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Preventing Human Right Violations in the Global Garment Industry

Analysing the Case of Corporate Social Responsibility and its Further Development

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Abstract

The paper examines the global garment industry and the evolution of human rights protection in this industry through the use of corporate social responsibility (CSR). An analysis is made on the main human rights issues present in the industry by looking at the cases of Bangladesh and Cambodia, two countries which have very successfully integrated into the industry and now are faced with many social problems due to the continuing race to the bottom by global brands. Further on in the paper the focus lies on the very recently and newly growing Ethiopian garment industry: the paper looks at what can be achieved in terms of CSR development in the country, given its very interesting nature as a newly established and ‘fresh’ garment producer and exporter, which offers many opportunities for a proper monitoring system. Based upon the conclusion of this analysis, an assessment will be made on the growing responsibility that corporations need to take in the defence of human rights and what the next step is in the development of these responsibilities. The paper concludes that there is an increasing demand for a more stringent and binding system of corporate regulation in terms of how their activities violate human rights. Slowly the concept of corporate accountability is gaining force and will serve to complement the established, but weak, concept of corporate social responsibility.

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Introduction

The fast paced society we live in has allowed for individualistic ideals to strengthen, leading to a culture of want in which it is easy to find what we desire without even the need to know how it was produced. More and more we find that everything we own or want has gone through a production chain that is not limited to our own country or even continent. We have lost regard for the details of the process, as it all seems to be too far away from our reality. Such attitude has led to a culture in which corporations have the possibility to produce with very few eyes focused on how they do it. This applies to things such as the use of synthetic hormones in food growth, displacement of indigenous populations for the use of their land, and the exploitation of workers. Slowly however, a change has come about in consumer mentality, and awareness about ethical business practices has gained a central stage in many discussions. Consumers are starting to demand transparency in the practices of corporations, becoming an additional aspect of the product or service, something that they, as consumers, have a right to. This new demand has over the years led to the creation of many non-governmental organizations, such as Clean Clothes Campaign and Fair Labour Organization and international organizations, such as the International Labour Organization (ILO), focused on promoting transparency and better practices by corporations.

One of the biggest problems tackled in the fight against unethical behaviour by corporations is that of social dumping. Many different definitions have been found for social dumping. Magdalena Bernaciak, who has analysed these many different understandings and definitions, believes social dumping to be “a conscious strategy involving the lowering of wage and employment standards, driven by companies seeking to gain a competitive advantage over other market participants”¹. Hence, exploiting the low cost labour and resources of particular countries in order to consequently lower the production costs of the company. This process comes with many negative consequences, both for the economy of the receiving state and the workers of these states, given that they are forced to rely on the low salaries and low protection, which profits the corporations.

¹ Bernaciak (2012) p 32

The phenomenon of social dumping has been largely found to be present in the global garment industry, and has haunted it for many years, driving production in and out of low cost countries every couple of years in search of the new competitive advantage. Currently we find that companies are slowly moving their production out of countries such as Bangladesh and Cambodia and are looking for new and cheaper opportunities in countries such as Ethiopia². This switch can partly be attributed to the rising costs of production and wages in the former countries, but can also be attributed to the increasing awareness by the consumers about the labour conditions in factories in these countries, which has given many corporations a bad reputation.

As is known, in the past years many fatal accidents have happened in garment factories in which big clothing brands produced their products. Many examples can be found, among them the very known case of the Rana Plaza collapse in 2013³, and the Tazreen factory fire in 2012⁴. These and many more accidents, mass redundancies without pay, the use of child labour and other incidents have received great attention all over the world, and have damaged the reputation of many big clothing brands over time, mostly in association with production in Bangladesh. The damage to their reputation can be perceived as one of the reasons reason why some clothing corporations are moving their production to new places, as a way to distance themselves from the Corporate Social Responsibility (CSR) catastrophes found in these countries.

When considering this latter reason for moving production, many interesting things can be analysed. Questions can be posed such as; will they learn from their mistakes? Will they try to create a better regulatory system? Will they become more transparent with the consumer? These are all questions that the following paper will be focusing on, specifically by looking at the move from Bangladesh and Cambodia to Ethiopia, and how CSR can be properly implemented in this new garment industry. The paper will look at possible solutions through which corporations can improve their CSR standards from within. This will be done through the following structure:

² Passariello & Kapner. (2015)

³ Clean Clothes Campaign – Rana Plaza (25 April 2015)

⁴ Clean Clothes Campaign – Tazreen fire (25 April 2015)

The paper will start by focusing on the textile industry in general by looking at how it has developed, and what the main challenges have been over time. After this introduction, it will move on to look at the specific cases of Bangladesh and Cambodia, countries in which the textile industry is very present and where corporations have failed in their social responsibilities towards the workers. An analysis will be made about where it went wrong and what should not be repeated again. Subsequently the paper will focus on the case of Ethiopia, how the textile industry is developing there and what the opportunities are for creating a socially responsible environment to work in. Lastly, the paper will focus on the different ways in which corporations can act in a socially responsible way from within, and change the pattern of abuse that has until now been present in the textile industry.

It is important to mention that this paper will solely focus on the possible ways in which corporations can contribute to the improvement of social responsibility, hence not looking at legislation by the host states and the responsibilities of the state. The reason why this will not be analysed is as follows.

Firstly, we base this paper on the assumption that nowadays corporations have a responsibility to contribute to the social good beyond what is expected of them legally. Society is becoming more and more socially aware and everyone is increasingly expected to think further than just their personal profit, specially those with the power to make big changes, such as corporations. Profit maximization is the basis upon which corporations are created, and it is not in their “nature” to obstruct this process by concerning themselves with what lies beyond that. However, it must be argued, that being a socially responsible business is becoming a competitive advantage in terms of reputation as a business among consumers, hence rationally, if taking into account the self-interest nature of corporations, it would make much sense for them to attain to these norms by creating their own standards. Therefore it is interesting to look at how these can be achieved successfully from within.

Secondly, many have proposed the creation of legally binding norms that would oblige corporations to contribute to social progress with their business. But there is much controversy around the topic of liability of corporations in regards to social

clauses⁵ and has always been met with great resistance by the international business community. The closest thing that has been achieved to some level of federal control over the compliance of social clauses by corporations is the United States Federal Alien Torts Claims Act (ATCA), which has reviewed cases brought by foreigners in regards to violations committed by US based companies. ATCA has however never ruled in favour of the plaintiff, and has a narrow interpretation of the liability of the corporations⁶. Some settlements have been reached but no groundbreaking cases have taken place since the ATCA's creation in 1789.

Although many interesting things can be discussed about legally binding mechanisms, the realistic achievement of some sort of a working mechanism is still to be seen. Currently the drafting process of a legally binding instrument for business and human rights is on its way. The instrument "would clarify the obligations of transnational corporations in the field of human rights" and "provide for the establishment of effective remedies for victims in cases where domestic jurisdiction is clearly unable to" provide them⁷.

In the following section, an overview will be given to the workings of the garment industry and the challenges it has faced over time. This will help create an understanding of the problems businesses face and why it is important to change the way they conduct business to become more socially responsible.

Section 1 – The Garment Industry

1. 1 Foreword

This section of the paper will look at the garment industry as such without specifically focusing on a particular country or region. Its aim is to give a background of the development of the industry over the years, and why it is structured the way that it is nowadays. The section will begin by looking at the past developments of the industry in Asia, starting with the imposition of quota systems in the 60s and developing to

⁵ World Trade Organization – Singapore Ministerial Declaration (29 April 2015)

⁶ Mares (2010) p 6

⁷ Business & Human Rights Resource Centre – UN Human Rights Council Session (5 May 2015)

become a liberalized industry with a complex value chain. Subsequently, the section will look at the general workings of the value chain of clothing, without going into too much technical detail or differences depending on geographical location of the production. The aim of this part will be to get an understanding of the complex nature of the value chain, and to what extent the multinational corporations or retailers have control over its workings. Lastly, an overview will be given of the effects that the development of this industry has had on Asian countries, both economically and socially, and what are the main challenges faced nowadays.

1.2 The development of the Asian garment industry into a dynamic and global exporting power

Starting in the late 1940s, the production of textiles and garment slowly started shifting from developed to less developed countries, such as, at the time, Japan⁸. This was mainly due to the low costs of production and labour available at the time, and the high productivity of the labour force in comparison with that available in developed countries such as the EU and US. Overtime, the industry has expanded through Asia, and large quantities of garments and textiles are produced and exported from its countries.⁹ These countries, among which Hong Kong, South Korea, Taiwan, Indonesia and Sri Lanka, allowed retailers to produce large quantities of clothing for low prices and gave them the opportunity to maintain their competitive advantage in the increasingly growing textile and garment industry¹⁰. The growth of the textile and garment industry in Asia during the 40s and 50s however, posed a direct threat to the same industry in already developed countries, whom saw the increasing popularity of using imported products from Asia as a threat to the prominence of their national industries. As a result, developed countries imposed quantitative restrictions in order to limit international trade and protect their markets.¹¹

Restrictions on international trade are not uncommon. However, in no industry have these been as prominent as in the textile and garment industry, where they have been applied extensively over large periods of time¹². The reason for the extensive

⁸ Viswaprakash & Sentamilselvan (2012) p 202

⁹ Idem p 203

¹⁰ Keane (2008) p 13

¹¹ Naumann (2006) p 4

¹² Idem p 2

development of restrictions on textile and garment was in order to achieve certain developmental outcomes in trade by not allowing certain foreign goods to compete freely on the global market but restrict them in a way as to protect domestic markets.

The first restrictions on garment and textile export were applied in 1961 through the ‘Short Term Arrangement regarding International Trade in Cotton Textiles’ (STA) and the ‘Long Term Arrangements regarding International Trade in Textiles’ (LTA). These arrangements were fully unilateral and placed harsh restrictions on any imports from other countries in regards to cotton and later on textiles (through the LTA). These first arrangements were unilateral, and they were met with a lot of resistance from the main exporting countries it tackled. This eventually led to a new arrangement with the final aim of progressively liberalizing the textile trade; this arrangement was called the ‘Multi Fibre Agreement’ (MFA), and came into place in 1974¹³. The MFA did not achieve a lot in terms of textile liberalization, and was mostly a protectionist agreement that allowed for very limited export of textiles by exporting and developing countries. Again these countries fully opposed this agreement and called for full liberalization. The MFA was renewed several times until in 1991 an agreement was reached through the ‘Agreement on Textiles and Clothing’ (ATC), a World Trade Organization agreement through which definite plans for eventual removal of all restrictions was agreed upon.¹⁴

The ATC was to be implemented in four stages and fully implemented by 2005 for full integration. The first stages of removal were a slow process of liberalisation that had very little on export quotas, as developed countries still maintained a very high level of protection. Changes only really came about in the later stages, which, together with the full removal of the agreement, had a great impact on the global industry of textiles and clothing.¹⁵

1.2.1 Impacts of the restrictions and their removal

The restriction of textile and clothing export through a different number of quotas has had several impacts on the industry: initially it led to the protection of the production

¹³ Naumann (2006) p 5

¹⁴ Keane & te Velde (2008) p 32

¹⁵ Naumann (2006) p 6

centres in developed countries imposing the restrictions, and allowing them to expand¹⁶. However, this can only be seen as a short-term outcome of the restrictions given that the textile and garment industry is labour intensive and highly based on low cost production, which is best found in developing countries. Retailers are always looking for the lowest prices, and because of the low skilled labour that is required in the industry and the facility with which they can relocate production, the industry in the developed countries is not the most beneficial for corporations seeking to find a competitive advantage. As argued by McNamara, it was only a matter of time before the barriers would have to come down and the US and EU would shift to developing countries to maintain their competitive advantage, as production costs in developing countries were much lower¹⁷. Therefore, even if an attempt was made to protect the national industries in developing countries, retailers in these countries would inevitably move to low cost countries as soon as the restrictions were over. According to Naumann, another impact has been the ‘delay’ in the industry running its natural course. He argues that the imposition of quotas over time and its subsequent removal has had a very deep impact on the garment and textile industry, as it has not allowed the industry to run its free course.¹⁸ He argues that if no restrictions had been in place at all, the textile industry would have probably been even more highly centred on the Asian market.

