

1 *Introduction*

Vignette 1: Large cracks started to appear in the Rana Plaza building complex in the Savar district of Dhaka, Bangladesh. The next day (23 April 2013), a bank, shops and offices, located in the lower floors of the building, closed due to safety concerns. However, several thousand garment workers, who lacked collective representation, were made to enter the building for fear of losing their jobs or worse. The building collapsed, killing over 1,100 workers.

Vignette 2: Having been sitting in heavy Dhaka rush-hour traffic for four hours en route to a meeting with the National Garment Workers Federation, a Bangladeshi union federation, we finally arrive at their small, ground floor office that is tucked away in one of the small side streets of Dhaka. A trade union meeting is taking place. Inside, about twenty-five mainly young women trade unionists from a factory squeeze around a large table in the main room. Hours earlier, a number of them had been dismissed by factory management for speaking out on safety grounds. A mass walk out had ensued. Responding to our question about what we can do to help, the immediate request is for us to write to the American brands for which the factory has been producing. They say it is only through the power of the brand over the employer that the workers will be reinstated.

Vignette 3: The UK Trades Union Congress (TUC) and Labour Behind the Label, the UK arm of the international Clean Clothes Campaign, had planned joint action outside a number of Edinburgh Woollen Mills stores across the United Kingdom to protest against its refusal to sign the Accord on Fire and Building Safety in Bangladesh and failure to pay into the victims' compensation fund. The UK high street retailer signed the Accord just a few days before the planned action. The TUC called off the day of action and commended Edinburgh Woollen Mills for signing the Accord. Labour Behind the Label, in contrast, was frustrated that the TUC had called off the protest since the retailer had not yet agreed to make compensation payments to victims of previous factory disasters.

In contrast, the trade unionists were frustrated that, right up to the last minute, campaigners were making what they saw as unreasonable demands, thereby jeopardising the progress made.

As these three vignettes demonstrate, globalisation has blurred the lines of responsibility, accountability and representation in global supply chains.¹ This is tragically highlighted by the Rana Plaza disaster, outlined in Vignette 1, which shunted labour issues in the garment industry into the global spotlight. In the simplest terms, the Rana Plaza disaster was an engineering failure: the building was unable to support the weight load necessary for the factories. At another level, this and other tragedies that have bedevilled garment production in Bangladesh and other developing economies also demonstrate the abject failure of corporate-driven labour governance and the consequences of a lack of workers' power to refuse unsafe work. The prevailing model of social auditing, where external assessors carry out checks against company or multistakeholder standards, had failed to protect its alleged beneficiaries: workers at the hard end of global supply chains. Part of the problem is that these private governance institutions show little concern with the democratic representation of those affected: workers and their representatives are not involved in social auditing in any meaningful way, nor have there been any substantive means developed by which such involvement can be leveraged.

Could more democratic involvement of workers have prevented tragedies such as Rana Plaza? The central premise of this book is that the democratic involvement of workers is central to effective and fair governance. Health and safety is one area where research has shown repeatedly that governance is indeed more effective when workers are involved (Gunningham, 2008). Notwithstanding debates about the relationship between democracy and effectiveness of governance, the argument about democratic representation and participation goes beyond instrumental effectiveness. Human dignity and the right to self-determination are integral elements of basic human rights, which extend into the workplace and the mechanisms governing it.

¹ There has been considerable academic debate about terminologies such as global commodity chains, global value chains, global production networks and global supply chains. The nuances of this debate are beyond this book, and we use the generic terminology of global supply chains, as used by the International Labour Organization.

