliers and retailers each face specific challenges and opportunities in executing shared value opportunities and improving the SDGs. However, all companies across the garment supply chain seeking to operate in a more accountable way, face a set of common social and economic issue. Sustainability initiatives can address issues that include labour rights, gender equality, better livelihoods by:

1. Encouraging women through improved living and equitable hiring, the global fashion industry has lifted millions of people, particularly women's out of poverty while enhancing gender equality. The quality of jobs in the sector has catalyzed women's economic empowerment, which offers social protection and measures to balance employment and family responsibilities and promote an environment free from discrimination and harassment.⁷⁷ However, to achieve women empowerment, significant challenges faced by the sectors are discrimination, working hours, health and safety, the gender wage gap, low payment and failure to pay overtime, and inadequate representation of women in managerial roles are challenges faced by women in the supply chain.⁷⁸ Although many apparel companies made significant investments to support women workers around the world. Still, continuous adaptation and application of policies are required in response to the complex landscape of the sector, and to counter social barriers.⁷⁹
2. Incorporating human and labour rights and better livelihoods issues into business planning, as reduction of production cost influence the brands to use of cheap labour in the developing countries. Which force the suppliers to compromise with

⁷⁵ Bangladesh factory collapse toll passes 1,000 (n 71).

⁷⁶ <<http://www.un.org/sustainabledevelopment/sustainable-development-goals/>> (Accessed 23 January 2021).

⁷⁷ 'Gender Equality in the Global Garment Industry: Highlights of the Better Work Strategy 2018–2022' (2018) ILO–IFC <<https://betterwork.org/wp-content/uploads/2018/01/BW-GenderStrategy-Highlights-v4-Web.pdf>> (Accessed 23 January 2021).

⁷⁸ 'Empowering female workers in the apparel industry: Three areas for business action' (2017) BSR <https://www.bsr.org/reports/BSR_Empowering_Female_Workers_in_the_Apparel_Industry.pdf> (Accessed 23 January 2021).

⁷⁹ Threading the needle: Weaving the Sustainable Development Goals into the textile, retail, and apparel industry (n 11).

the working condition in the factories and provide minimum wages to the workers, not the living wages. Now a day's suppliers, brands, and retailers comply with a multitude of business practices and controls to ensure reasonable and safe working environments, including audits, codes of conduct, the complaint mechanisms, and risk assessments related to human rights and labour standards, issues about raw materials, fair prices for the products, social protections, and wages including calculations of fair trade and a living wage.

3. Executing better buying practices to decrease instances of noncompliance in the supply chain. The brands and retailers must consider their purchasing decision, not concentrated only on the price issue. They need to understand the consequences of their decisions on labour and human right abuse in the supply chain.

The global fashion actors took the initiatives to implement SDGs in their business operation. For example, SDGs 5 gender equality and empower women and girls. Many global brands like in 2017, Inditex approved a Women Empowerment Strategy in the Supply Chain comprised of three main pillars: health, protection, and empowerment.⁸⁰ Gap Inc. in association with CARE introduced the P.A.C.E. program in 2007 to empower women staff and managers employed in Gap Inc. Factories in Bangladesh, Cambodia, China, Indonesia, and Myanmar among others to gain the skills and confidence needed to move forward at work and life. Subsequently, then, over 91,000 people in 12 countries have participated, and Gap Inc. is committed to reaching one million women and girls by the end of 2020. This program focused on issues like decision making, water, sanitation and hygiene, general and reproductive health, problem-solving and decision making, time and stress management, health and well-being to create productivity in the workplace through training⁸¹. VF Corp. has made worker well-being the highest priority of its Made for Change strategy, a goal to significantly improve the lives of 2 million workers and others within their communities by 2030. The program includes fostering a safe and respectful workplace, ensuring workers' universal human rights are respected and advanced improving the lives of workers and others in their communities.⁸² The SDG 5 can be achieved in the following ways:

1. Identify and address the needs and issues facing women workers within the company and supply chain such as childcare facility and maternal leave and technical training, and equal pay.
2. Boost employment opportunities for women, including representation at the managerial level.
3. The bands should align the wage and incentives at the supplier level to discourage suppliers maltreatment.