When the quota systems were taken away, many countries failed to adjust to the competitive environment that unleashed and were unsuccessful in developing a strong garment industry, while others were able to cope with it. The harsh competitive environment, with China and India at the lead, led to a boom in exports by Asian countries that had the adequate infrastructure to take part in the industry.¹⁹ Several reasons can be found why some countries have not managed to fully take advantage of the trade liberalization, while others have. Generally this has to do with the ability of the country to meet the high demands of the national and foreign retailers, who wish for a fast and low cost production that can be delivered to them in a short-term period. Different factors play a role:

¹⁶ Joarder (2012) p 136

¹⁷ McNamara (2008) p 6

¹⁸ Naumann (2006) p 33

¹⁹ Adhikari & Yamamamoto (unknown) p 183

First of all we find the factor of *human capital*. Some countries had a labour force that was more skilled to perform the work required from them in the production of garments and textiles. These are usually the countries where an investment was made in the education and training of the staff, such as China, where the labour force is highly effective and is able to meet the demands of the foreign retailers. Secondly we find that it depends on the quality of *infrastructure* of the country. A country which has invested in the right resources and equipment to deal with large volumes of production and transportation of the same is more likely to be successful in meeting the demands of the retailers. This also has to do with the level of technological development of a country, and how easy communication with the stakeholders is²⁰. The *high cost of inputs* is another factor to be considered. As will be seen in the next part of this section, it is difficult to create value chain that does not depend on the input of resources from other countries. The import of these resources to make the required product can be costly and also depends on the level of infrastructure of the country. Another factor is the changing *buyers behaviour*. Given that the textile and garment industry is a very flexible one where moving production to a different place is not a big problem, the environment is highly unpredictable, and some countries which are not fully equipped to work in such an environment²¹.

Hence, we find that in the process of succeeding to become a key garment and textile exporter after the abolition of the restrictions on trade, certain requirements needed to be met by a country. Those who were able to handle the fast and abundant quantities of orders have become successful producers and exporters, while those less developed countries with under-skilled labour have not succeeded.

Before we analyse how the development of the textile and garment industry in Asian countries has generally had an effect on their socioeconomic factors, it is interesting to briefly look at the composition of the value chains in Asia, and how these have become complex systems to control.

²⁰ Adhikari & Yamamamoto (unknown) p 201

²¹ Idem p 202

1.3 The composition of value chains in the Asian textile industry

As defined by Naumann, a value chain describes the value adding activities along the product cycle²². By analysing the value chain we have the opportunity to understand which actors influence it in regards to things such as production activities and workforce management. This will give us more insight when understanding in further chapters the actual control that corporations have over for example, the labour conditions within the factories where their products are produced.

As put by Koprulu & Albayrakoglu (2007), “A supply chain is characterized by the flow of goods, services, money, and information both within and among business entities including suppliers, manufacturers, and customers. It also includes all types of organizations engaged in transportation, warehousing, information processing, and materials handling. Sourcing, procurement, production scheduling, manufacturing, order processing, inventory management, warehousing, and, finally, customer service are the functions performed throughout the supply chain.” In the author’s opinion, the best way to manage a supply chain is through the creation of long-term relationships with few partners, which allows the corporation to have a good overview of the production.²³

The process of production in the Textile and Garment industry is long and complex, as a high variety of recourses and skills are needed to reach the final product. Due to this, it is hard to find one specific geographical location where the product can be developed from beginning to end (vertical chain)²⁴. We can identify different stages in the garment supply chain. These stages are different in the way they are structured and the way they operate. First of all we find the fibre production, which is either through the gathering of natural resources like cotton or manmade resources such as polyester. Secondly comes the yarning and spinning, whereby the fabric is run through spinning mills, after which comes the fabric production. The following step is the production of the garment, which includes de designing, cutting and joining pieces together to form a final product. The last step in the value chain is the retailing.²⁵

²² Naumann (2006) p 18

²³ Koprulu & Albayrakoglu (2007) p 2

²⁴ Giri & Rai (2013) p 30

²⁵ Idem p 30

Every retailer seeks to reduce the costs of production as much as they can, and in order to do that many times the different stages mentioned above take place in different factories and even in different countries as to reduce the costs of production as much as possible. It are the purchasing decisions of the large brands what drive the sector of textiles and garment, as they are the ones who put pressure on the producers to perform in as a rapid and cheap way if they want to keep a contract.²⁶

Within the textile and garment industry the process of subcontracting is very common. A buyer, contracted by the retailers, approaches a manufacturer with a specific design that needs to be produced, and the manufacturer subsequently outsources part of this production to another factory, which may outsource part of this production to yet another factory. This chain of sub-contracting can lead to many problems for a brand that wishes to retain some sort of control over their production chain²⁷, given that it can become an uncontrolled process if not monitored very closely. It is this same process what can cause codes of conducts developed by a retailer not to be respected and cause social problems within factories where large brands produce. This will be looked at in more detail later in the paper.

1.4 The socioeconomic effects of the global garment industry on developing countries

Looking now at the countries that have succeeded to develop a garment and textile industry, we find that the economic development of developing countries who profited from the taking down of the barriers did not necessarily translate into better living and working conditions for the employees in the industry.²⁸

The development of the textile and garment industry in Asia has had different social impacts. It is important to mention that most of these impacts are highly related to the already discussed nature of the industry, in which finding the lowest labour and production costs, highest quality and fastest delivery times is essential to achieve a

²⁶ Naumann (2006) p 20

²⁷ Adhikari & Yamamamoto (unknown) p 208

²⁸ Adhikari & Yamamamoto (unknown) p 202

competitive advantage. These strong pressures that are put on the industry have serious repercussions on the employees and those who depend on them.

Regarding wages, these are not high, and do generally not allow employees to properly sustain their families and have a decent standard of living. Although this is not exclusively true for the textile and garment industry, we do find it to be rather significant within this particular industry²⁹. Wages received depend on the level of skill demanded from the worker to perform a specific task in the production chain, but are always lower than what they need to sustain themselves. Given the significant amount of people that the textile and garment industry in some of the east Asian countries employs, the fact that salaries are very low and do not allow people to properly sustain their families, cause the overall economic wellbeing of the country to be affected. This will be looked at in closer detail when analysing the case of Cambodia and Bangladesh in the next section.³⁰

Another social issue related to the textile and garment industry is that of health in the workplace. Given the long working hours employees normally have to work, including overtime work, to sustain their families, in combination with the many times toxic environment employees have to work in, causes serious health issues that many times have shown to lead to cancer³¹. These detrimental side effects of the work are many times unaccounted for and retailers fail to take responsibility for improving the working environment.

Given the labour intensive nature of the industry, the right to freedom of association and formation of trade unions is crucial. The fact that corporations aim to produce at the lowest cost possible many times puts pressure on the managers to find ways to make these low cost possible. Many times this goes at the expense of the workers salaries, overtime bonuses or healthy working environment. It is therefore very necessary for the workers to be properly represented and be able to voice their concerns regarding the conditions in factories through trade unions. Trade unions have however always been faced with harassment and intimidation by the factory

²⁹ Keane & te Velde (2008) p 20

³⁰ Idem p 20

³¹ Clean Clothes Campaign (2013) p 1

managers, who are against their existence within their factories³². Trade unions are important to deal with all the problems related to the workers in the factories, such as the already mentioned wage and health issues, and other issues such as job security, building safety and harassment. As regards building safety, this is a many times forgotten but very important issue in the garment industry. The buildings in which production takes place often have very fragile and old structures that are not regularly checked and renovated. Given the large amounts of workers that come in and out of the factories everyday, including the bad ventilation systems and heavy machinery, more than once have deadly accidents occurred as a consequence of the disregard by the managers³³.

One of the positive consequences of the development of a textile and garment industry is the increased opportunity offered to women. The ratio of men and women in the industry varies per country, but overall women are the majority, although mostly positioned in low-level jobs where few skills are required – it is a discriminatory industry.³⁴ This has as a consequence that they do not get the opportunity to move up to higher management positions and develop in their careers and pay. It therefore leads to a situation in which the opportunities for women in the industry are rather limited, while only then men get the opportunity to develop. Apart from the discrimination faced in regards to job growth opportunities, women in the industry are also faced with continuous sexual harassment. Given that in the garment industry the managing roles are usually held by men, these exert their influence over women given that these are normally young, inexperienced, illiterate and from rural areas, creating a very strong imbalance in powers between the people in the factory³⁵.

These abovementioned issues are among the main problems faced by workers in the garment industry. It shows the immense amount of work that needs to be done by governments and by the corporations who hire the factories to improve the conditions within the factories. How and under which terms this should be done, will be analysed in Section 4.

³² Labour Behind the Label. Trade Unions – How the workers see it (23 May 2015)

³³ Clean Clothes Campaign (2012) p 1

³⁴ Keane & te Velde (2008) p 21

³⁵ Truskinovsky, Rubin & Brown (2014) p 2

Section 2 – The case of the Bangladeshi and Cambodian garment industry

2.1 Foreword

The previous section has shown how with the abolishment of the MFA the countries that mostly benefited were those with a comparative advantage that made them different from the rest – the geographical location and buyer preferences work in the short term, but for long term success it will be product differentiation and low costs what makes a country successful³⁶. The eliminations of the quota restrictions by developed countries in the post-MFA period led to a reduction in the success of the garment industry in countries such as the US, and triggered a rise in the export of countries such as Bangladesh, Cambodia, Indonesia and Vietnam³⁷.

The following section will analyse the development of the garment industry in Bangladesh and Cambodia. The purpose of doing so is to exemplify what some of the different human resource issues are in their industries and how these have been tackled over time. This will aid in understanding and reasoning on what can be done different in new developing garment industries over the world. The reason for choosing Bangladesh and Cambodia is that they both developed their garment industries rapidly with the end of the quota restrictions in 2005 and economically highly depend on their exports of garments. However, different approaches have been taken in both countries when it comes to tackling social issues arising within the industry. As follows we will look into the development of the garment industry of both countries and the problems they have faced

2.2 The Bangladeshi Garment Industry – Development and current conditions

As discussed in the previous section, close before the abolition of the Multi-Fibre Agreement in 2005, there was a lot of speculation about which Asian countries would be able to survive and successfully develop their garment industries. The raising of the barriers was expected to allow for the Chinese and Indian industries to boom fiercely, and to leave very little space for other industries to properly develop.

³⁶ Joarder et al (2012) p 135

³⁷ Idem p 139

Bangladesh however, proved to be very successful, and has become one of the leading countries in garment export in Asia³⁸

The Bangladeshi garment industry started developing in the 1970s, at a time when the government was dominated by socialistic ideas, but started to provide more and more incentives for the development of the industry. Unlike with other industries, the government gave the garment sector a lot of freedom to develop itself, and by the 80s and 90s exports to large retailers and branded marketers in Europe and the US had started³⁹. As a result of these developments, in 1986 Bangladesh was brought under the MFA, although the restrictions were not nearly as severe as those of other countries, which allowed them to continue to develop⁴⁰.