Questions about democratic representation have become pertinent since global supply chains have emerged as the dominant form of value creation in the global economy. By their very nature, global supply chains cross national boundaries and thus are challenging for democracy: labour rights are no longer an issue solely between employers and workers but involve actors at different levels of the supply chain. As Vignette 2 demonstrates, workers and their representatives increasingly target action against Western brands rather than their actual employer to improve workplace conditions. As a result, Western brands have become implicated in the governance of labour and human rights, especially when public governments fail in their responsibilities (Scherer and Palazzo, 2011). Whether this democratises corporations by re-embedding them into democratic processes or instead privatises governance is subject to debate. It is clear, though, that global governance goes beyond representative politics by public actors. It certainly raises questions about who can legitimately represent workers at different points in the supply chain: trade unions in production countries, elected worker representatives in consumer economies in the West or unelected labour activists? While these can be complementary, they also give rise to competing claims to democratic representation. This is illustrated in Vignette 3, where non-government organisations (NGOs) seek to represent workers alongside trade unions. With private claims to participation in global governance processes on the rise, it is time to investigate the conditions for democratic private governance.

The purpose of this book is to explore the questions raised above about whether meaningful private transnational labour governance can emerge in a way that is underpinned by the democratic representation of those affected. This requires bringing to the forefront of the debate worker representation and who can legitimately represent workers. For proponents of industrial democracy, the answer is clear: it means governance of workers by workers for workers. At the transnational level, however, the issue arises of whether and how other forms of representation have some validity, such as that provided by labour rights NGOs, who may not be democratically elected but have the power to influence corporate actors. Thus, empirically, the question posed is: What kind of institutions might promote more deliberative, representative and inclusive decision-making processes within private governance arrangements? To respond to this, we draw

on seven years of extensive empirical research that we conducted into the global governance response to the Rana Plaza disaster. Ultimately, we will argue that what is needed is a new paradigm of global labour rights, rooted in transnational industrial democracy, as a prerequisite for a more just and sustainable globalisation.

1.1 The Supply Chain Model and National Democratic Regulation

At the turn of the millennium, there was much activity by those labelled by the popular press as ‘anti-globalisation’ activists. Most famously, this was brought into focus by the Battle of Seattle in 1999, when protests were held at the World Trade Organization (WTO) Ministerial Council meetings in the United States. Yet, while often labelled as ‘anti-globalisation’, the protests were focused on the highly pro-capital and socially unjust form that globalisation was taking (Wright, 2010). At the heart of such criticisms is the triumph of private corporations over national institutions of democracy. In the twenty or so years since the Battle of Seattle, while attention has been drawn to this shift through activism such as the Occupy movement during the Global Financial Crisis, globalisation has not slowed down. This has led to troubling times for democracy globally. This manifests itself in different ways at opposite ends of the supply chain.

Advanced economies, often at the consumption end of supply chains, have witnessed an increase in populism and nationalism to curb global trade and supply chains. This was exemplified by the US abandonment of international treaties under a populist right-wing President Trump but also the rise of both right- and left-wing anti-European Union (EU) groups in Italy, France and the United Kingdom, which have dented the vision of a democratically governed global polity. At the other end of the supply chain – typically to where production has been outsourced – the concerns about democracy are of a different nature but have attracted much less attention. Global supply chains have added hugely to global wealth in bringing economic growth and employment to developing countries. However, this is not without a price, with the development of democratic participation in the workplace in emerging economies often being the victim of such development alongside increasing income inequality. We seek to

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address questions over democratic participation at the point of production. Globalisation is in need of democratisation to ensure wealth and prosperity are not created to the detriment of worker welfare. Thus, instead of curbing global supply chains, the question we seek to address is: How can more meaningful democratic participation and input into the governance of global supply chains be developed in order to advance a more just and equitable form of globalisation?