⁸⁰ Ibid.

⁸¹ Gap Inc. P.A.C.E. – Empowering Women <<https://www.gapinc.com/en-us/values/sustainability/people/p-a-c-e-empowering-women>> (Accessed 29 January 2021).

⁸² 'VF Corporation Announces New Sustainability & Responsibility Strategy to Guide Transformative Changes and Create Business Value' (*VF News*, 11 December 2017) <<https://www.vfc.com/news/press-release/1638/vf-corporation-announces-new-sustainability>> (Accessed 27 January 2021).

4. Introducing a mechanism at the supply chain, which will allow the women workers to report gender discrimination.
5. Educating women on how to control technology.

Another significant SDG is decent work for all SDG 8. The global fashion actors incorporate this SDG 8 into their business supply chain which can provide human and labour rights align with the UN Guiding Principles. Some of the fast-fashion brand introduced programs like C&A established a capacity building management system with learning modules focus on worker interaction with HR, on fire and building safety, environment, working hours, wages, and benefits. Each module includes several days' workshop, home assignments, and a joint on-site visit by the C&A Development Officer and responsible supplier representative.⁸³ Inditex's Right to Wear initiative is a shared value approach towards the business that combines sustainability and transparency in all aspects of the supply chain. The approach includes the health and safety conditions of workers, energy and water use in stores, facilities and processes and how the company is responding to the evolving needs of customers, employees and shareholders.⁸⁴ Patagonia with its Fair tread certified system the company has made a positive influence on over 42,000 workers in nine countries within its supply chain since the program's launch in 2014. Patagonia pays a premium on each product made at a Fair-Trade certified factory which goes directly into a fund for the workers. That helps the workers to earn near living wages, which helped them in better living.⁸⁵

Other than this the brands and retailers participating in social certificate system, brands harmonization and auditor training by ILO and other NGOs. The brands are now using their auditors and third-party auditor to inspect the factory working and labourers' conditions to clarify that their companies, the suppliers follow the CoC. The SDG 8 can be incorporated into business in the following ways:

1. Protect labour rights and promote safe and secure working conditions through policies, that comply with local laws, codes of conduct, regular audits and supply chain assessments auditor training, and capacity building.
2. Safeguard that factories and supplier's contribution to partnerships and programs that seek to improve working conditions and respect for workers whereas enhancing the competitiveness of the apparel sector.
3. Harmonization of the certification system to reduce the load on and cost to factories.
4. Introduction of policies that support productivity, job creation, and innovation.

⁸³ 'C&A Supplier and worker engagement working together to build a better supply chain' C&A Global Sustainability report 2016 <<https://sustainability.c-and-a.com/uk/en/sustainability-report/2016/sustainable-supply-safe-and-fair-labour/supplier-and-worker-engagement/>> (Accessed 27 January 2021).

⁸⁴ Inditex Right to Wear <<https://www.inditex.com/how-we-do-business/right-to-wear>> (Accessed 29 January 2021).

⁸⁵ Brian Gardner, 'All's Fair in Love and Manufacturing: Patagonia's Fair Trade Clothing' <<https://nosidebar.com/patagonia-fair-trade-clothing/>> (Accessed 1 February 2021).

In the global fashion supply chain, SDGs incorporation by the companies can perform a vital change in labour's protection in suppliers' factories. Sustainability will work as a shield to protect workers if it can be harmonized with proper guideline.

7. Conclusions

Since the globalization of the fashion industry stretched its supply chain to many developing countries. As a competitive nature between the brands to provide cheap and fashionable clothes to the consumer. This competitive behaviour leads to human and labourers' rights abuse, by providing minimum wages, workers need to work long working hours and gender discrimination. To guarantee labour protection, transparency and sustainability will be a fruitful mechanism if brands and retailers can incorporate them in their RBC through their decision-making process.