This harsher imposition of quotas on other neighbouring Asian countries, such as Hong Kong and Korea, resulted in these countries to start investing in the development of the garment industry in Bangladesh, both through trainings and technology transfer⁴¹. Given that the restrictions posed upon Bangladesh were much lower than those on the former (as it posed less of a threat and had less export at the time) it provided these countries an opportunity to continue their trade through indirect routes⁴². This investment, which helped in the initial development of the Bangladeshi garment industry, together with the low costs of production and labour, resulted in the eventual success of the industry.

Between 1990 and 2008 the export value of garments from Bangladesh increased from USD600 million to USD10.9 billion⁴³. Currently, the garment industry in Bangladesh accounts for about 75% of the countries export earnings and 25% of its GDP⁴⁴. Part of this continuous success is due to the support that the industry has received from the Bangladeshi government, which has included policy support, cash compensation schemes, facility to procure materials and warehouse facilities⁴⁵.

³⁸ Joarder et al (2012) p 1

³⁹ Yanus & Yamagata (2012) p 15

⁴⁰ Mottaleb & Sonobe (2009) p 4

⁴¹ Idem p 2

⁴² Joarder et al (2012) p 135

⁴³ Idem p 138

⁴⁴ Mottaleb & Sonobe (2009) p 1

⁴⁵ Joarder et al (2012) p 142

Although the garment industry in Bangladesh has managed to flourish very rapidly, it was done so at the expense of the development of decent socioeconomic conditions for the employees in the industry. Garment factories in Bangladesh are not known for paying attention to labour standards and rights, and this has over time led to a lot of unrest, publicly and privately⁴⁶.

The socioeconomic problems observed in the Bangladeshi garment industry are not different from those experienced in the same industry in other countries; however, they are more abundant and severe. Many times employees get their salaries or bonuses late or not at all, they suffer abuses in the workplace and the working conditions are very unhygienic and even dangerous⁴⁷. International Labour Organisation (ILO) conventions and national labour laws are ignored and this has led to accidents such as building collapses, fire accidents and deadly stampedes, which have caused large unrest. Protests have however been largely ineffective, and the government has ignored calls by trade unions to make changes that tackle these violations in a more fierce way – there is no willingness for cooperation.⁴⁸ As such the formation of trade unions in Bangladesh is very repressed, and those who make serious attempts at organizing are often assaulted, dismissed or even arrested⁴⁹.

Recently however, the Bangladeshi government and employer associations have had no other choice than to give in to the pressures, not only of the trade unions, but also of the international organizations and NGO's. Increasing pressures arose after the deadliest accident in the history of the garment industry, that of Rana Plaza on April 24th 2013. The Rana Plaza tragedy, in which around 1100 workers died when the factory building in which they were working collapsed, is the perfect example of the absolute negligence of the government and factory owners in regards to workers safety⁵⁰. More fatal accidents have occurred during the years in Bangladesh, such as the Tazreen factory fire⁵¹, which killed 112 workers. In this fire, workers were locked into the factory, which made it impossible for them to leave when the fire alarm

⁴⁶ Ahamed (unknown) p 2

⁴⁷ Yanus & Yamagata (2012) p 9

⁴⁸ Ahamed (unknown) p 58

⁴⁹ Idem p 4

⁵⁰ Clean Clothes Campaign Home Section - Rana Plaza (28 May 2015)

⁵¹ Clean Clothes Campaign Urgent Appeals section – 2012 review – Tazreen fire (28 May 2015)

raised awareness about a fire in the building. This kind of behaviour by the factory owners shows the little regard for the human life of the workers.

Both of the factories where these tragedies took place were producers for major global brands, such as Benetton, Wal-Mart, C&A and Guess. International organizations and NGOs have since pushed hard for these corporations to compensate the victims of the accidents⁵². It is a fact however, that the many tragedies that have occurred over the years in garment factories have caused the ethical practices of the Bangladeshi garment industry to be seriously questioned. As a result of the Rana Plaza tragedy, pressures arose calling for the creation of an accord that would allow for the monitoring of the safety and health conditions in factories. This resulted in the creation of the ‘Accord on Fire and Building safety in Bangladesh’ (the Accord), signed on May 15th 2013 between global brands and trade unions with the intention to monitor the factories of all the signatories (global brands) in an attempt to create safer working conditions. The inspections are carried out by international engineering firms, who identify the immediate dangers in the building structures. If they are found to be life threatening the building will be evacuated by the Bangladesh government until further notice⁵³. The results of the inspections are made public, and this transparency will allow brands and consumers to become more aware of the conditions of factories in which their products are produced. Once the reports are made public, a ‘Corrective Action Plan’ is created by the factory owners together with the relevant company to tackle the issues at the factory⁵⁴. Up to now a total of 1183 of the 1498 factories have been inspected, and 817 Corrective Action Plans have been approved⁵⁵.

This Accord, which is now being implemented, should with time try to monitor the situation of factories. However, given how extensive the garment industry in Bangladesh is and the amount of subcontracted factories that are used outside of the radar, this is a very complicated procedure. It can be argued that due to the lack of monitoring in the past decades, the garment industry in Bangladesh has gotten out of control to the point that it is impossible to properly monitor or keep track of the

⁵² Clean Clothes Campaign – WE WON!! Rana Plaza workers get compensation (30 May 2015)

⁵³ Accord on Fire and Building safety in Bangladesh – Inspections. (29 May 2015)

⁵⁴ Accord on Fire and Building safety in Bangladesh – Remediation (29 May 2015)

⁵⁵ Accord on Fire and Building safety in Bangladesh – Progress (29 May 2015)

amount of factories present. The Accord will have to work very hard to try to keep track of the factories and the changes, but it is also very necessary for the brands themselves to start putting more pressure on the factories to maintain the standards set in the Accord, as well as respect all the other social standards that need to be maintained in the factory.

Bangladesh provides us with a case of a garment industry that developed very fast to become one of the biggest ones in the world. They managed to become a leading industry by putting the focus on their low costs of production and labour, and neglected the importance of building an industry that respected the needs of the workers, the ones who drive the industry. This disregard has resulted many accidents and indecent living conditions for the workers, whom are the backbone of the industry.

1.3 The Cambodian Garment Industry – Development and current conditions

Now turning to another successful garment producer and exporter, Cambodia has developed in a different way than Bangladesh, as social standards have been kept in mind somewhat more since the initial stages of its development.

The garment industry in Cambodia arose with the establishment of a Constitution that allowed for a market-based economy in 1993. Although it joined the race very late, by 1999 quotas were imposed on their export by the US. These quotas, just as in Bangladesh, were not very significant given the low threat that the industries posed to the developed countries economies.⁵⁶

What is very interesting to note about the Cambodian garment industry is that in the agreement signed with the US was a clause by which they were conditioned to meet decent labour standards in its factories. Hereby began the later on renamed as ‘Better Factories’ programme, which was enforced by appointing ILO inspectors to monitor the conditions in the factories on a surprise basis⁵⁷. The main aim of this programme is to monitor and slowly improve the conditions of the garment factories in Cambodia, as to have a sweat-shop-free industry in which workers are not exploited

⁵⁶ EuroCham Cambodia (2014) p 20

⁵⁷ Yamagata & Tatsufumi (2006) p 3

or face bad working conditions. In the monitoring process, not only does the ILO intervene, but the Cambodian government, trade unions and workers organizations also play a role⁵⁸. Dialogues are maintained and solutions for the most urging problems are found through a tripartite structure led by the ILO. At the end of the day however, it is the task of the ILO to monitor the conditions in the factories as to maintain an impartial source⁵⁹. Although the programme has been in place for many years and definitely has achieved betterment in conditions in many factories⁶⁰, it faces many structural problems that do not allow it to function well.

First of all we find that factory owners, in order to evade monitoring, sub-contract other factories that produce at lower wages and in many times deplorable working conditions. Given that these factories are not in the public record, and the brands many times do not know about them either, they are out of the loop and therefore not monitored⁶¹. Secondly we find that the reports made by the monitors are not for public record, but are only sent to the owners of the factories inspected, whom then have the choice to maintain the records private. This lack of transparency allows the factory owners to disregard the reports and continue work as they had before, facing only very small sanctions, if any. Thirdly, we find that in the cases in which the reports are bought by the brands (as also for them they are not available for free), these many times do not do sufficient to try and change the conditions mentioned in the reports⁶². Many times when brands do decide to act, they do this in a way that is only detrimental to the workers, for example by pulling out of the factory given the bad conditions, instead of trying to pressure the factories into bettering the conditions. These are only some of the obstacles faced with the better factories program, and need to be tackled if any significant changes want to be brought to the industry.

Although Cambodia is one of the Asian garment industries with the best working standards⁶³, there is a need for betterment through more transparency. Until the different stakeholders do not start taking more responsibility, little will change in the

⁵⁸ Clean Clothes Campaign (2012) p 7

⁵⁹ Idem pg 11

⁶⁰ Idem pg 12

⁶¹ Idem pg 19

⁶² Idem pg 20

⁶³ Idem pg 6

industry. In the case of the Better Factories program, transparency is definitely an issue that needs to be tackled urgently. Programmes such as the ‘Bangladesh Accord for Fire and Building Safety’ and ‘Better Factories’ offer the opportunity to create a better working space, which will eventually enhance productivity and be beneficial for the countries economy, brand competitiveness and personal livelihood of the workers. These will be analysed in more detail in Section 4.

This has been an introduction into how the garment industry works and what different problems have been encountered in it over time. Now we will move on to the main part of the paper, in which we will discuss the current development of the Ethiopian garment industry. The case of the Ethiopian garment industry is a very interesting one, as it just started developing in 2010 and offers many opportunities for growth. As follows we will look at the characteristics of the industry and how likely it is to succeed in a socially responsible way.

Section 3 – The case of Ethiopia’s new and fast developing garment industry

3.1 The factors aiding the development of the garment industry

Ethiopia, although considered one of the twelve fastest growing economies in the world, is still one of the poorest, rated as number 184 out of the 207 countries on the Human development Index⁶⁴. In the past it has been faced with great famines and political problems, which have not allowed the industry to develop properly⁶⁵. Today, 70% of the population suffers from poverty⁶⁶, 71.2% is illiterate and 20.5% unemployed⁶⁷. In the recent years however, a change can be observed, as in the 2012/13 fiscal year the countries economy grew by 9.7% and is expected to continue to raise throughout the years 2013/14 and 2014/15⁶⁸. Different causes can be observed why Ethiopia has faced so many problems in the economic development, including the fragile soil in the highlands, which are highly populated and the lack of proper infrastructure, poor health conditions and high rates of HIV. Another significant

⁶⁴ United Nations Development Program – Data (8 July 2015)

⁶⁵ BTI (2014) p 16

⁶⁶ Idem p 4

⁶⁷ Idem p 16

⁶⁸ Zerihun, Kibret & Wakiaga (2014) p 1

reason is ruling political regime over the past years, which has not allowed for a stable growth.

In essence, we find that Ethiopia currently is a one party state, as they hold all the powers and were elected with a 99% in the past elections. This is the Ethiopian People's Revolutionary Democratic Front (EPRDF)⁶⁹ currently ruled by a coalition led by Hailemariam Desalegn, successor of Meles Zenawi, who died in august 2012. Hailemariam Desalegn predecessor launched during his rule economic reforms that aimed at stimulating he economic growth and development diversification⁷⁰, which included the development of the garment industry, but put to halt the process of democratization of the country. After the death of Meles Zenawi not much did change, and the previously settled authoritarian regime continued, passing laws detrimental to the furthering of human rights protection of the population⁷¹.

