



**FAIR
WEAR
FOUNDATION**



**RESEARCH
AGENDA**
2017 → 2020

© 2017 Fair Wear Foundation

Fair Wear Foundation (FWF) is an independent, non-profit organisation dedicated to improving conditions for garment workers around the world. For more than 15 years, FWF has evaluated and publically reported on the human rights compliance efforts of its nearly 100 member brands. FWF member brands are based in ten European countries, and their garment production is concentrated in 11 priority countries, primarily in Asia. FWF is jointly governed by business associations, trade unions and NGOs. For more information, please visit www.fairwear.org.

Lead author: Martin Curley, Senior Policy & Research Officer. Special thanks to Anne Lally, Margreet Vrieling, Sophie Koers and Jeroen Merk for their contributions, to Alba Leon for editorial support, and to FWF's staff, members and stakeholders whose many thoughts and discussions have shaped the content of this document.

Graphic design: buro RuSt

This report is published as part of the Strategic Partnership for Garment Supply Chain Transformation, supported by the Dutch Ministry of Foreign Affairs.



Government of the Netherlands

INTRODUCTION	3
RESEARCH AREA I: Supply chain governance	7
Governance Challenge 1: Structural imbalances: Wealth and power vs. responsibility for human rights compliance	7
Governance Challenge 2: Fragmentation of responsibility across brands	9
Governance Challenge 3: Competitive pressures between factories	9
Overlap and interaction of governance challenges	10
Leverage and governance	11
Responsibility vs. capacity of brands	12
Other actors affecting supply chain governance	13
RESEARCH AREA II: A better map of the garment industry	16
RESEARCH AREA III: Social dialogue and supply chain networks	20
Brand support for social dialogue	21
Getting resources to the negotiating table	21
Enabling environments for social dialogue	23
Freedom of Association	23
RESEARCH AREA IV: The next generation of FWF's work	26
Area 1: Monitoring systems, corrective action plans (CAPs), and verification audits	27
Area 2: Worker helpline, complaints remediation, and complaints verification	28
Area 3: Training & social dialogue support (Workplace Education Programme)	28
Area 4: Brand management and Brand Performance Checks	28
Challenges for the future	28
REFERENCES	33



INTRODUCTION

For the past fifteen years, Fair Wear Foundation (FWF) has evaluated and reported on the human rights compliance efforts of its member brands. In that time, FWF has learned a great deal about the complexities and challenges of improving working conditions in apparel supply chains, and has increasingly focused on developing new solutions to common problems, and sharing the lessons learned from our members and their experiences.

2016 marked the launch of FWF's five-year *Strategic Partnership for Garment Supply Chain Transformation* with the Dutch Ministry of Foreign Affairs, Dutch trade unions FNV and CNV, and a significant number of organisations in garment-producing countries. Under this partnership, FWF is positioned to significantly expand the research and reporting aspects of its work.

WHY IS A RESEARCH AGENDA NEEDED?

FWF's own experience reflects problems seen across the industry: The complex structure of the apparel industry makes it exceptionally challenging to implement sustainable improvements. FWF members continue to work on improving conditions at their suppliers, but in most cases there is a point beyond which further improvements – for FWF's members, and for the industry in general – will require systemic change. At a minimum this will entail behavioural change at other brands, widespread change in factory management, and better government enforcement.

This document outlines what FWF sees as the major questions facing both FWF and the overall garment industry and its stakeholders. It highlights the areas in which FWF can best contribute to the international dialogue around human rights compliance; and provides a framework for FWF to increase its cooperation with other organisations working in related areas. In some cases, FWF will be looking to better understand existing research; in other cases supporting new research. FWF is also aware of the value of more sophisticated analyses of FWF's own information than has previously been possible.

This agenda is designed to **1**: identify the actions that FWF can take to help make progress towards systemic change in the apparel industry, including improving its own activities; and **2**: foster a dialogue with researchers and organisations who can also support systemic change in the industry.

1: Supporting Systemic Change: FWF's existing activities reflect both the organic nature of their evolution and the changes over time in the thinking about the role of different actors in garment supply chains. FWF sees the launch of the Strategic Partnership as an opportunity to assess where FWF's activities are working well, where the different activities can be better integrated, where new strategies are needed, and how FWF's work can support various efforts, especially those designed to take new ideas to scale.

FWF is, of course, not alone in recognising the need for new approaches. And in recent years, a new generation of efforts has begun to emerge that aim at fostering systemic change. From the Bangladesh Accord, to the IndustriALL 'ACT' programme, to the Indonesia Freedom of Association protocol, to FWF's own work on living wages and gender-based violence, we are seeing the emergence of what researcher Jeroen Merk has called 'the start of a model for 21st century industrial relations.'

There is still a huge amount of work needed to make this emerging model a functional reality. Much of the debate about the industry is still based on largely untested assumptions and decades-old thinking on how brands, factories, and workers in apparel supply chains relate to each other. Some businesses and governments still use this lack of clarity as an excuse to ignore or even justify violations. But many questions about how to improve human rights compliance are legitimate and complicated. And the kind of large-scale efforts which are being proposed – from new laws, international treaties or legally enforceable agreements – will all require careful consideration and planning if they are to be successful. They will also

require expertise spanning a number of fields, including economics, industrial relations, gender studies, organisational psychology, supply chain management, and international relations, among others.

FWF sees a valuable role for itself in supporting these larger developments by acting as a real-world testing ground for the piloting of new ideas and methodologies. With nearly 100 progressive member brands, a strong multi-stakeholder governance structure, and its history of transparent reporting on member activities, FWF is uniquely placed to provide pragmatic insights on how change is possible in the larger industry, especially in cooperation with other actors. The piloting and evaluation of new strategies before they are incorporated into law, corporate policy or other large-scale initiatives can go a long way towards improving the chances of success of such efforts.¹

2. Dialogue with other researchers and organisations: FWF is grounded in day-to-day, real-world work with brands, factories and garment workers to improve respect for human rights. The organisation tries to position itself on the leading edge of what is possible, always with one eye on what should happen next. Activities are regularly revised and updated, and FWF's thinking about topics is regularly up for review. Sometimes practice leads the way; sometimes theory does, but the dialogue between the two is critical to FWF's successes. Input from stakeholders in Europe and in production countries, including researchers, has long been a part of FWF's approach. However as FWF expands the scope of its work, evaluates how it can better perform and considers how it can better support industrywide change, there is clear value in additional dialogue with those organisations and individuals who can help answer the most difficult questions facing FWF and the industry.