The global brands and retailers took many Multi-stakeholder initiatives and voluntary initiative to eliminate labour abuse in the supply chain. These initiatives are some extents, the reflection of the international trade principles, rules and agreements. It is observed that The OECD Guidelines for MNEs are non-binding recommendations addressed to multinational enterprises by governments on responsible business conduct (RBC).⁸⁶ It put an obligation on the government to ensure that MNEs are considering the human and labour rights issues in their supply chain and other business relations. This Guidance promote shared understanding amongst governments and stakeholders on due diligence for RBC. The OECD Guidelines for MNEs offers the enterprises to adopt the characteristics, specific measures and processes of due diligence to their condition in flexibility way.⁸⁷ The OECD Due Diligence on garments and footwear industry Guidance provides brands guidance on labour rights issue e.g child labour, sexual harassment, gender discrimination, forced labour, union formation collective bargain, force labour overtime and wages. How to mitigate these issues in their supply chain. It is an international instrument to remind the brands of their responsibility towards the workers in their supply chain.⁸⁸ Along with OECD Due Diligence Principles, the IFAs agreement by the garment's brands may have an impact on the garments worker's condition. As it was discussed above. The IFAs also has some implementation problem, because of non-binding nature. There is no legal instrument was available for the implementation IFAs provisions. The IFA aims to strengthen the capacity and ownership of employers and workers at the national and the local level to resolve disputes. The brands use IFAs as part of their CSR and trade unions are using them to strengthen the national level union. It does not precisely have any impact on the workers' condition, rather it is a platform that encourages workers in the advancement of mature industrial relations and the resolution of disputes with the management at the workplace level. To ensure

⁸⁶ OECD Due Diligence Guidance for Responsible Business Conduct (n 9).

⁸⁷ OECD Guidelines for Multinational Enterprises (2011) OECD Publishing, Paris <<http://dx.doi.org/10.1787/9789264115415-en>> (Accessed 1 February 2021).

⁸⁸ OECD Due Diligence Guidance for Responsible Supply Chains in the Garment and Footwear Sector (n 8).

effective implementation, all parties in the agreement have recognized the need to raise awareness and strengthen the capacity of national and local stakeholders to negotiate and resolve disputes. By analyzing the Universal Declaration of Human Rights, the UN Global Compact, the UN Guiding Principles on Business and Human Rights, the ILO convention and the OECD MNEs Guidelines, all are volunteer in nature. These principles, guideline and conventions remind the enterprises about their responsibility towards the workers in the supply chain. It is up to them how to resolve the human and labourers' rights issues, without any legal obligation towards the workers. As they are not directly employed by the brands. If we consider the reality, the brands are following these principles, guidelines and agreements, for the improvement of their CSR and business reputation. The brands want their suppliers to follow the ILO, standers, OECD Guidelines and IFAs agreements. It is practically not possible by the suppliers, as in many Asian countries labour and employment law fall short of ILO standard.

Although their initiatives contribute to a certain extent, did some improvement like factory auditing, workers training, improvement in workplace safety. After the introduction of the transparency pledge in 2016, many fashion companies published their supplier's factory name with other details. That gave the consumers, stakeholders, investors, union leaders and workers the opportunity to identify which supplier's factory is following the UN and OECD principles. In the case of labour abuse in the factory, the workers and union leaders can turn to brands directly. Previously the companies using different approaches to publish factory list, it created ambiguity between the consumers and others. Now companies are using following the transparency pledge standard to clear the ambiguity. But it has observed that the companies are using transparency as they are CSR tool to enhance their company's reputation, not genuinely focused on the improvement in the labour's condition. Though the transparency only provided a minimum standard, the companies can go furthers on transparency, by publishing their suppliers, subcontracting factories detail, and frequent auditing the factories. By supporting the suppliers financially in case of infra-structural change and training the workers. It was observed that the binding nature initiatives like Bangladesh ACCORD, which was come to action after the Rana Plaza incident, made remarkable progress. If the parties in the ACCORD fail, to follow the agreement must face sanction. Which has forced many factory owners to change the factory infrastructures safe for workers and brands are obliged to contribute financially to up great the factory condition. The supply chain will be more transparent if the brand goes beyond the minimum standard. The transparency of the supply chain will help to identify the abuse of labour in the factories. This is important because without knowing the issue it is possible to mitigate it. For the mitigation and abolishment of human and labour abuse, a strong nation and international legislation required. The introduction of national level legislations mention above are undaughterly the beginning of the transparent supply chain.