As recorded by Human Rights Watch, the Ethiopian authorities have severely restricted the freedom of expression, association and peaceful assembly by adopting laws that would restrict it. Among these laws are the Anti-terrorism proclamation act and the charities and societies proclamation (CSO law). Both of these laws completely restrict any type of association or assembly. The CSO law bars anything to do with human rights, good governance, conflict resolution and advocacy on the rights of women, child and people with disabilities if the organization that treats any of these topics receives more than 10% of their funding from foreign sources⁷².

Although the constitution of the country guarantees the right to assembly and association, in practice these are harshly combatted with the use of harassment, intimidation and force⁷³. This has led to many protests in the last years, especially with regards to the limitations posed on the Muslim community, which constitutes 30% of the countries population. These protests have been harshly shut down, and many have been arrested⁷⁴. Due to these strong limitations, interest groups are very

⁶⁹ BTI (2014) p 9

⁷⁰ Idem p 2

⁷¹ Alderin (2014) p 7

⁷² Human Rights Watch. World Report 2014: Ethiopia (5 June 2015)

⁷³ BTI (2014)

⁷⁴ Human Rights Watch. World Report 2014: Ethiopia (5 June 2015)

rudimentary, and with the implementation of the CSO law, the number of civil society organisations has decreased from 4500 in 2009 to 1400 in 2012⁷⁵. This harsh authoritarian system of the government has not allowed for a free development of the industry, as the government strictly controls everything.

We do find however, that the Ethiopian government has been investing a lot into different industries that it considers important for the further economical development of the country. This includes the garment industry, specifically on the export of garments for global corporations, which since 2010 has received a lot of government support. Among the incentives given by the government for the development of the industry we find the possibility of applying for loans and support needed to improve technical skills and equipment in factories which enter the international market⁷⁶, as well as the creation of the Textile Industry Development Institute (TIDI) in 2010. TIDI is the main institution that provides support to the development of the garment industry. They formulate policies strategies and programs, they advice investors, prepare and conduct trainings, conduct market studies, provide support and consultancy services and many more activities⁷⁷. It is government owned and put global brands in contact with national factories and help them create an understanding on the importance of creating an attractive industry⁷⁸.

Another factor that allowed Ethiopia to start boosting its garment industry was the African Growth and Opportunity Act (AGOA), established by the United States as a trade development aid programme. Ethiopia was eligible for the duty free exports of, among others, textiles and garment. As a country with a GNP per capita less than \$1,500 in 1998, Ethiopia was allowed to import fabric from anywhere in the world to make the garments it would later export⁷⁹. This programme allowed Ethiopia to export 28% of its share to the US in 2008⁸⁰. Together with the provisions of the

⁷⁵ BTI (2014) p 15

⁷⁶ Alderin (2014) p 2

⁷⁷ TIDI Background (15 June 2015)

⁷⁸ Alderin (2014) p 15

⁷⁹ Morris (2009) p 37

⁸⁰ Sime (2010) p 11

government, this programme has allowed the Ethiopian garment sector to flourish in the past decade.

The large investments made by the Ethiopian government are not the only thing that are allowing the industry to develop rapidly. First of all, we find that Ethiopia has a very large and young population of 90 million inhabitants, of which most uneducated⁸¹. As has been explained earlier in the paper, the garment industry is a very labour intensive industry, which requires a lot of labour, preferably young, to perform low skill jobs at a fast rate. Just like Bangladesh, Ethiopia offers a perfect population specification, as it allows for the employment of many people. The minimum wages paid in Ethiopia' public sector are \$50 per month, in the private sector no minimum wage exists, compared to the \$135 in India and \$150 in China, hence very beneficial for global brands seeking comparative advantages.

Furthermore we find that the Institute of Technology for Textiles, Garment and Fashion Design (IOTEX) of the University of Bahir Dar offers various degrees that educate students in areas such as fashion design, textile engineering and garment engineering, which are studied at a higher university level. Additionally, the university, together with the Ethiopian government and TIDI has created a vocational programme which includes classes in spinning, knitting, weaving, ginning and chemical processing from which the students choose a specialty. This second programme is designed to educate lower skilled workers, who do to have access to university education as such but learn skills that will allow them to make a living in the garment industry⁸². This allows to gradually educated workers with different levels of skills to tackle every step of the supply chain.

Another great advantage that has allowed Ethiopia to start the development of their textile industry is the large presence of cotton. Currently, 30.00 to 40.000 hectare of land are being cultivated, but there is a potential to cultivate up to 2.6 million hectare⁸³. Having such amounts of cotton allows Ethiopia not only to reduce the

⁸¹ Alderin (2014). p 17

⁸² Alderin (2014). p 1

⁸³ Idem p 17

transportation costs associated with the import of natural resources, but also with the ability to house the whole supply chain in one country. In fact, we already find the presence of three vertically integrated factories in Ethiopia, the three biggest of the country. These three factories have all that is needed to fulfil every step of the supply chain in the factory, from processing cotton to packaging the finished items and they are essential to attract global brands to produce in Ethiopia, and brands such as H&M, Tesco and Primark already produce there. Apart from these three big factories, there are many more factories that solely focus on the cut and make, and import the resources and steps from other countries⁸⁴.

As just mentioned, some global brands are already outsourcing part of their production to Ethiopia. H&M was the first company to start this outsourcing, followed by Tesco and Primark. In entering the market, H&M has demanded social criteria such as wage control, limited working hours, safety in the factories, environmental standards etc. They have tackled this in a very strict way and have been found to have a positive effect on initiating CSR in the Ethiopian textile industry⁸⁵.

3.2 Assessment of the opportunities for development

Some of the less advantageous sides of the Ethiopian industry have to do with the fact that the labour force is less efficient and fact than workers in more developed garment industries, as they lack the necessary technical experience. However, given the educational programmes available in the country, together with the steady development of the industry and outside funding, will with time lead to the creation of a competitive workforce.

Ethiopia enjoys an excellent location when it comes to the transportation of products, given its proximity to the western markets in comparison with countries such as Bangladesh. In order to be able to exploit this advantageous geographical location, the Ethiopian government should invest in the rapid development of the necessary infrastructure. Currently all the products are transported by roads, which many times

⁸⁴ Alderin (2014) p 16

⁸⁵ Idem p 21

are old and do not allow for a fast and effective transportation, which will be required of global brands when they to establish in the country⁸⁶.

The abovementioned problems are issues that will develop with time as the industry grows and attracts more investors. There are however some more worrying problems which could more deeply affect the industry. First of all, the already mentioned prohibition of assembly and association by the government poses a problem. These laws prevent workers in factories from creating trade unions to represent their needs, leaving them in a position where they cannot defend themselves. This is a very big issue that can be predicted to create doubts in global brands at the time of deciding to outsource production to the country. Secondly, there is a large culture of corruption among the public officers in Ethiopia. In 2012, 48% of Ethiopians reported to have paid bribes to a service provider in the past 12 months⁸⁷. This poses large problem for the industry, as it makes the chance of creating a proper governmental monitoring system for factory conditions harder to achieve, and is very likely to create situations in which eyes are closed towards gross violations that occur in the same.

We have observed in all of the above that the Ethiopian government has made many efforts to develop the garment industry in Ethiopia by providing incentives, educational programmes, import tax reductions and much more. On the other hand however, their authoritarian rule with very restrictive laws on anything from the right to assembly or association, human rights protection, advocacy on the rights of the woman or conflict resolution significantly limits the social developments that can take place in the industry. It could be argued that these great limitations upon social rights will eventually lead to a lack in productivity by the workers, who do not only get paid very low wages, but also are not able to speak out regarding violations in their workplace. This gives the global garment industry a bad image of the Ethiopian garment industry, as it created the threat of what has happened in Bangladesh, where social rights in the workplace have been completely neglected until the point of resulting in many deadly tragedies that harm the reputation of the industry. H&M, being the first global brand to outsource to Ethiopia, has demanded high standards in

⁸⁶ Alderin (2014). p 1

⁸⁷ Zerihun, Kibret and Wakiaga (2014) p 10

the factory where they produce, and have been monitoring themselves⁸⁸. This however, is not something that all global companies will do, as they do not see it as their responsibility to send people to monitor the conditions in the factories.

Something that has to be seen as a great opportunity when analysing the Ethiopian market is the fact that they are a very new industry in which it is easy to record the number of factories that there are and where they are located. This allows for the maintenances of a public record of all the factories in the country, and hence help in avoiding monitoring problems as happened in Bangladesh. Maintaining a public record of the factories present in the country will allow global brands to be aware of where their clothes are produced, without anonymous sub contractors being hired by the factories. As was seen in the previous section, the working conditions in the sub contracted factories are generally much worse than in the official factories where garments are produced. By keeping a public record of all the factories, global brands can be assured of the quality if the factories conditions. For this to be possible however, the problem of corruption needs to be solved.

For the following part of this paper Ethiopia will be used as a case study on how global brands should and can contribute to the betterment of the working conditions in the garment factories in which their product is produced. The following section will start by looking at some of the theories as to why global brands should or should not take an interest in cooperating to the ethical development of the industry. Subsequently we will look at in which ways this can be done, and finally, by looking at the history of what corporations have done until now, assess how realistic these prospects are.

After the section analysing the corporate social responsibility, a short section will elaborate upon the responsibilities of other actors, such as the state, consumers and international organizations. This will be done as to complement the activities that can be elaborated by global brands, which many times need external support to be properly implemented.

⁸⁸ Alderin (2014) p 22

Section 4 – The concept of Corporate Social Responsibility

4.1 Foreword

Corporate Social Responsibility (CSR) as a concept has been around for more than 50 years, however, in the recent past it has gained increasing attention given the large expansion of multinational enterprises around the globe.

This section will look at the development of the concept of CSR over the years and the different streams of thought surrounding it. After this is analysed, an analysis will be made of the United Nations “Protect, Respect and Remedy” Framework by John Ruggie, which is nowadays the leading document describing the responsibilities of corporations.

4.2 The History of Corporate Social Responsibility

CSR started becoming a topic of concern during the 1880s and 1890s as a result of increased labour unionism, public opinion on the matter and political pressure⁸⁹. It started to become clear to corporations that in order to be really successful, more was needed than just the creation of a good product or service; they needed to have the approval of the consumers on their behaviour towards society. This was not positively welcomed by many at the time by capitalists, who perceived the role of corporations solely as a profit making one⁹⁰. This gave rise to various streams of thoughts regarding the matter, which will be analysed in more detail further on.

Political pressure by governments increased over time and gave way to various regulations on corporate social responsibility after the great depression, when the government decided to intervene after the great economic instability caused by the self-regulation in the new market economy. Although these regulations were put in place to prevent the further creation of monopolies and anti-trust activity, one of its effects was the increasing regard to social responsibility⁹¹. Another factor that

⁸⁹ Kristoffersen, Gerrans & Clark-Murphy (2005) p.6

⁹⁰ Idem p 7

⁹¹ Idem p 5

influenced this rise in social awareness was the increasing strength of trade unions, which were protected by law⁹². This regulation by the government and trade unions on social issues continued until the 1970s, at which point the public concern on these issues started gaining strength⁹³. The 1970s were characterized by a new generation of baby boomers who created a high social awareness about consumption and production; it was now mostly the stakeholders of corporations who became concerned with CSR⁹⁴.