¹ For a sense of how FWF envisions the relevance and design of pilot projects, consult [Living Wages: An Explorer's Notebook. Piloting Living Wages Garment Factories](#). (Lally, et al. 2016)

FWF would welcome suggestions, comments, and questions regarding this research agenda. Existing research on the questions posed throughout this document is particularly welcome, as are ideas about how FWF's work can link to other efforts. The scope of the agenda is well beyond what FWF can do alone, but a clearer understanding of the work and interests of others will help FWF prioritise its work, and can support stronger networks for sharing lessons among stakeholders.

Please direct any comments to policy@fairwear.org.

FIGURE 1: COST BREAKDOWN OF SAMPLE €29 T-SHIRT



Source:
Climbing the Ladder to Living Wages
Fair Wear Foundation 2012

RESEARCH AREAS

FWF has identified three focus areas where additional research seems necessary. For each, a summary of FWF's recent thinking is provided, followed by a short list of research questions which FWF and other actors could work on – although FWF is hopeful that a number of these questions are already being addressed by others. A fourth section outlines FWF's existing work, and the questions which will guide the development of the next generation of FWF's activities.

RESEARCH AREA I: SUPPLY CHAIN GOVERNANCE

It has been clear for some time that the economic relationships in the global apparel industry have evolved far faster than regulatory or social dialogue structures. The problem has come to be described as a *governance gap* in supply chains, where responsibility for human rights compliance is fragmented between different government and private actors, leading to widespread and recurrent human rights violations. This gap poses problems for government-led, NGO, private and trade union efforts to improve conditions in the industry.

FWF sees three major 'governance challenges' that the new generation of efforts to improve the apparel industry must address. Some steps are already being taken to tackle these issues, but more work, on both practical and theoretical levels, is needed. What follows is a brief outline of FWF's current thinking on these challenges.²

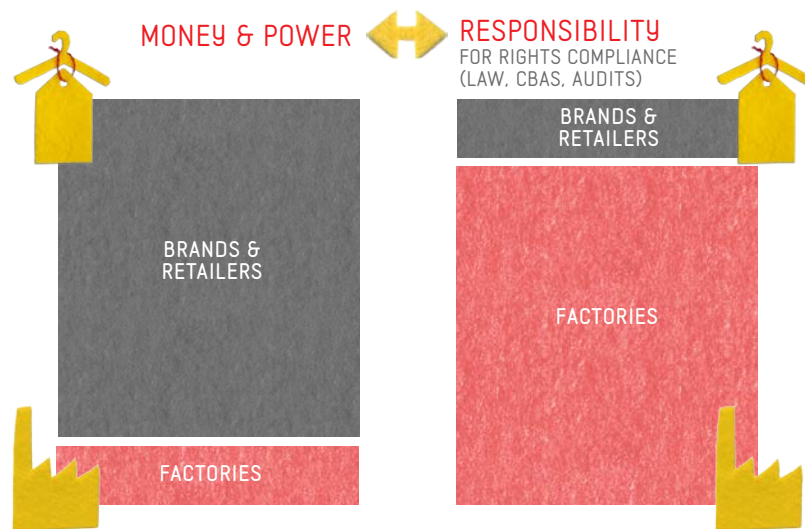
Governance Challenge 1: Structural imbalances: Wealth and power vs. responsibility for human rights compliance

Analyses conducted by FWF and others show that the majority of the value in value chains is controlled at the consumer end of the supply chain – by brands and retailers. FWF's research to date (see Figure 1 for an example)

² The analysis in this section is based on the experience of FWF staff and many stakeholder discussions, but also owes debts to a number of authors who have examined questions of power in modern supply chains, particularly Gereffi 1994; Kaplinsky & Morris 2000; Sacchetti & Sugden 2003; Williamson 2008; Schrank & Whitford 2011; and Nyaga et al. 2013. The influence of the UN Framework on Business and Human Rights (UNOHCHR, 2011) will also be clear in many places.

estimates that if the cost of materials is set aside, a typical factory controls only a small percentage of the retail cost of most garments – including the cost of labour³. The power balance in the industry appears to be similarly skewed, especially when considered at an industry or national level⁴. Despite these imbalances, factories are still held responsible for human rights compliance – under national laws, under traditional factory or national-level collective bargaining agreements, and under mainstream corporate social responsibility (CSR)-based code/audit/corrective action plan (CAP) systems. This imbalance, combined with the general inability of factories to force their customers (i.e. brands) to pay for the costs of human rights compliance – an issue further addressed below – is a major

FIGURE 2



³ See Anne Lally's [Climbing the Ladder to Living Wages](#) (2012) and Anne Lally & Ivo Spauwen's [Living Wage Engineering](#) (2014) for FWF on these issues, as well as, e.g. Dinh et al. (2011) and Miller (2009).

⁴ Consider, for example, if a country like Bangladesh were suddenly banned from exporting clothing to the EU: would the European or Bangladeshi part of the industry suffer more? Which could more easily replace its business partners? Or, from a different angle: how often are clothing factories able 'move up' the value chain and launch retail brands in the rich economies?

problem for both enforcement and social dialogue. The power imbalances also mean trade unions in production countries are often not negotiating with the supply chain actors who control the resources needed to deliver improvements. Indeed, the relative weakness of factories within supply chains can act as a deterrent to entering into any form of dialogue with workers. A workable method for sharing responsibility and costs for human rights between brands/retailers and factories needs to be developed.

Governance Challenge 2: Fragmentation of responsibility across brands

Even though the brand/retail end of supply chains controls the majority of the value, that value is fragmented over many brands who are competing with each other. At any level of analysis – factory, sector, or nation – this fragmentation appears to hold true most of the time. The competitive pressures between brands need to be addressed on at least two levels. One is the perception that any cooperation will run afoul of anti-trust/competition law, although a number of efforts including law firm Arnold & Porter Kaye Scholer's guidance for FWF⁵ make it clear how to avoid any such issues. The second, and much more serious issue, is the lack of a method to fairly share responsibility for and costs of human right compliance across brands at a factory (or even country) level. Without such a method, brands will be very resistant to investing in improvements at suppliers that effectively subsidise their competitors, because such investments financially reward those brands who do nothing to improve conditions.⁶

Governance Challenge 3: Competitive pressures between factories

A third major issue is the effect of competition between factories, especially in poorly-regulated environments. At its simplest, the dynamic that concerns FWF is if a single factory increases prices to support better human rights compliance, they will be at great risk, as brands jump to cheaper

⁵ See Frazer, et. al (2015) [The Application of EU Competition Law to the Adoption of the Living Wage Standard](#).