The protection of human and labour rights become complicated when it requires international level implementation. The world tread organization trade rules and regulation between its members state facilities the globalization of businesses. The WTO enable trade between member states by upholding a generalized system of

trade rules, regulation and policies to negotiate trade agreements and dispute settlement. The WOT mainly focused on the reduction of customs duties and other trade barriers between members. By the globalization of trade, the WTO has two objectives, improvement of living standard and sustainable developments. But it is noticeable that the preamble of the WTO, the protection of human and labour rights are not mentioned in the mandate. The ignorance of human and labour rights by WTO in the trade globalization has been criticized. As most of the WTO developing member countries' citizens work in terrifyingly bad conditions. With low wages in export-driven industries, without a healthcare system, inadequate food and poor housing. The Rana Plaza incident in Bangladesh was an example of life-intimidating situations workers face in the garment and manufacturing industry. For the globalization of trade, the strong labour law in the developed countries and the weak labour law and its non-implementation works as a catalyst. Which attracts foreign investment. According to the WTO, efficient production and open access of trade is the main instrument of economic development. The member states can incorporate human and labour standard as long as it does not create any trade barriers. The imposition of labour standard on member states will have a negative effect on developing countries. As per WTO rules, the national legal system prevents countries from the imposition of trade restrictions, because of the production and processing methods involved in human and labour rights violation. For example, the dying process in the garments production and use of the chemical in the production of leather shoes and bags have a direct effect on the workers' health not on the final production. If the production process like this become a competitive issue between the member states and other member states taking advantage of that, it will consider as a violation of GATT (The General Agreement on Tariffs and Trade) Article I. which prohibits members from favoring products from one member over those of another. Under GATT Article III products made with questionable production methods are in a weaker competitive relationship owing to current or possible future consumer preferences. But if products are not directly competitive or substitutable, then they cannot be considered under this article.

So, the objective of only economic growth by the WTO is creating a scope of human and labour abuse in the global supply chain. It is busting the economic growth in the member states but also creates a gap between the developed and developing countries workers living standard and income.

On the other hand, the European Union is obliged through its Treaties to promote and respect human rights in all areas of its external activities, including trade. The trade policy of the EU does aim to ensure that economic development goes hand in hand with respect for human rights and high labour standards, in line with WTO rules. That ensures some extent transparency in the global garments supply chain as the EU the hub of brands Head Quarter and the largest importers of the garments from the developing countries.⁸⁹

⁸⁹ Jana Titievskaia, Ionel Zamfir and Cecilia Handeland, 'WTO rules: Compatibility with human and labour rights' European Parliament Briefing <[https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/689359/EPRS_BRI\(2021\)689359_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/BRIE/2021/689359/EPRS_BRI(2021)689359_EN.pdf)> (Accessed 1 February 2021).

As the global fashion industry is more focused on Sustainable development goals (SDGs) than the other industries. The global fashion industry took some initiatives to get sustainability on the environmental issue. Achieving SDGs by 2030 in the global fashion industry has its challenges and opportunities by companies' business priorities.

Sustainable development not just depend on the companies' attitude need government involvement too. Every developing importing country have its barriers because of geographical and financial reason. It was observed stakeholder's incorporation of SDGs into their core business and value chain and companies' evaluation of their achievements over SDGs, can provide them with the proper picture of which SDGs are lacking behind to balance the achievement. Along with sustainability and transparency, the global supply chain required a legal binding rule and its implementation to stop human and labourers rights abuse.⁹⁰

Now it time for WTO to focus on the human and labour right issue instead of trade policies centring mainly on economic growth. Trade policy objectives that acknowledge the importance of human and labourers rights could accelerate the achievement of the United Nations sustainable development goals (SDGs). In a globalized world, trade, economic growth, human and labour rights deeply interlinked. So, the transparency to the global garments supply chain can be considered as a tool, to keep the information by the brands and retailers in alignment. Which will help workers, tread union, consumers and investors to know about human and labour conditions. But the transparency and SDGs goals can only be possible achieve through national and international legislation and by its implementation.

⁹⁰ Threading the needle: Weaving the Sustainable Development Goals into the textile, retail, and apparel industry (n 11).