The rise in social activism and the increasing awareness during the 1970s and 1980s was in part also due to the rise of neoliberalism, which resulted in a shift away from regulation to intense competition to attract foreign direct investment⁹⁵. Foreign direct investment and lower regulation allowed corporations to start moving into foreign markets, resulting in an increased public awareness about the exploitation of economies of developing countries by western economies⁹⁶. This eventually resulted in high pressures on companies to adopt UN codes of conduct, sign multinational agreements and pay social costs associated with their activities⁹⁷.

Since this period, the world economy has become increasingly globalized and foreign direct investment has grown dramatically, leading to the creation of multinational corporations, including those in the garment sector. Pressure on corporations to act in a socially responsible way has only increased, and guidelines, recommendations and codes of conduct have been created for this purpose, all through soft law.

4.3 Defining Corporate Social Responsibility

The concept of corporate social responsibility is subject to a lot of debate, as over the years the creation of an agreed upon definition has not succeeded. The failure to define the concept stems from the significant lack of consensus about what corporate social responsibility actually entails. This is a big problem that causes the debate on

⁹² Broomhill (2007) p 9

⁹³ Kristoffersen, Gerrans & Clark-Murphy (2005) p 6

⁹⁴ Broomhill (2007) p 10

⁹⁵ Idem p 10

⁹⁶ Idem p 10

⁹⁷ Kristoffersen, Gerrans & Clark-Murphy (2005) p 11

the topic to be inconsistent, leading to bias interpretations⁹⁸. Among the definitions found are the following;

The World Business Council on Sustainable Development defines corporate social responsibility as “the continuing commitment by business to behave ethically and contribute to economic development while improving the quality of life of the workforce and their families as well as of the local community and society at large”⁹⁹. Very contrary to this definition we find Friedman’s definition, which states that Corporate Social responsibility stands in the way of the real purpose of a corporation, which is to make as much profit as it can¹⁰⁰.

The above definitions have been chosen to demonstrate the great contrast that exist among authors, as they choose their definitions depending on the theories they support in regards to CSR. Theories on CSR have been developing since the very beginnings of the concepts creation, and divide those that fully support and do not support the concept. Within the theories we can find three schools of thought; the neoliberal, the neo-Keynesian and the radical political economy approach. These will shortly be analysed as follows.

4.4 The varying streams of thought

First of all, the neoliberal theory, which, as already stated above by Friedman, believe that the only responsibility of a corporation is profit maximization¹⁰¹, making CSR an obstacle and backward step. They believe that it reduces the opportunities for growth and competition of developing countries trying to enter the global market with their competitive advantages such as low labour costs, against which CSR fights¹⁰². Neoliberals have identified some benefits in adopting CSR. They believe that it should only be used when they can enhance the value of the firm through a strategic advantage. They believe that the reason why they should adopt CSR is to fulfil the

⁹⁸ Kristoffersen, Gerrans & Clark-Murphy (2005) p 1

⁹⁹ WBCSD - Corporate Social Responsibility (5 June 2015)

¹⁰⁰ Friedman (1970) p 122-126

¹⁰¹ Broomhill (2007) p 6

¹⁰² Idem p 11

expectations of the stakeholders and avoid government intervention and impositions of outside regulations¹⁰³.

Levitt is still today one of the fiercest neo-liberalist critics of CSR, suggesting that self-interest is the main objective behind it. He believed that any corporation that assumes CSR is one that has managed to get some profit out of doing so, and therefore these corporations should admit that they are using it for the profit and not for the good intentions behind it¹⁰⁴. Neoliberals argue that CSR can be used as a business strategy through the following factors; the human resource factor: by making employees feel good about where they work. It allows for risk management by avoiding scandals from destroying the company's reputation. By brand differentiation, done by companies such as H&M and the body shop, and lastly, by diverting attention from the unethical parts of the business, for example in the tobacco business. By satisfying social compliance, companies avoid higher costs that result from formal contractual compliances put through government regulation, union contracts etc. This, together with satisfying the demands by committing to socially responsible practices eventually leads to a competitive advantage for the firm as they will have a better relationship with the stakeholders and avoid higher costs coming from outside regulation¹⁰⁵.

The second stream of thought is the Neo-Keynesian. They believe that CSR should be adopted voluntarily without any sort of obligations. They believe that CSR is important in that it allows corporations to avoid problems that might be caused by their activities; it helps them regulate their actions, and is therefore beneficial.¹⁰⁶ They strongly recognize the role of corporation's stakeholders and the importance of taking them into account, this is called the stakeholder theory. They believe that firms have become more than just profit maximization institutions, and their relationship with the different stakeholders has gained importance over time¹⁰⁷. The stakeholder's theory adopts CSR as the main obligation of corporations towards their different

¹⁰³ Broomhill (2007) p 7

¹⁰⁴ Kristoffersen, Gerrans & Clark-Murphy (2005) p 8

¹⁰⁵ Idem p 14

¹⁰⁶ Broomhill (2007) p 8

¹⁰⁷ Kristoffersen, Gerrans & Clark-Murphy (2005) p 12

stakeholders¹⁰⁸. Stakeholders include the shareholders who directly invest, persons otherwise involved (consumers and employees), anyone else affected by their activities (indigenous populations) and pressure groups¹⁰⁹. Even though the structure of corporations has changed a lot of the past years, the main aim of profit maximization still remains. The stakeholder theory has however slightly changed and confused the aim of the business, as now they have to concern themselves with issues that previously were not their responsibility. It has become an integrated concept in most business nowadays, and having satisfied clients goes way beyond providing a cheap high quality product¹¹⁰. The overriding objective of firms is profit maximization, but adopting social clauses and pleasing different stakeholders has become an important part in achieving this profit maximization goal¹¹¹ – there is however a need for larger transparency¹¹².

Lastly there is the radical political economy approach, which believes that corporations have an immense power that is often used in a negative and destructive way instead of being turned into opportunities of growth and development cooperation. They believe that CSR is often used by corporations as a way to distract attention from their bad practices, and many of the developed CSR policies and practices are seen as naïve and inadequate¹¹³. They call for stricter and more binding regulations.

From the above theories we observe the significant lack of consensus in regards to the purpose of CSR. Although we find a common understanding on the benefits it can bring in terms of competitive advantage, some views believe this to be the sole advantage of the concept, while others believe in the underlying social benefits it brings with it. As also observed above, there are different views in regards to the degree in which CSR should be regulated or not. This will be looked at in more detail as follows.

¹⁰⁸ Broomhill (2007) p 18

¹⁰⁹ Idem p 20

¹¹⁰ Kristoffersen, Gerrans & Clark-Murphy (2005) p 16

¹¹¹ Idem p 19

¹¹² Idem p 22

¹¹³ Broomhill (2007) p 8

4.5 The binding nature of Corporate Social Responsibility and the United Nations “Protect, Respect and Remedy” Framework

It is generally taken for granted that CSR principle adoption is voluntary and will remain so. Others however, believe that government regulation is needed if real change wants to be achieved¹¹⁴. They believe that for corporations to fully implement well-defined CSR policies, there has to be a threat of litigation, otherwise the corporations are free to respect whatever they want whenever they want without facing any consequences. This is also many times the problem of the lack of transparency, whereby corporations publish their codes of conduct but no reports on the monitoring of the same or the improvements that have been made over time. Many times the codes of conduct set by the corporations do not provide for any monitoring mechanisms by third parties either¹¹⁵.

The setting of codes of conducts has been seen to bring many advantages, for several reasons. To start with, we find that codes of conduct of international corporations extend across borders, and hence become internationally applicable standard regardless of local conditions such as the political situation. Secondly, for them to properly work, corporations will have to cooperate with local trade unions to ensure their implementation. This will strengthen the role of the trade unions and give them more credibility in their workings. Of course, in this regard the political environment of the country does matter a great deal, as seen before, the prohibitions of formation of trade unions in Ethiopia would make this very challenging¹¹⁶.

Although codes of conduct are important, many believe these have to be complemented by the development of hard and legal regulations and quasi-legal regulation through the ILO¹¹⁷. However, the closest thing that there currently is to a regulation on Corporate Responsibility is the United Nations “Protect, Respect and Remedy” Framework, developed by the UN Special Representative John Ruggie in 2010.

¹¹⁴ Broomhill (2007) p 17

¹¹⁵ Idem p 18

¹¹⁶ Idem p 18

¹¹⁷ Idem p 19

The framework is divided in three parts, the first one looking at the state responsibilities to protect, the second one at the corporations responsibility to respect and the third one at the access to remedy by the affected party¹¹⁸. We will now focus on analysing the corporate responsibility to respect of the corporations, and what the reactions to it have been by different stakeholders. Afterwards some different options for improved applications will be analysed.

The aim of the framework is the following “normative contribution lies . . . in elaborating the implications of existing standards and practices for States and businesses; integrating them within a single, logically coherent and comprehensive template; and identifying where the current regime falls short and how it should be improved.¹¹⁹”

Within the framework we find that corporations have two main responsibilities when respecting: to avoid causing human rights violations in their own activities, and if they occur, address them, and to prevent any human rights violations that might occur in activities directly linked to them, even if they did not expressly contribute to the same¹²⁰. We therefore find that there are two types of corporate conduct – the *direct* impact that the business might have on the violation of human rights, which must be prevented, and the *indirect* impact they might have through sub contractors, which they were not necessarily aware of.

The guidelines advice corporations to have three things:

(1) a formal policy commitment to respect human rights approved at the most senior level and reflected in operational policies and procedures; (2) “a human rights due-diligence process to identify, prevent, mitigate and account for” business- related impacts on human rights; and (3) remediation processes to address any “adverse [business-related] human rights impacts [the enterprises] cause or to which they contribute.¹²¹

We find that the Ruggie principles for corporations, given that they have to respect by

¹¹⁸ United Nations (2011) p 1

¹¹⁹ John Ruggie (2011)

¹²⁰ United Nations (2011) p 13

¹²¹ Blitt (2012) p 47

refraining from doing things and providing remedy for any violations, implies negative and positive responsibilities. These two different corporate responsibilities can be very well explained by looking at the garment industry, in which we find the direct outsourcing of production to factories and the further sub contracting of other factories to outsource other parts of the supply chain. Sometime this sub contracting is authorized by the brands, hence they have a direct responsibility over the conditions in the factory. However, many times we also find the unauthorized sub contracting of factories, over which brands then have an indirect responsibility. In these latter cases corporations are found to be ‘complicit’ if any violations of human rights are found to take place¹²². In case they are complicit to violations of human rights, directly or indirectly, the brands have the responsibility to remedy these violations. They are urged no to cut the ties with the factory after violations have been determined, but instead to try and remedy them and give the factory another chance to work properly.

Corporations should exercise due diligence to identify, prevent and mitigate and account for their impacts in human rights ¹²³ Corporations have two key responsibilities:

Disclosure: they should make the factories and sub contracting factories to which they source their products public, in order to public record to be maintained on the conditions in these factories. Many times such transparency can greatly help in preventing violations.

Due diligence: Corporations have the obligation to identify threats to human rights in the factories to which they outsource. However, given the very extensive and complex supply chains it is almost impossible for brands to do this, hence some level of flexibility needs to be maintained as to the level in which they are responsible for any violations, although up to some level they always are responsible.

How have these guidelines been endorsed or not by the international community?