⁶ Klaus Hohenegger and Doug Miller's work for FWF included in [Labour Minute Costing](#) (2016) provides some promising ideas about how these issues could be addressed.

competitors making identical products.⁷ Those brands, in turn, are often competing with each other to market and sell near-identical products at the same price point. Such a dynamic makes it extremely difficult for trade unions to negotiate on a factory-by-factory basis, because individual factories have no effective way to force customers to absorb the costs of better human rights compliance. FWF expects competitive pressures to be different in different parts of the industry – e.g. technical garments with a limited number of qualified manufacturers are likely to be in a different negotiating position than t-shirt factories. These differences may provide avenues for progress in some parts of the industry.

Overlap and interaction of governance challenges

Very often, these three challenges overlap and interact. Progress towards living wages, for example, can be seen as being stymied by a mix of all three challenges: Structural imbalances (the cost of doubling or tripling of wages is small compared to the retail price of a garment, but large relative to the factory's share of a garment's value); *Fragmentation of responsibility*: (How to get all of a factory's customers to pay for living wages); and *Factory competition*: (How can a factory increase wages without pricing itself out of business?) FWF sees these challenges not as excuses for inaction, but as obstacles to overcome. FWF is working on a model to analyse the range of human rights issues typically covered by auditing systems and collective bargaining agreements in light of these governance challenges, and the ways they interact. Such an analysis will help to provide insight on why some issues – in particular health and safety – seem to be susceptible to remediation by existing code/audit/CAP or factory-level collective bargaining approaches. More importantly, this analysis can provide guidance in developing new strategies to deal with living wages, freedom of association, excessive overtime, and other issues that existing approaches are largely ineffective in remediating.

⁷ A full analysis would be much more complex, but so long as the main differentiation between products is in branding, marketing or minor design variations, this would seem to be the crux of the problem.

Leverage and governance

One of the main issues that FWF and most other actors face in overcoming supply chain governance gaps, is an incomplete understanding of what mix of rewards and sanctions in the relationship between brands and factories facilitates human rights compliance. As noted above, the mainstream code/audit/CAP approach has largely held that brands are responsible for 'ensuring compliance' at their suppliers, but questions of what 'ensuring compliance' actually means have largely been left up to the industry to figure out. The concept of 'leverage' in the UN Framework on Business and Human Rights, while very helpful, has similar definitional problems. Improved human rights compliance in supply chains will almost always require the reengineering of business processes, and of business relationships – but to be effective, this reengineering will require significant input and oversight from human rights experts. Social dialogue processes could benefit enormously from a better understanding of supply chain governance. Collective bargaining agreements, when they exist, are effectively being negotiated with a decentralised supply chain network. This is, in many ways, fundamentally different than negotiating a CBA with a standalone employer, and would seem to be a major factor in the reluctance of factories to agree to a CBA.

FWF and other organisations have begun to provide increasingly specific guidance to brands on what their due diligence and corrective actions should look like, but the approach has largely been ad-hoc, often in response to emerging issues. Indeed, one of FWF's priorities for the coming years is to develop a more consistent guidance approach across its complaints handling, audit and brand performance check systems. In some areas, like living wages and excessive overtime, the potential role of brands in prevention and remediation of problems has received considerable attention. In others, like gender-based violence and discrimination, the role of brands and the effects of purchasing practices are still being mapped out.⁸

⁸ Jo Morris & Jane Pillinger's 2016 [Gender-Based Violence in Global Supply Chains](#) for FWF and ITCILO identifies describes several known examples of the relationship between purchasing practices and GBV, and points towards a number of other areas where additional research would be valuable. FWF's 2013 [Standing Firm Against Factory Floor Harassment](#) report also explores some of these questions.

FWF believes a more systematic consideration of the dynamics between brands and factories could make for far more effective guidance, for example by combining FWF's experience of what brands and factories are actually doing, with contract theory, transaction cost economics, and other relevant tools.

It also seems that to make real progress towards better supply chain governance – and better human rights compliance – it is critical to distinguish between the legal responsibility for rights compliance, which remains with factories, and the real power relations in supply chains, which often inhibit the ability of factories to fulfil their legal responsibilities, or to require customers to pay the costs of human rights compliance. FWF sees real potential for practical, effective strategies to emerge from this line of thinking.

Responsibility vs. capacity of brands

A largely unacknowledged problem is the tension between brands' *responsibility* to ensure human rights are respected in their supply chains, and brands' *capacity* to ensure that human rights are respected in their supply chains. It has been asserted that corporate human rights compliance in a strongly-regulated environment like the EU is largely a function of following the law.⁹ If this is an accurate assessment, then it prompts important questions about the ability of brands to develop effective human rights compliance strategies in their international supply chains. How realistic is it to expect European brands to be able to develop solutions for problems at suppliers in multiple, foreign, often under-regulated environments? Or to gauge whether a corrective action plan as proposed by a supplier will work? Or to create policies that adequately address the governance challenges outlined in the previous section? It would be difficult to argue that human rights compliance is a core competence of most clothing brands, and it should be no surprise that much compliance work has been outsourced, with varying levels of effectiveness. Brands' lack of capacity does not absolve

⁹ See, e.g. Festerling & Demuijnck (2013)

them of responsibility; but the design of effective remediation strategies needs to take the practical limits of brands' capacities into account.

Other actors affecting supply chain governance:

The role of governments: While the legal framework for respecting human rights exists in many garment-producing countries, implementation of those laws remains uneven. There are many reasons for weak enforcement, but the one perhaps most relevant to FWF's work is the ways production country governments are subject to many of the same governance challenges as factories – and the fear that better enforcement will price their industries out of the market. Work that demonstrates how better human rights compliance can be paid for at a supply chain level would presumably help governments improve compliance while maintaining a financially healthy industry.

Retailers and large procurement customers: A significant portion of apparel is either sold via third-party retailers (like department stores) or to large end users (governments and corporations). The demands of these actors can have enormous downstream effects on apparel production, and need to be better analysed.

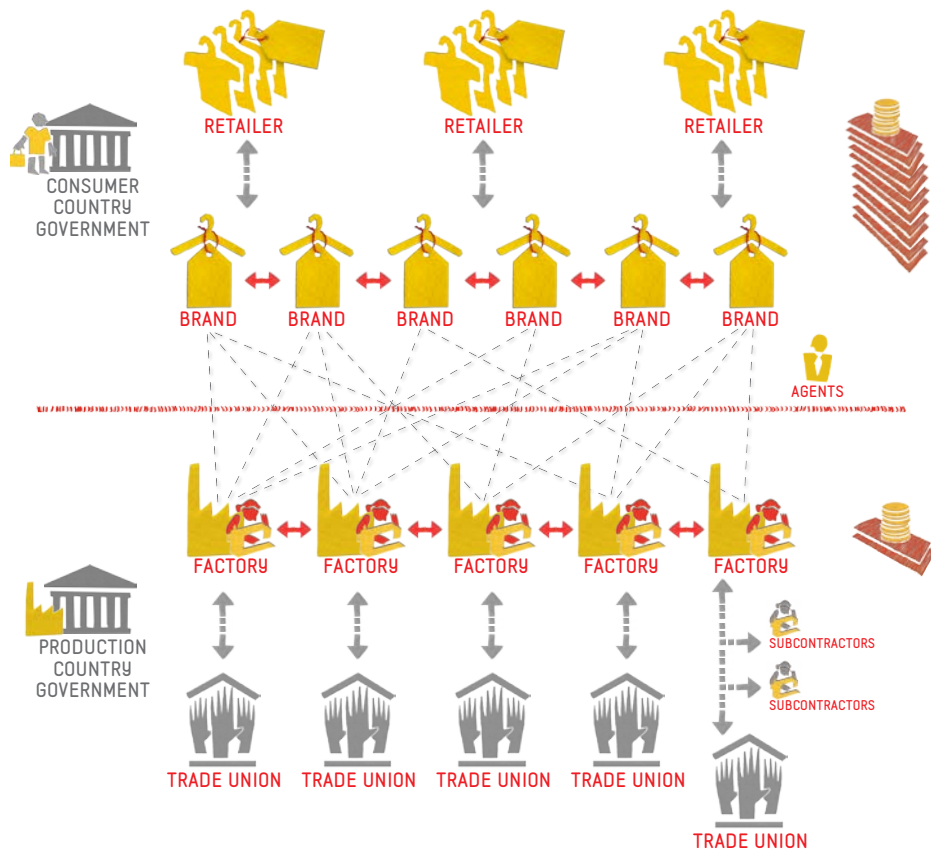
Agents: A large number of brands also work through agents and other intermediaries; indeed it is not unusual for brands to have no idea where their garments are actually made. Agents are often reluctant to share such information for fear of being cut out of the supply chain, although FWF has seen a number of ways to work around these problems. No systemic solutions will be successful without addressing agents.

Subcontracting: Unauthorised or hidden subcontracting is a widespread problem used to deal with irregular order flows – or simply to cut costs – by moving production to factories that generally have poorer conditions. FWF's experience and reports from a number of other organisations indicate

that a large percentage of garments may be produced in part by sub-contractors. Subcontracting may also include homeworkers or other informal employees, which presents another set of challenges for human rights compliance.

A (still very simplified picture) of the full system looks like this:

FIGURE 3



RESEARCH QUESTIONS I: SUPPLY CHAIN GOVERNANCE

	QUESTION	RELEVANCE
I-A	<ul style="list-style-type: none"> • What are the existing beliefs and knowledge levels among factories, brands, and trade unions on which actors should be responsible for human rights compliance? • What is the basis for those beliefs? 	Beliefs and knowledge among stakeholders about supply chain governance are uneven and often focus on a small section of the supply chain. The development of a common, supply-chain level understanding will help to improve the quality of discussions and negotiations.
I-B	<ul style="list-style-type: none"> • How is the total value of the apparel industry distributed between retailers, brands, agents and factories? • What are the patterns in different parts of the industry (e.g. fashion vs. workwear)? 	Improved human rights compliance will likely increase costs, even taking productivity improvements into account. The cost of improvements may be high for a single group of actors – i.e. factories – but relatively minor compared to the total value of a supply chain. Therefore, a common understanding needs to be developed on how to share those costs across different supply chain actors.
I-C	<ul style="list-style-type: none"> • How can corrective action and remediation strategies between brands and factories be more effective? 	While there is a lot of discussion about the need for, e.g., standardisation of auditing, FWF believes the real question should be when are existing strategies effective? When are they not? What alternatives should be employed?

I-D	<ul style="list-style-type: none"> • Can a contract theory or transaction cost economics-informed analysis help design better social dialogue, CSR and compliance systems? • Can we better define 'leverage' and when brands are able to influence factories? When not? 	<p>The current human rights failings of the apparel industry can, in many ways, be seen as a contract theory problem, with brands and factories failing in different ways to hold up their ends of agreements. The kind of analysis brought to bear on, e.g., Board-CEO relations would likely be of great benefit to supply chains – not just for the brands and factories, but also for trade unions looking for more effective negotiation structures.</p>
I-E	<ul style="list-style-type: none"> • What efforts – either historical, like the jobbers agreements, as described by Anner et al. (2013) – or in other industries – could help provide models for improvements in the apparel industry? 	<p>Modern apparel supply chains have many unique features that make improvements difficult, but it is still valuable to understand where relevant models exist that could be adapted to apparel.</p>

RESEARCH AREA II: A BETTER MAP OF THE GARMENT INDUSTRY

Many apparel industries: In practice, multiple industries exist, which sometimes overlap and sometimes operate separately. A better 'map' of these industries would be invaluable in knowing where, for example, certain strategies for human rights compliance are likely to succeed. Some key ways 'industries' can be organised include:

Product type: Different types of product (workwear, fashion, outdoor, etc.) tend to have different supplier bases; the factories supplying one type of product compete with each other, but mostly not with other types of factories. Understanding where these 'borders' exist between different supplier bases can help break the industry down into more manageable blocks for policy purposes.