From the business community, as expected, not a lot of support has been shown. Only a small fraction of the businesses seem concerned and genuinely interested in human rights in their activities. The UN Global Compact, which is seen as the largest

¹²² Human Rights Watch (2015) p 133

¹²³ Idem p 133

initiative for corporate sustainability only has 6000 businesses as member, of the over 70.000 multinationals and millions of smaller businesses all over the world. Of these 6000 many have failed to report on their achievements and have therefore been expelled. This shows the little interest and support by the business community to make a real change¹²⁴.

As regards the NGO community, they have criticized the framework for not going far enough: it is too based on soft law that in no way binds corporations to change their way of doing business. The International Federation for Human Rights (FIDH), Human Rights Watch (HRW) and Amnesty International (AI), three major NGOs have all voiced their thoughts on the need to create more binding measures that at the same time provide more meaningful guidance to allow businesses to properly implement it¹²⁵. In response to some of the reactions both by the NGOs and business community about the broadness and lack of practical applicability of the guidelines, the Human Rights Council set up a non-profit organization called Shift to help governments, businesses and other stakeholders to properly implement the guidelines¹²⁶. The study conducted by Shift tried to answer two questions:

1. In comparison to environmental, health, and safety management, what are the current gaps in embedding respect for human rights and how do gaps inhibit companies' ability to exercise human rights due diligence?
2. How can companies adapt practical approaches from change management and environmental, health, and safety management to more effectively embed respect for human rights in company culture?

After interviewing many company representatives and corporate sustainability advisors, they reached the conclusion that there are four common gaps in progress towards embedding respect for human rights in corporate culture: The abstract language used to frame human rights, excessive “happy talk”, delegated impact-ownership and toothless cross-functional committees. These will be looked at in more detail as follows to understand what it is that businesses need in order to implement the guidelines.

¹²⁴ Blitt (2012) p 55

¹²⁵ Idem p 54

¹²⁶ Relinger (2014) p 1

The *abstract language* used to frame human rights: given that we are dealing with corporations and factories from all over the world with different languages and cultures, the way in which human rights is understood varies a lot. This can result in companies applying the concept in very different ways, not even considering it as the protection of workers in the workplace, but as an harmonious way of working together. (By talking about respecting human rights in this framework, we refer to those rights set out in the International Bill of Human Rights and those set out in the ILO declaration on fundamental principles and rights at work)¹²⁷. In fact, this concept of different understandings of what human rights entail stems back a long time to the creation of the International Bill of Rights. The main discourse on human rights is that of universality versus relativism. As put by Van der Vyver, “The principle proclaiming the universality of human rights is founded on the notion that all human rights apply uniformly and with equal force throughout the world.” Opposing the relativism doctrine that believes that “allowance should be made for particularities that attend cultural, ethnic or religious varieties”¹²⁸. Although we will not go deeper into the analysis of this debate, it can be seen that it also applies directly to the problem of interpretation of human rights in the garment industry.¹²⁹ Given that the garment industry is so focused on Eastern Asian states or African states where political repression has been present for many years, the concept of human rights is not a known one, as it was never studied and is completely ignored by the government. If known, many times what is considered as a more important right varies. Therefore, workers might not even have an idea about what exactly human rights entails, and if they do, they might be too scared to deal with them due to the consequences that they might suffer at the hand of their governments.

Businesses consider that the guidelines use *excessive happy talk*. Personnel in companies are many times unaware of the rights to human rights respect in the activities of their companies – desk jobs are too far away from the scene in which the violations may be taken place, and the people at the scene are not able to recognize what is and what is not a human rights abuse – therefore there needs to be more education within the company, in order to allow all the staff to be aware of the

¹²⁷ Mares (2010) p 45

¹²⁸ Van der Vyver (1998) p 46

¹²⁹ Relinger (2014) p 12

different human rights that needs to be respected at every stage. Having a Corporate Social Responsibility department in the business is not enough if not everyone in the offices is aware of the risks¹³⁰.

Thirdly, there is the so-called *delegate impact-ownership*, again related to the inability of staff to recognize human right violations themselves. People with the authority to make decisions that will impact the human rights situation of the employees many times depend on the corporate social responsibility department in order to identify the risks to these human rights. They are too focused on their functional responsibilities to engage in the community itself¹³¹. Human rights risks should be identified by everyone and not only by the specialists.

Lastly, a problem encountered in the application of the guidelines is the *toothless cross-functional committees*. Many companies have cross-functional committees to coordinate the implementation of human rights commitments. Each department representative has to synchronize their departments involvement in human rights due diligence. These are made to improve how personnel in high-risk markers exercise human rights due diligence. However they are normally not very involved and therefore they don't pay attention to the implementation of the enterprises human rights commitments¹³²

The study continued by looking at guidelines relevant to other areas such as the environment and health and safety and looked what could be taken from this and embedded in the human rights guidelines to make them better and more accessible. Coming to the following conclusions;

There is a need to consistently communicate human rights in accessible terms to the employees of the firm at any level of job. Given that they are dealing with company wide values and commitments, these have to be aligned throughout the whole company. If employees understand the respect of human rights is part of their duty, they will pay more attention to it. A way of achieving this is by exposing the relevant personnel to human rights performance: make the personnel deal with reports and data reviews on the conditions on the ground so that they can start appreciating the

¹³⁰ Relinger (2014) p 13

¹³¹ Idem p 14

¹³² Idem p 15

relevance of human rights and how these might be affected by their businesses and specifically, by their work. Once the workers have an idea about the concept of human rights and how these play a role within the activities of the company, an interesting exercise is to consult with personnel to incorporate function-specific risks into human rights guidelines, so ask the workers themselves what the risks are and in what ways these could be mitigated. After receiving feedback from the employees, the company can develop leading human rights indicators that allow them to reflect and understand the high risks in their environment and track any changes. Lastly, the researchers suggest that there should be a creation of a broad-based performance evaluation criteria for exercising due diligence – incentives and accountability measures – which look at the quality of the work instead of only numbers. This will allow the employees to start understanding the exact relevance and how their job contributes to protecting the human rights. They will change the way they work and little by little the company will become more and more human rights aware¹³³.

The researchers concluded that embedding human rights into the workings of a business is a process that requires time and work. There is a need to make everyone in the business understand the importance of respecting human rights, and this can be challenging due to the different understandings of human rights and the different kind of jobs: many times the people sitting behind the desk cannot understand the human rights risks of those in the factories¹³⁴. If this can be successfully done, a business can properly apply the UN framework regarding the responsibilities of corporations in respecting human rights.

4.6 Towards a more binding nature of corporate responsibility?

As another response to the increasing critique of the framework as being too broad, difficult to implement and not binding enough on corporations, there is currently a move to develop a more concrete and binding. This move resulted at the request by Ecuador in the August 2013 Regional Forum on Business and Human Rights for Latin America and the Caribbean. Ecuador here demanded that a binding instrument were created to “clarify the obligations of transnational corporations in the field of human rights, as well as of corporations in relation to States, and provide for the

¹³³ Relinger (2014) p 22

¹³⁴ Idem p 33

establishment of effective remedies for victims in cases where domestic jurisdiction is clearly unable to prosecute effectively those companies.¹³⁵ The action was ratified in December 2014 and the UN adopted a resolution on the matter in June 2014.¹³⁶ The first session of the working group in charge of elaborating the instrument took place on Monday 8th July in Geneva – this instrument will be created with a view to complement the UN framework, and not as to contradict it.¹³⁷

Section 5 – Case study: developing corporate social responsibility through the Ethiopian Industry

First of all, as already observed above, there is the fact that there is no clear and universal definition of the concept of Corporate Social Responsibility. Some have decided to define it in a broader way, while others have gone into description of what exactly it entails and what kind of responsibilities there are. The lack of a proper definition has had as a result that any discussion on the validity of Corporate Social Responsibility lacks credibility, as the two parties involved generally are not referring to the same exact concept, and tend to mold it to their advantage. Furthermore, if we assume that Corporate Social Responsibility is a reality and practiced by many firms, without a clear conception of CSR there is no way to know where the fulfilment of such responsibilities begins and where it ends. That is, there is no consensus on to what extent a firm has to act responsibly in order to be considered a firm that respects Corporate Social Responsibility. As very well explained by Vogel in his article ‘CSR Doesn’t Pay’¹³⁸, very few companies in the world have been able to sustain themselves and grow on the basis of a fully ethical discourse. Given the still low profitability of being a completely ethically responsible company, many firms are only able to partly act in such a way. Vogel puts as an example the case of Starbucks. Starbucks is a company that is well known for its extensive CSR policies, however, in the past years its shares have greatly declined, mostly due to the very high prices of their products. These high prices resulted from being a company who is concerned with its workers labour policies and environmental standards, which raises the price of their product. Hence, it is found that being socially responsible is still a niche

¹³⁵ UN Human Rights Council sessions (10 July 2015)

¹³⁶ Global Policy Forum (10 July 2015)

¹³⁷ Idem

¹³⁸ Vogel. CSR Doesn’t Pay. (13 June 2015)

market that only a few companies can fully take advantage of. Many companies do not practice it at all, and some are only able to partly apply it if they want to remain a profitable business¹³⁹.

An interesting question to ask at this point is what the goal is of those who advocate for Corporate Social Responsibility. A fully ethical market is not something that will be achieved in a matter of months, or even years, and progressive goals need to be set in order to remain realistic in expectations. It is therefore important to ask things such as; where do we draw the line between being a socially responsible firm or not? How much investment in ethical trade is good enough?

As observed in the sections above, the textile industry is one in which a very complicated supply chain that extends over different countries and different production stages. Although many global brands have tried to make the effort to keep track of these supply chains and maintain some sort of control over how they work, this is becoming increasingly difficult given the size of the industry. One of the main global brands that has been working hard on developing into a sustainable and fair firm is H&M¹⁴⁰. H&M's CEO Karl Johan Persson stated in the 2014 H&M Sustainability Report "Our business idea is to offer fashion and quality at the best price. It's about the best value, not the cheapest prices. Sustainability is an important part of this". H&M has over 16 million people working in their supplier factories, of which 64% are women¹⁴¹. They are investing in the future of the industry and of the brand – even if many of the things they do now do not give them immediate profit, the more popular the concept of sustainability and fair practices becomes, the more profit they will make. They already have a competitive advantage.

However, the right conditions must be in place. A brand like H&M who is trying to do so much, can only do as much as the conditions allow them to. As follows the paper will analyse different things that need to be in place for a corporation that has the willingness to be socially responsible, but is limited by external conditions to do with the host country. This will be done by looking at the case of Ethiopia and CSR.

¹³⁹ Vogel. CSR Doesn't Pay. (13 June 2015)

¹⁴⁰ Solidaridad Network – H&M Leads the way to Sustainable Fashion (15 June 2015)

¹⁴¹ H&M Conscious Actions – Sustainability Report 2014 (15 June 2015) p 3

In entering the Ethiopian garment industry as the largest and first global brand that decided to outsource production of their garments, H&M has demanded high working conditions at the factory where they produce, and have been monitoring the same themselves. However, one of the main problems posed, not only in the global garment industry, but in any industry which crosses borders, is the large cultural barriers that may exist in operating abroad. The barriers that can arise from the large differences, not only in business mentality, but also cultural mentality, pose an obstacle for global brands to properly communicate their wishes. As already observed in the research study by Shift, the mere concept of human rights is many times already an issue of miscommunication. To resolve this problem of miscommunication, as stated in the research, there is a need for the corporation to educate everyone in their staff, no matter the level to which they are in communication with the people in the garment factories, on the positive and detrimental effects of their work on human rights and what exactly this entails¹⁴².