Geography: The importance of national boundaries varies considerably by stakeholder – they are very important to trade unions or governments; to brands, however, national boundaries can be almost irrelevant. The disconnect between these viewpoints is important to consider in developing strategies for human rights compliance

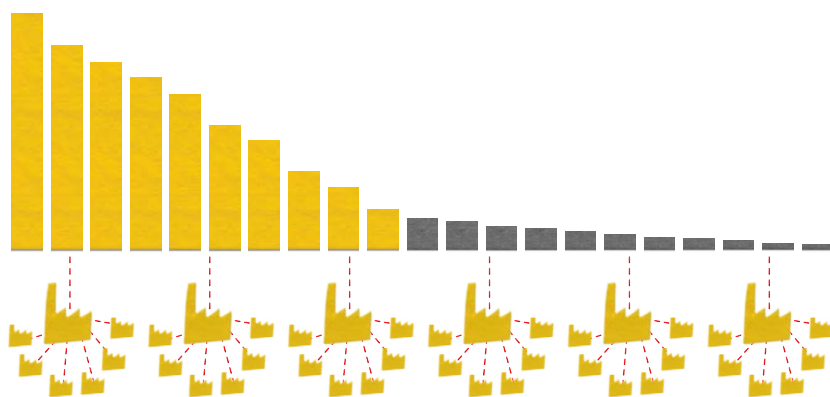
End market: Consumer products have a very different market structure than, for example, workwear. Fakes make up a significant proportion of global production – estimates are in the tens of billions of dollars. Third-party retailers can have huge effects on, e.g., excessive overtime, by demanding changes to delivery dates. Domestic production has its own economics.

Industry size and structure: To the best of FWF's knowledge, there is a lack of reliable data about the size and structure of industries in both consumer and production countries. For example, the widely-accepted estimate of 5000 garment factories in Bangladesh was called into question by Labowitz & Baumann-Pauly (2015) who estimate the real number to be over 7000. Without knowing the size of industries, it will be very hard to control subcontracting, estimate the true costs of remediation, and prevent 'leakage' of production into the informal economy, among other issues.

Concentration of power and distribution of leverage: The long tail phenomenon in the apparel industry is well documented. Very simply put, brands often have a small number of 'strategic suppliers' who sell most of their output to the brand, and with whom those brands therefore have a lot of leverage. The brand then buys small amounts of production from dozens or hundreds of other factories – who are either used to spread risk or to fill out garment collections. What is unclear to FWF is the cumulative effect of all those long tails on the overall concentration of power in the industry.

What percentage of factories has one or a few dominant, 'high-leverage' customers who can support better human rights? What percentage has a fragmented customer base, with dozens of brands buying small amounts, each with little incentive to invest in better conditions? Each group of factories is likely to require very different strategies for achieving improvements, and knowing the breakdown between the 'high-leverage' factories and the 'high-fragmentation' factories seems essential.

FIGURE 3: THE 'LONG TAIL' EFFECT IN SUPPLY CHAINS



RESEARCH QUESTIONS II: A BETTER MAP OF THE GARMENT INDUSTRY

	QUESTION	RELEVANCE
II-A	<ul style="list-style-type: none"> • What does the industry structure really look like in the major garment producing countries? • How many factories are there? • Who owns them? • What are levels of subcontracting? • Where are clusters of suppliers to specific sub-industries? • How much production goes to countries with little CSR pressure? • How much goes to fakes? 	<p>Foundational knowledge for government, business and labour discussions on larger-scale remediation plans. It is much easier to support improvements in an industry when there is a clear understanding of size and structure.</p>
II-B	<ul style="list-style-type: none"> • What does the industry structure look like at the brand and retailer end of supply chains? • How many brands/parent companies are there in the EU, US, other consumer markets? • What are the main garment industry sub-markets? 	<p>As in II-1, this is foundational knowledge for government, business and trade union debates. In Europe, brand-level initiatives like the German Textilbündnis and Dutch Textile Covenant are national, but brands' markets, competitors (and supplier bases) are international; can this information help overcome the challenges the industry structure presents to national initiatives?</p>
II-C	<ul style="list-style-type: none"> • What percentage of purchasing is still done through agents? • What are the implications? 	<p>A major, and largely unaddressed industry force; effects are rarely discussed in policy debates.</p>

II-D	<ul style="list-style-type: none"> • What are the relative sizes and structures of market segments with distinct manufacturing bases? • What do those markets look like in consumer countries? 	Helps to break down the debate into more manageably sized sub-industries with different dynamics and characteristics. Is it possible to make progress in one segment as a model for others?
II-E	<ul style="list-style-type: none"> • What is the concentration of brand power in factories? E.g. how many factories are supplying one or a few brands vs. dozens of brands? • How does this vary by production country? 	The strategies for brand responsibility and leverage look very different in a factory with two customers (high-leverage) than they do in a factory with, e.g., 50 customers (high-fragmentation). A better understanding of the distribution of factories along the high-leverage vs. high fragmentation continuum seems important in order to ensure the right strategies are employed. For brands who buy a significant portion of a country's production, the nature of their influence is presumably different depending on whether that production is at a small number of factories with high leverage, or spread in small amounts over many factories.

RESEARCH AREA III: SOCIAL DIALOGUE AND SUPPLY CHAIN NETWORKS

The structural issues in the garment industry pose enormous challenges for social dialogue. FWF's stakeholders estimate existing unionisation and CBA coverage rates of only 2-5% in most garment-producing countries. Worker committees are widespread, but rarely seen as effective, and in many cases may serve as a deterrent to true freedom of association and collective bargaining. Overall, it has been FWF's experience that meaningful worker-management dialogue is rare in the apparel industry. But even

where it does exist, the disconnect between factories as the legal employers, and brands as the dominant partners in supply chains, has huge implications for successful social dialogue.

Brand support for social dialogue

While there have been widespread calls for apparel brands to support social dialogue, and freedom of association and collective bargaining clauses are included in most corporate and NGO codes, significant questions remain – even for those brands who see the value of working with trade unions – about their capacity to do so. There are many European brands who are used to working under CBAs concluded in their home countries, but because negotiations are national or sectoral they have no direct experience of negotiating with their own employees. This lack of experience raises questions about whether brands are currently competent enough to support, for example, trade union negotiations at their suppliers, in countries they know little about.

Industry structure plays a major role here as well: the 'long tail' may mean that few brands have significant enough leverage at suppliers to require such a major shift in how a factory operates. This is a challenge for multi-stakeholder initiatives, and presumably an issue for other agreements concluded between brands and trade unions at an international level.

Getting resources to the negotiating table

FWF believes that the most honest starting point for social dialogue is to assume that improved human rights compliance is simply going to cost more money. Productivity increases might help offset costs, but it seems unlikely that they would be enough to cover all the costs of compliance. And in any case, human rights compliance should not be dependent on productivity improvements, or any other financial considerations. FWF's work so far on living wages – presumably one of the largest cost components in human rights compliance – shows that wage increases for the

lowest-paid workers to living wage levels would likely only add a few percent relative to the retail cost of a garment. If this holds true for other human rights costs, the costs of a compliant industry may actually be lower than widely assumed. The lack of good costing data, and often weak costing practices, means that even this fundamental information about the industry is largely unknown.

Social dialogue has naturally focused on the relations between employees and their direct employers, and clearly those relations need to continue. But given that most of the industry's financial resources are not controlled by factories, it becomes clear that social dialogue structures need to be designed that either a) enable factories to require brands to absorb/pass on the price of human rights compliance, or b) get brands to the negotiating table in some form. While there is not yet a fully-formed model for 'triangular' social dialogue, involving brands, factories and trade unions, there are important initiatives already under way which address various parts of these problems. Researcher Jeroen Merk has developed a model which identifies five types of emerging social dialogue models for apparel supply chains:

Single-site bargaining, which focuses on preventing or (more commonly) remediating labour rights violations in a particular factory using brand leverage (the 'brand boomerang' approach).

Grassroots-driven supply chain bargaining, which attempts to construct transnational agreements with lead firms in supply chains (i.e. brands) which apply equally across an entire region, driven by local organisations (e.g. Asia Floor Wage)

Reinvented national collective bargaining, where international union bodies and groups of brands (as lead firms in supply chains) come to an agreement covering individual production countries, (e.g. IndustriALL's ACT programme)

Spatial reach agreements, between an international union body and a single brand, covering all the production facilities in that brand's supply chain (e.g. Global Framework Agreements)

Thematic Bargaining Agreements, agreements that focus on a particular topic (e.g. Bangladesh Accord on Fire and Building Safety)

While all of these approaches have limitations, they each make significant contributions to the development of a robust, functional social dialogue structure for the future. FWF sees great value in sharing lessons with various types of initiatives covered under Merk's model, and helping to test out ideas that could support the next generations of these and other related ideas.

Enabling environments for social dialogue

These five models also imply a range of approaches to the concept of creating an enabling environment for social dialogue. Additional work on this concept, articulating theories of change that describe a pathway from the existing situation in various countries and parts of the industry to a situation where social dialogue systems are strong and play an appropriate role in human rights protections, are also needed. As several of these initiatives illustrate, such models may increasingly need to involve the lead firms in supply chains – like clothing brands – not just factories and other direct employers.

Freedom of Association

While FWF supports progress towards social dialogue generally, not all forms of social dialogue are equally effective. FWF's code, like most other codes of conduct, includes a Freedom of Association and Collective Bargaining clause. This means that workers should always have the freedom to have an independent union if they wish. Labour conditions should be agreed upon via a collective bargaining process, which may take place at

factory, sectoral or national level. One of the outstanding areas that requires more work is determining how social dialogue processes can be structured so that they ultimately support the development of freedom of association and collective bargaining in the industry.

RESEARCH QUESTIONS III: SOCIAL DIALOGUE IN SUPPLY CHAIN NETWORKS

	QUESTION	RELEVANCE
III-A	<ul style="list-style-type: none"> How can brands be incorporated in social dialogue in apparel supply chains? 	There appears to be a growing agreement that the apparel industry can only improve if brands are actively involved in social dialogue, but the mechanics of such involvement are as yet unclear.
III-B	<ul style="list-style-type: none"> What, practically, should brand-level support for Freedom of Association look like? How much should be formal and high-level (e.g. lobbying governments to respect FoA); how much specific FoA policies (e.g. support for non-victimisation clauses at suppliers) and how much is indirect (purchasing practices that give factories the space and support to negotiate with trade unions)? 	FoA remains an area resistant to audit/CAP systems and one where specific guidance to brands needs much more development. The potential role of brands and other lead firms in supply chains who don't directly employ workers but have significant impact on working conditions needs further exploration.

III-C	<ul style="list-style-type: none"> Given the poor environment for social dialogue in many countries, are well-run worker committees a viable intermediate stage on the road to collective bargaining and freedom of association? Or are there other strategies that should be considered that could support progress towards these goals? 	Worker committees are often seen as a way to impede unionisation; and in practice are often little more than show efforts for auditors – neither functional nor democratically elected. But they are also legally mandated in many countries. Can they be used as a way to show the benefits of dialogue to both workers and managers and to eventually foster collective bargaining?
III-D	<ul style="list-style-type: none"> What would it actually cost if factories were to meet the ILO standards upon which codes of conduct are based? (e.g. what of the cost savings from outsourcing to the major garment producing countries is due to legitimate price differences, and what cost savings can be traced back to labour and human rights violations?) 	A realistic estimate of compliance costs would help to reduce the levels of fear and hostility which are preventing better relations between brands, factories, trade unions and governments. FWF's initial living wage work shows that compliance costs may be far lower than expected.
III-E	<ul style="list-style-type: none"> Stakeholders estimate 2-5% of garment producing factories in most garment-exporting countries have CBAs. What issues do these CBAs cover? In those factories where CBAs result in better conditions but higher costs, how do the factories offset the extra costs of compliance? (e.g. better productivity, unusual management, unique market positions, special customer relationships, etc.?) 	Some factories appear have found ways to overcome financial effects of concluding CBAs; understanding how they have done so could provide valuable models to the rest of the industry.

III-F	<ul style="list-style-type: none"> • What are the main obstacles for unionisation and for unions to be active, and sources of hostility towards trade unions in the main garment-producing countries? How much is economic, and how much is political/cultural? • What do brands need to understand about these pressures in order to support social dialogue processes? 	Important information to help remove obstacles and promote social dialogue processes, especially from a brand level.
III-G	<ul style="list-style-type: none"> • What is the most recent thinking on the roles of actors like agents, retailers, subcontractors and others who are not normally part of MSIs, CSR efforts, social dialogue or trade union negotiations? 	Even the more advanced work on social dialogue at a supply chain level has mostly focused on brand-factory relations; however the influence of agents, retailers and subcontractors is enormous, and strategies need to be developed to account for their roles in helping or harming human rights compliance.