H&M is a global brand that has given a lot of importance on improving their social and environmental contributions to the planet and specifically to the countries in which they produce. Especially in Bangladesh and Cambodia it is found that H&M has had a large impact on the local economy, employing as many as 16 million people in their factories and hence contributing a lot to the economical development of various countries¹⁴³. In doing this, they face many problems throughout their supply chains, which as can be expected, are very large and complex systems hard to monitor. Here the importance of trade unions as local support systems for the monitoring of human right conditions in the factories can be identified. Trade unions have a long history of governmental support in developed countries, and are crucial in representing the voice of the workers against the power of corporation's management. Given the long history of government support of trade unions in developed countries, they are taken for granted by corporations as part of the natural monitoring system of their actions, as they continually receive feedback on things that might be done in a way that is detrimental to the workers rights. However, when looking at countries

¹⁴² Relinger, R. (2014)

¹⁴³ H&M Conscious Actions – Sustainability Report 2014 (15 June 2015) p 3

such as Ethiopia, whose authoritarian government has completely restricted any form of association or assembly, trade unionism is close to zero. This poses several problems for corporations such as H&M, who, when moving into the Ethiopian market want to do so in the most socially responsible way. To start with, it is found that the workers in the factories where they produce do not have the possibility to be represented in case of any violations. Hence, if violations were to take place, H&M will not become aware of them unless they establish their own monitoring systems. Secondly, not being able to assemble might cause a large dissatisfaction in the workers, who then lower their productivity due to lack of incentive.

Given the complex supply chains of global brands, corporations like H&M are not able on their own to continuously monitor the conditions in factories that produce their clothing, apart from on trade unions, there is a high need for government support. In Ethiopia however, this is highly limited among others due to the large amounts of corruption. This corruption, as already stated before, can interfere with the proper monitoring of the factory, and eventual intervention by government officials if needed by H&M. Although the Ethiopian government has been very active in developing the garment industry through incentives and trade advantages, it has in no way considered the implications and limitations that are posed on corporations by restricting the freedoms of the workers. With the rising importance of CSR, more global brands are seeking markets in which the protection of human rights of their workers can be supported by the government. If the Ethiopian government wishes to keep attracting global brands to produce in their country, they will have to make some changes to their social clauses, these being crucial in the future of the garment industry.

It is therefore found that even if CSR is growing as a concept, global brands alone cannot achieve anything without some support by the local governments, international organisations, NGOs, CSOs and local trade unions. Some programmes involving many of these parties have already been established in a variety of countries with the aim of improving working conditions. Two very relevant ones are the Bangladesh Accord on Fire and Building Safety, and the Cambodian Better Factories Programme. In looking at ways in which the Ethiopian industry can flourish in a socially responsible way, the following part will analyse the weaknesses and strengths of these

two programmes as a way of reaching a conclusion as to what is the best monitoring system to apply to the Ethiopian garment industry. These two programs have already been looked at in section 2, but will be analysed in more detail as follows, as to get a sense of the exact advantages and disadvantages, and how these can be combined to make an accord in Ethiopia.

It must be noted at this point that the creation of an accord or programme for the betterment of the working conditions should not have to be one that needs to be imposed on any party. Ethiopia, being a newcomer in the garment industry, offers the opportunity to all actors involved to contribute and actively support the furtherance of human rights. The main challenge in regards to this country lies with the government, and the lack of international power to impose such a programme on the government. In this case then, some sort of influence will have to be exerted by global brands, which have to give no other option to the government than to enforce the agreement.

5.1 The Cambodia Better Factories Program

The Cambodian Better Factories Program, as already explained in the section on the Cambodian Garment Industry, is a program set up by the US with the help of the ILO to monitor the working conditions in exporting garment factories throughout the country. The program covers all the garment factories that are registered with The Garments Manufacturer Association In Cambodia (GMAC) and the Registry of Commerce (RoC) as exporting factories. Hence, the program covers all the factories that produce from global buyers. The monitoring of the factories is done by the ILO through announced and unannounced visits, during which they look at the degree of respect by the factory for the freedom of association, the conditions under which the trade unions are operating; how their members are treated, how much space they have to assemble, how much their demands are taken into account. Furthermore they look at the respect for the international core labour standards and national labour law by the factory managers such as the respect of the minimum wage, limited working hours, contracts etc.¹⁴⁴ After the monitoring reports are made by the ILO on the findings at the factory. These reports are sent to the corresponding factory, and remain private for their use. Buyers of the factories have the possibility of buying the report,

¹⁴⁴ Clean Clothes Campaign (2012) p 8

but it remains strictly private to other parties. Apart from this report, a general report on the industry as such is made. This report is public.¹⁴⁵

The Better Factories program has achieved several positive things for the Cambodian garment industry. First of all, given that the ILO is the monitor, this grants the program an independent stance, not influenced by the corruption that might otherwise take place in the monitoring process¹⁴⁶. Secondly, though the interviewing process of employees and factory managers the monitors can get a sense of the state of some affairs that are not perceivable for the naked eye, this includes things such as sexual harassment issues and restrictions placed on the trade unions. This however, depends on how much the workers are willing to talk in a free way. The Better Factories program organizes trainings and capacity building workshops to allow for the creation of better social dialogue between the parties.

On the other side, there can also be found many limitations on the program, which include the following:

The program is not legally enforceable, which has led to a lack of action resulting from the reports. It is the job of the government's labour office to take action as to the results of this report, but given the high degree of corruption in Cambodia, it is easy to bribe the officials. Secondly, one big problem faced by the industry is the presence of subcontracting factories that evade monitoring. These factories produce garments for global brands who have not authorized them to do so, but which have been used as outsourcing factory by the main factory producing for a firm. Furthermore, there has to be an improvement in the monitoring system. There need to be more unannounced visits so that managers do not have the possibility of fixing any mistakes or talk to the workers about what they can tell the inspectors and what not¹⁴⁷. The interviews with the workers is another problem, given that many times these are afraid of the consequences if they tell too much, among others also given the fact that many times nothing is done about the problems they report. Additionally, the program has very limited transparency; the government, trade unions, brands and consumers have the right to know what goes on in the factories. Maybe it is due to this lack of

¹⁴⁵ Clean Clothes Campaign (2012) pg 8

¹⁴⁶ Idem pg 1

¹⁴⁷ Idem 19

transparency, which does not allow for pressure to be put on global brands, that these brands do not get very involved in the program and do not always take their responsibilities over the working conditions in the factories.

The Better Factories program does not have any enforcement powers; compliance is a purely governmental task. Hence it is found that although the buyers do not have great responsibilities as such under the program, this should be changed to make them have a higher commitment to changing conditions. More focus has to be placed on this awareness rising among buyers.

5.2 The Bangladesh Accord on Fire and Building Safety

The Bangladesh Safety Accord is different in composition and focus on different aspects than the Better Factories program. So it is found that within the range of human rights, the Accord concretely focuses on the safety conditions in the factory buildings¹⁴⁸. Among the characteristics of this Accord it is found that the factories which are inspected through the program are those that produce specifically for the brands which have signed the accord. So unlike the Better Factories Program, in which all factories that export are looked at no matter what brand has hired them. This has as an effect that less factories are monitored under the Accord than the better factories program. The Accord has been signed by a total of 100 brands, local trade unions, the ILO and international NGOs¹⁴⁹. Similarly as in the Better Factories program, inspections at the factories are carried out on an announced and unannounced basis, and covers a total of 1000 factories throughout Bangladesh.

The Accord stands out over the Better Factories program for several reasons¹⁵⁰. To start with, if damages have been found in the factories that need to be fixed, brands have the responsibility of paying for it, although it can be agreed with the factory if the brand will pay the full amount or negotiate the ratios of payment¹⁵¹. The reports and recommendations of the monitoring activities are made public, although information on which factory produces for which brands is not provided. The brands are informed about any damages in the factories within two weeks of the inspections,

¹⁴⁸ Hensler & Blasi (2013) p 1

¹⁴⁹ Bangladesh Safety Accord – Signatories (Visited 20 June 2015)

¹⁵⁰ Hensler & Blasi (2013) p 2

¹⁵¹ Accord on Fire and Building safety in Bangladesh – Remediation. (20 June 2015)

and if the damage is severe enough, they are notified immediately. In case extreme measures need to be taken and the production process has to be stopped, brands have the obligation to continue paying the workers their wages during 6 months, and if the damages are irreparable and production and to be permanently stopped, they have the responsibility to help the workers find new jobs¹⁵². This all is backed up by the most important measure of the Accord, which that the accord and everything in it is legally enforceable in a court of law. As stated in Article 5 of the Accord;

“Disputes concerning implementation are first submitted to the seven-member oversight steering committee, which is comprised of three representatives chosen by the trade union signatories and three representatives chosen by the company signatories, with a representative of the ILO serving as a neutral chair.”

“Any decision of the steering committee may, at the request of either party, be appealed to a process of binding arbitration, governed by the rules of the United Nations Commission on International Trade Law, which is the standard procedure for international arbitrations. As set out in the Accord, an arbitrator’s award may be enforced in a court of law of the domicile of the signatory party against whom enforcement is sought (e.g. an award against a German company may be enforced in a German court). Under the New York Convention, an international agreement which has been signed by the home country of every signatory company, domestic courts have a broad obligation to enforce foreign arbitration awards”¹⁵³

This is a very significant step in the development of CSR, and makes the accord binding through arbitration, which is a very common method used by companies and labour unions to solve their dispute. The advantage of arbitration is that it is cheap, fast, and neutral and allows for the resolution of the merits of the dispute in the court. The Accord has been supported by international organizations such as the ILO¹⁵⁴, the OECD¹⁵⁵ and the EU¹⁵⁶, and, as expected, rejected by part of the business community.

¹⁵² Accord on Fire and Building safety in Bangladesh – Remediation. (20 June 2015)

¹⁵³ The Accord on Fire and Building Safety (2013) Article 5

¹⁵⁴ ILO – ILO Welcomes accord on Building and Fire Safety in Bangladesh (25 June 2015)

¹⁵⁵ OECD – OECD Secretary-General statement on events in Bangladesh (25 June 2015)

¹⁵⁶ European Parliament – European Parliament resolution on labour conditions and health and safety standards following the recent factory fires and building collapse in Bangladesh (25 June 2015)

5.3 The Case of Ethiopia and possibilities for an Accord

Now that two major multilateral programs on the monitoring of factory conditions have been analysed, it is time to look at whether Ethiopia presents an opportunity for the creation of an accord on its own for the monitoring of human right activities within its garment industry.

Starting with the opportunities, Ethiopia presents a very interesting case given its very new garment industry. Given that the country has just started developing its industry in the past five years, it is still possible to have a good and clear overview over the number of factories there. This is highly beneficial given that it allows control over the problem of sub contracting which countries such as Bangladesh and Cambodia face, and that highly affect the proper working of the Better Factories program. By maintaining a good public record of the number of factories and for who they produce, the problem of low working conditions through further unauthorized sub contracting can be battled, allowing for a better working of a possible accord. Another advantage in Ethiopia is the presence of the TIDI, an institution specially designed to aid the development of the garment industry in many different ways. TIDI could provide for a very good partner to international efforts in controlling the working conditions in the Ethiopian factories. Given its extensive knowledge, it could aid international organizations find their way around the industry and could aid in the development of national regulations for the possible Accord.