RESEARCH AREA IV: THE NEXT GENERATION OF FWF'S WORK

FWF requires four related sets of activities from member brands, each of which is assessed by FWF using a series of assessment and verification tools. FWF is embarking on the development of the next generation of requirements, and the tools used to evaluate them. It is worth emphasising that FWF is not a certification initiative; the work undertaken by FWF and its members reduces risks and provides options for remediation, but does not guarantee '100% fair' supply chains, brands or products. FWF focuses on the 'cut-make-trim' (CMT) phase of garment production, where the workforce is largest. Please see www.fairwear.org for more information.

Area 1:

Monitoring systems, corrective action plans (CAPs), and verification audits

Perhaps the most fundamental requirement for FWF membership is for member brands to know where their products are actually made. It has been FWF's experience that much of the industry does not know production locations, often because they work through agents, or because of subcontracting. Monitoring, through regular good-quality audits, regular factory visits, and other strategies, is the foundation for all other activities: a brand cannot do anything about working conditions if it doesn't know where production takes place.

FWF member brands notify their suppliers that they are expected to comply with the Code of Labour Practices, and there are times where notification will be enough to ensure compliance. Most of the time, however, the governance challenges outlined above – the imbalance of resources vs. responsibility between factory and brand, the fragmentation of responsibility across multiple brands, and competitive pressures – mean that agreeing on the need for compliance will not be enough.

Consequently, FWF requires members to set up a coherent monitoring system, including audits of their supplier base. When problems are encountered, FWF, like many other systems, requires corrective action plans to be implemented. Unlike many systems, FWF expects brands to be involved in the development (and implementation) of those plans. FWF is aware, however, that any CAP approach will suffer from governance challenges as well, and that many complex issues are resistant to remediation via the audit/CAP approach or cannot be detected by factory audits. FWF periodically conducts verification audits on a small sample of each member's suppliers, often in factories where CAPs for serious problems had previously been developed. These in-depth audits, paid for by FWF, provide insight into the specific issues of that particular factory, the management of the brand, and whether and how the improvements are realised.

Area 2: Worker helpline, complaints remediation, and complaints verification

Audits only provide a snapshot of a factory in time, and rarely detect complex or sensitive issues like sexual harassment and problems related to freedom of association. For this reason, FWF operates a worker helpline and complaint remediation system in 11 countries. It provides advice to workers, a backup system when local grievance mechanisms are not working, as well as an opportunity for workers to verify and report on the effects of CAPs. FWF has done significant work to promote use of the helpline, and usage has increased dramatically over the past five years. If workers choose to file a complaint, it triggers a process that involves the relevant brand(s). Remediation of worker complaints follows a similar process to CAPs, but with an extra verification layer that includes public reporting on the remediation process and outcomes.

Area 3:

Training & social dialogue support (Workplace Education Programme)

In many factories, neither managers nor workers have much experience in dialogue or human resource management systems, and in most countries only a small number of factories are unionised. To raise awareness of FWF's Code of Labour Practices and worker helpline, and in some cases to improve the capacity of managers and workers to implement the code of labour practices, FWF has developed a variety of training programmes, conducted under the Workplace Education Programme (WEP). WEP trainings vary in duration, intensity and focus.

Area 4: Brand management and Brand Performance Checks

FWF has been involved in an ongoing effort to identify which purchasing and brand management practices affect human rights compliance. This has resulted in a set of recommendations for how supplier bases should be managed, how key purchasing practices should be structured, and ways to manage specific high-risk situations.

Brands' performance on these issues, their responses to problems, and their work to improve capacity in their supply chains are all evaluated through an annual public Brand Performance Check report. The report provides an evaluation of how the brand has performed, and contains recommendations for future work. For member brands, this report also serves as an independent, third-party assessment of their human rights compliance efforts, and is extremely important for both management of the brand and relations with stakeholders.

Challenges for the future

There has always been a tension between the theory of how FWF's requirements and systems should work and their real-world outcomes – this is a natural effect of working in a complex and rapidly-evolving environment. FWF regularly reassesses and adjusts its approach to reflect lessons and new ideas. The next generation of FWF's work will need to address a number of outstanding questions about guidance implications of requirements for members, and verification of the implementation of those requirements.

FWF has done some pilot work on questions related to gender-based violence and living wages in the past, but in the coming years FWF's capacity to conduct pilot projects will expand.

The following section outlines the major questions FWF needs to address, by looking at its own systems, and at the experiences of others. FWF is planning to analyse its own historical data to help answer these questions, but also hopes to learn from the experiences of other organisations working to solve the same problems.

RESEARCH QUESTIONS IV: THE NEXT GENERATION OF FWF'S WORK AND SIMILAR EFFORTS AT OTHER ORGANISATIONS

	QUESTION	RELEVANCE
II-A	<p>Evaluation of monitoring systems and code/audit/CAP approach</p> <ul style="list-style-type: none"> • How effective are existing code/audit/CAP systems? Where do they work/not work and why? • What do successful examples look like? Why did they happen? • What issues are not captured by audits? (e.g. GBV) • Are improvements temporary/small scale or systemic? • When is lack of progress a function of poor-quality audits and CAPs, and when are the underlying issues resistant to the even the best code/audit/CAP systems? • For which issues does the code/audit/CAP approach generally result in improvements? What other approaches should be tried for issues that code/audit/CAP systems fail to remediate? 	<p>Audits and CAPs are treated as the solution to labour problems by much of the industry. Effective CAP responses should be better documented and shared; those issues which are clearly immune to CAPs need new approaches.</p> <p>Code/audit/CAP systems often attempt to address the same problems that would be the subject of CBA negotiations. An understanding of what mix of management changes and resources are needed to resolve common labour problems can benefit both code/audit/CAP processes, and collective bargaining processes.</p>

II-B	<p>Evaluation of brand management guidance and Brand Performance Checks</p> <ul style="list-style-type: none"> • What does the most recent evidence tell us about the relationship between brand management and working conditions (on an individual-issue basis)? • Where are due diligence processes improving conditions? • When improvements occur as part of participation in MSIs, Global Framework Agreements, or other initiatives, how much of the improvement is a general effect of paying more attention to human rights compliance? How much is due to guidance or requirements on specific issues? 	<p>The understanding of the relationships between brand management and factory conditions varies from issue to issue (e.g. links to excessive overtime are fairly clear; possible links to gender-based violence are still being researched).</p> <p>There is still a lack of consensus on what 'sustainable purchasing practices' or 'due diligence' should cover.</p> <p>In designing the next generation of Brand Performance Checks, FWF would want to include recent evidence on the relationship between brand management and factory conditions.</p>
II-C	<p>Evaluation of complaints network</p> <ul style="list-style-type: none"> • When have solutions to complaints been found? (Are remediation efforts effective?) Why? • Are improvements, when they happen, temporary/small scale or systemic? • Under what conditions are networks trusted and used? Why? • Historically, the goal of many complaint systems has been the strengthening of local grievance procedures, but are there situations when brands should be involved? 	<p>As new models for shared brand-factory responsibility for human rights compliance develop, models for shared remediation will also need to develop. The links between purchasing practices, root causes, and remediation need to be more clearly drawn. There will also need to be better understanding of those issues which can be remediated at a factory level and those which need to be addressed at a sectoral or national/international level.</p>

Evaluation of Training (WEP)

- What is the most recent and effective thinking on workplace training (for managers and workers)?
- How do FWF's efforts compare?
- How effective are existing training approaches?
- What will improve FWF's WEP?

Training clearly has a role in improving conditions, but better understanding of the effectiveness of FWF and other initiatives is needed.

Training programmes that focus on systemic labour relations issues (promoting social dialogue, rights awareness, etc.) are different from trainings focused on specific topics (e.g. safety, gender equality, etc.). The appropriate relationship between the two needs to be elaborated (e.g. safety training may support social dialogue).

REFERENCES

FWF PUBLICATIONS AND RESOURCES:

Hohenegger, K. & Miller, D., 2016

Labour Minute Costing: A Tool for Establishing Living Wage Floors in Garment Factories

Amsterdam: Fair Wear Foundation.

Fair Wear Foundation, 2013

Standing Firm Against Factory Floor Harassment

Amsterdam: Fair Wear Foundation.

Lally, A., 2012

Climbing the Ladder to Living Wages

Amsterdam: Fair Wear Foundation.

Lally, A. & Spauwen, I., 2014

Living Wage Engineering

Amsterdam: Fair Wear Foundation.

Lally, A., Curley, M., & Koers, S., 2016

Living Wages: An Explorer's Notebook. Piloting Living Wages in Garment Factories

Amsterdam: Fair Wear Foundation.

Morris, J. & Pillinger, J. 2016

Gender-Based Violence in Global Supply Chains Resource Kit

Turin and Amsterdam: International Training Centre of the International Labour Organisation and Fair Wear Foundation.

Frazer, T., Gardner, M. & Zwierzynska, K., 2015

The Application of EU Competition Law to the Adoption of the Living Wage Standard

London: Arnold & Porter Kaye Scholer.

FWF's Country Studies present stakeholder assessments of the industry in countries where FWF does significant amounts of work.

FWF's Brand Performance Check Guide outlines the criteria by which FWF evaluates member performance is available. The Brand Performance Check reports on individual brands are also public.

Resource portals on living wages and women's safety at work are also available.

OTHER REFERENCES:

Anner, M., Bair, J. & Blasi, J., 2013. Towards Joint Liability in Global Supply Chains: Addressing the Root Causes of Labor Violations in International Subcontracting Networks. *Comparative Labor Law and Policy Journal*, 35(1), pp.1–29.

Barrientos, S. & Smith, S., 2006. *The ETI Code of Labour Practice: Do Workers Really Benefit?*, Brighton, UK: Institute for Development Studies.

Egels-Zandén, N. & Lindholm, H., 2015. Do codes of conduct improve worker rights in supply chains? A study of Fair Wear Foundation. *Journal of Cleaner Production*, 107, pp.31–40.

Fasterling, B. & Demuijnck, G., 2013. Human Rights in the Void? Due Diligence in the UN Guiding Principles on Business and Human Rights. *Journal of Business Ethics*, 116(4), pp.799–814.

Gereffi, G., 1994. Buyer-Driven Global Commodity Chains. In G. Gereffi & M. Korzeniewicz, eds. *Commodity Chains and Global Capitalism*. Westport, CT: Praeger, pp. 95–122.

Dinh, HT, Palmade, V., Chandra, V., Cossar F., 2011. Comparative Value Chain and Economic Analysis of the Apparel Sector (Polo Shirts). In *Light Manufacturing in Africa - Targeted Policies to Enhance Private Investment and Create Jobs*. Washington, DC: World Bank, pp. 65–118.

Kaplinsky, R. & Morris, M., 2000. *A Handbook for Value Chain Research*. Brighton, UK: Institute for Development Studies.

Labowitz, S. & Baumann-Pauly, D. 2015. *Beyond the Tip of the Iceberg: Bangladesh's Forgotten Apparel Workers*. New York: Stern Center for Business and Human Rights, NYU.

Lindholm, H. Egels-Zandén, N. and Rudén, C., 2016. Do code of conduct audits improve chemical safety in garment factories? Lessons on corporate social responsibility in the supply chain from Fair Wear Foundation. *International Journal of Occupation and Environmental Health*. 22(4) pp. 283-291.

Merk, J. 2016. *Social dialogue and triangular bargaining in the global garment and athletic footwear industry*. Presentation at FWF International Stakeholder Meeting, Amsterdam. October 2016.

Miller, D., 2009., Wage determination in outsourced multi-buyer apparel supply chains. *International Journal of Labour Research*, 1(2) pp. 183–200.

Nyaga, G.N. et al., 2013. Power Asymmetry, Adaptation and Collaboration in Dyadic Relationships Involving a Powerful Partner. *Journal of Supply Chain Management*, 49(3), pp.42–65.

Sacchetti, S. & Sugden, R., 2003. The governance of networks and economic power: The nature and impact of subcontracting relationships. *Journal of Economic Surveys*, 17(5), pp.669–692.

Schrank, A. & Whitford, J., 2011. The anatomy of network failure. *Sociological Theory*, 29(3), pp.151–177.

United Nations Office of the High Commissioner for Human Rights, 2011. *Guiding Principles on Business and Human Rights*. Geneva & New York: United Nations.

Williamson, O.E., 2008. Outsourcing: Transaction Cost Economics and Supply Chain Management. *Journal of Supply Chain Management*. 44: pp.5–16.





WWW.FAIRWEAR.ORG