On the other hand however, it is found that there are extensive challenges faced by the Ethiopian garment industry in the creation of an accord to regulate human rights conditions in their factories. First of all, there is the already described political climate in the country. The opportunities for social development are limited by the very restricted rights of assembly and association, which do not allow for the creation of trade unions. As observed above, the presence of trade unions is crucial in the monitoring of conditions, given that they play an important role in informing the monitors on the conditions of the factory, the treatment of workers and things that cannot be seen in a one time inspection. Additionally, the prohibition of the right to assembly and association as such already poses very large restrictions on the possible creation of an accord. Without the government of Ethiopia respecting these very basic civil and political rights they are violating the essential human rights mentioned in the

International Bill of Rights. This makes it impossible for international organizations such as the ILO to justify partnering with the Ethiopian government, these rights being most essential. How could an accord to monitor human rights conditions be put in place when initially already there are gross human rights violations taking place?

Secondly there is the challenge of the large scaled corruption that seems to be engrained in the Ethiopian culture. As already stated before, it is common for the Ethiopian population to bribe public officials, and this is probably not an exception within garment factories. Before an accord of any kind can be established, it is important to tackle this extensive problem of corruption in order for the Accord to be able to qualify as legitimate.

Lastly there is the problem of legal enforcement. If the model of the accord were to follow that of the Bangladesh safety accord, a good functioning of the Ethiopian courts is required, as well as cooperation on the side of the government. However, give the current political climate, which has been characterized as authoritarian with a lack of legitimate separation of powers, legal enforcement would be a complicated issue.

Monitoring and remediating the human rights conditions in factories inevitably requires the full cooperation of the country's government, in this case possibly through TIDI. However, given the very fragile state of affairs in regards to human right protection in the country, there is no guarantee that any of the agreed upon clauses of a possible accord would hold. Unless the government of Ethiopia decides to develop into a more democratic and human rights abiding state, the only way in which an accord could function is through very extensive participation and contribution of global brands in cooperation with international organizations such as the ILO. This however, seems highly unrealistic given the still low acceptance of extensive CSR by most global brands.

Conclusion

Globalization has had many implications for the concept of human rights. Initially seen as a concept applicable to states and their obligations towards their citizens, it has now extended to cover the private sector. With the increase in power and

influence of corporations on the social, environmental and economical development everywhere, more responsibilities need to be taken up by them. In a way, it can be argued that corporations have a social contract with all of its stakeholders, be it company shareholders, customers, employees or other groups in any way affected by their activities. Without the approval of these stakeholders, corporations do not exist, as they are based upon their support for each and every one of their actions. One of the stakeholders of firms however, those that are most vulnerable such as indigenous groups or communities that live in deplorable situations, are many times ignored by corporations in establishing their activities. Corporations need to maintain stakeholders such as their customers and shareholders happy at all times in order to thrive, whereas other stakeholders, the weaker ones, such as indigenous populations or employees living under the poverty line, are more easy to ignore due to their lack of power. Given the intensity that the race to the bottom has taken over the past years, cheap labour is very easy to get a hold of for corporations extending across the globe. So it is found that they do not depend on the specific group of people they currently employ in a factory in Bangladesh, as they are easily replaceable in only a matter of days, given the low skilled work that they perform. This fact does not allow employees to have any leverage over the corporations, also stemming from the lack of support that they receive from their own governments, who are mostly concerned with the fast economic development of their countries.

Regardless of their lack of dependency on the approval and support of these employees however, corporations are more and more starting to be concerned with the conditions under which the workers perform their tasks. As has been observed throughout the paper, this is mostly due to the increasing public demand for a more ethical way of conducting business. Strong resistance has been shown by different groups, arguing that the sole responsibility of corporations is to maximise their profit. However, a lot of support has been found by the international community for a further creation of answerability by corporations. Initiatives such as the UN “Protect, respect Remedy” Framework and the currently in development “International Legally Binding Instrument on Transnational Corporations and other Business Enterprises with Respect to Human Rights”, give faith of the slow but steady development of corporate accountability.

As presented throughout the paper, the garment industry has been highly linked to these issues, given its very competitive but worrying characteristics. The garment industry is an industry characterised by the constant need for new production, as it has become a commodity that is demanded at a high speed everywhere in the world. In order to be able to cope with this rapid and high demand, the industry is very labour intensive, this being the consequence of the very low wages that are paid to the workers in the factories. In the race to the bottom, the garment industry has faced continuous pressure to become cheaper and faster again and again, leading its workers to live under the most degradable working and living conditions.

Countries such as Bangladesh have fully given in to this race to the bottom, being one of the cheapest and fastest garment producing countries in the world. As observed above, this has led to deplorable conditions within the factories and affects the workers in every aspect of their lives.

The international community has more and more developed awareness on the topic, and it is now found that the discussion is possibly at its peak. With the current plans to develop a somewhat more binding document in regards to corporate social responsibility, and the increasing use of ethical practices by global brands such as H&M, the discussion might be about to get to a very interesting turning point in which the nature of corporations will be geared towards a more social one.

The current focus and popularity of the development of corporate social responsibility needs to be fully taken advantage of, and in doing so, customers play a very crucial role. Customers have a great amount of power over how corporations will eventually conduct their business. If we start demanding more transparency in regards to the effect of business activity on developing communities, corporations themselves will have to start paying more attention to the actual damage that is being done. This will not only help them realize the great impact and influence that they have on development, but also open their eyes to alternative ways of working, by looking at the business models of corporations such as H&M.

It is very important to take into account however, that in order to achieve a proper and effective development of corporate social responsibility, it has to be a controlled and step-by-step process. Especially given the very complex nature of the garment

industry, with its long supply chains and global industry, time has to be given to corporations in developing to become a socially responsible business. This is not only due to possible financial constraints, but also due to the already discussed awareness raising in regards to human rights that is necessary within the business itself. Employees of large corporations are there due to interest in different areas, be it marketing, advertising or any other reason, but generally certainly not for their interest in human rights. Hence, before a business can start developing a well functioning social responsibility, it needs to educate their workers on the implications of their work and the “higher good” of being socially responsible.

Not only is it found that corporate staff needs to be educated, but also the local employees and managers who are affected by human rights violations themselves. As already discussed, human rights as a concept is universal, but has relative interpretation around the world due to large cultural differences. So, the role of the woman is different in France than in India, and therefore the imposition of standards by western corporations on local factories to do things in a way that they do not understand can be confusing. Hence there is the necessity for a proper human rights education.

The paper has placed great focus on the developing garment industry in Ethiopia, and an analysis has been made on the possibilities of creating a successful corporate social responsibility mechanism. This has been done based upon the analysis of previous models such as the Bangladesh Accord and Better Factories in Cambodia. Through an analysis of both programs, both having a slightly different angle and different corporate involvement, the failures and successes have been analysed to see what the best working model for Ethiopia would be.

The study found that for the effective implementation of an international accord comprising global brands, international organizations and the government, the first thing that needs to be present is a stable political environment which allows for the furtherance of human right protection. In the case of Ethiopia it was found that this is far from the reality, as laws are in place prohibiting the right to assembly or associate and other activities related to human rights. This, together with the high level of corruption makes it very difficult to develop a credible program.

Hence, in the case of Ethiopia a change in government practices is very necessary if a good development of a social industry wants to be undertaken. Achieving this is in part the task of the bigger international community through the United Nations, ILO and national governments, but in part also the responsibility of corporations. Corporations have a very big leverage given their strong economic power and ability to bring a lot of positive change to the Ethiopian industry. They have the power to give the Ethiopian no other choice than to change their policies if they want corporations to continue investing in them.

Many questions arise from this. First of all, again, it needs to be analysed up to which point corporations have to take responsibility over a countries social issues, or leave it up to the international community. Today there is still a distinction between what the responsibilities of a state are and those of a corporation. The main responsibility to protect lies with the state, whereas corporations only have the responsibility to respect the, as established in the UN “Protect, respect Remedy” framework. This is however getting more and more blurred, and there needs to be a more specific outline stating up to which point it is becoming an obligation for a corporation to develop into something more than they were created for in the first place.

Towards corporate accountability?

Throughout the paper it has been shown that there is an increasing demand and development in the concept of legally binding corporations in terms of social responsibility. This however, does not as such fall within the concept of CSR, but that of Corporate Accountability. CSR is characterised by the mostly voluntary basis upon which corporations, from within, and adopt regulations to in favour of human right protection. Corporate accountability on the other hand has a more impositional character, as it normally results from outside pressure by NGOs, international organisations, governments and consumers. An example described throughout the paper that falls under corporate accountability is that of the Bangladesh Accord of Fire and Building Safety. This accord was developed after a lot of pressure from the international community after the collapse of Rana Plaza, and was afterwards open ratification by brands. Although brands voluntarily enter the agreement, this is many times done due to the strong outside pressure to do so faced. On going efforts to develop the area of corporate accountability are made by the UN through the current

development of the “International Legally Binding Instrument on Transnational Corporations and other Business Enterprises with Respect to Human Rights”. Although the character of this document still remains to be seen, from the proposals made it can be assumed that there is a move towards a more binding legislation for brands¹⁵⁷. NGOs also play a very big role in developing corporate accountability, as is done for example by Clean Clothes Campaign in their efforts to hold global brands accountable for human right violations in their factories¹⁵⁸.

Hence it can be concluded that the area of corporate accountability is slowly advancing, of course, without exiting the area of CSR, which remains and will always remain very important. Corporations are slowly being held more and more accountable for their actions and the way that it influences the world. With time, they will have to accept that their purpose is not only one of profit making anymore, but one of contribution to the development of a more prosperous society in terms of human rights and environmental standards.

Recommendations for further research

Although it has not been the focus of this paper, it is very interesting to mention the impacts of the garment industry on the environment and the equally important responsibility of corporations to limit the excess and pollution coming from their production. The pollution footprint is yet another consequence of the fast fashion industry that has developed through the increasing globalization. Environmental damage is done in every single step of the supply chain, and although not all of it can be avoided, it can definitely be reduced by a lot or transformed into a more sustainable way of working. In the first stages of production we find that the choice of use of the raw materials has an impact. Cotton is one of the most used raw materials in the production of clothing, as it is used for one third of all textiles. It is a very chemically dependent crop on which fertilizers, pesticides and herbicides are used to produce as much as possible¹⁵⁹. The process of manufacturing the clothes as such also is very polluting, mostly due to the large amounts of water needed in the process of

¹⁵⁷ United Nations – Bolivia, Cuba, South Africa, Ecuador and Venezuela (2014)

¹⁵⁸ Clean Clothes Campaign Website (4 July 2015)

¹⁵⁹ NRDC (2011) p 1

manufacturing in the stages of textile dyeing and finishing mills¹⁶⁰. Of course, the process of transportation of the clothing all over the world is a very polluting, but also the transport of the necessary materials from one factory to another, given that as seen before, supply chains are not always located on one site but are located in different countries. Lastly, consumers themselves are also a source of pollution through the continuous washing of clothing, but also the continuous throwing away of clothes when we have no use for it anymore. These clothes are generally not recycled in the proper way and end up in disposal sites instead of being re-used¹⁶¹. In regards to sustainable environmental measures again H&M is found on the top of the list of global brands making an effort to build fully sustainable supply chains¹⁶². This however, is just as difficult as creating a fully human rights abiding supply chain as corporations do not have the ability to continuously supervise the workings of the supply chain. Hence, when talking about corporate responsibility, it is also important to take the corporations environmental responsibilities into account.

¹⁶⁰ NRDC – Green Textile Redux (7 July 2015)

¹⁶¹ NRDC – Clean by Design (7 July 2015)

¹⁶² H&M Conscious Actions – Sustainability Report 2014 (8 July 2015) p 2

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