As a key part of globalisation, the global supply chain has become the dominant form of value creation in the world economy. Global supply chains made up 80 per cent of global trade and 60 per cent of global production in 2016 (UNCTAD, 2016). These supply chains are dominated by global corporations, which are becoming increasingly powerful. According to Global Justice Now (2016), 69 out of 100 of the world's biggest economic entities were corporations in 2015, based on turnover and gross domestic product (GDP). The first implication of this concentration of economic activity within supply chains is that how value is created, sustained and distributed among stakeholders can no longer be approached from the standpoint of the individual organisation but has to focus on the intertwining of social and economic relations within and across global supply chains (Reinecke et al., 2018). While existing theories of institutions are based on closed entities with clearly defined boundaries, such as organisations, nation-states, municipalities or corporations, we are no longer dealing with individual companies with clearly defined boundaries. Instead, boundaries have become fluid and overlapping and we are faced with complex and globally stretching networks, linkages and relationships (Gereffi et al., 2005). The second implication of this is that, by their very nature, global supply chains cross national boundaries, which almost immediately raises questions about transnational democracy. Production is distributed among global buyers and myriad suppliers across multiple countries. Hence, authority and control over the employment relationship and labour conditions are dispersed among various national and international regimes and actors in the supply chain. It is clear, however, that the persistent human, labour and environmental rights violations we are seeing are a result of the lack of democratic oversight – whether that is states that actively suppress rights (Anner, 2015) or those that are administratively weak (Dobbin and Sutton, 1998). In these circumstances, the ability to hold global corporations to account is diminished. While scholars have talked

about transnational governance as a possibility to re-embed the corporation into democratic relationships and become responsible corporate citizens of a world polity (Crane et al., 2008), a key dimension of this has yet to be fully addressed: the need to infuse the complex intertwining of global production and trade relationships with democratic representation.

By its very nature, the global supply chain model undermines democratic oversight and binding state regulation as well as workplace-level democratic participation. The political economist Dani Rodrik (2013) argues that globalisation, state governance and transnational democracy are part of an incompatible trilemma. First, at the workplace level, globalisation creates immense downwards pressures on labour standards in manufacturing due to the reduction in trade barriers. Globalisation has witnessed much outsourcing of labour-intensive production to particular geographic locations where direct labour costs such as wages are low or more indirect costs such as workforce flexibility offer advantages. In these sites, there is often an immature structure of industrial relations, typified by low levels of trade unionism and little factory-level worker participation, meaning workers are not in a strong position to resist downward pressures. In addition, for many, a manufacturing job with stable income may be preferable to working in primary industries.

Second, at the national level, governments who may otherwise be inclined to legislate to prevent the effects of these pressures being pushed onto workers face the risk of being viewed as inhospitable to multinational corporations (MNCs), which could cost jobs and exports. Developing nations are incentivised to drive down standards and become what Philip Cerny (1997) labels ‘competition states’, competing to attract inward investments. At this level, national systems of tripartite industrial relations are under pressure, being transformed from distribution systems to those maintaining competitiveness in global markets (Regini, 2000): unions are incorporated into systems of national competitiveness, with wage shares being the price of the maintenance of employment.

Third, achieving meaningful transnational public governance to prevent a race to the bottom falls into the trap of opening up space for free-riding from countries that refuse to sign up to any global rules. For example, the ILO, whose structures were developed for the age of nation-state capitalism, has been challenged by globalisation as fewer

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states ratify conventions and fewer conventions are agreed (Standing, 2008; Baccaro and Mele, 2012), though there has been a significant effort in recent years to adapt to the new world of supply chains (Ryder, 2015; Thomas and Turnbull, 2018). In terms of union actors, even though global union federations (GUFs) are present, they are a relatively weak actor with little power. Building solidarity across countries has generally proved to be an elusive goal.

The implications of this trilemma for workers are stark. Studies suggest that, rather than improvements in average labour rights performance, most regions appear to be deteriorating further (Levi et al., 2013). This has been the case particularly in the garments sector, where there has been severe downwards pressure on worker rights and labour standards. In addition, not only are outcomes worse, but democratic representation of workers is often sacrificed in the name of economic development.

1.2 Transnational Democracy and Private Labour Governance

Democratic representation is typically seen as the main legitimating principle of government (e.g., Cohen, 1989; Benhabib, 1996; Dryzek, 1999). At a broad level, democracy is defined as ‘self-determination, a system of decision-making in which those affected by decisions participate in decision-making instead of being ruled by others’ (Bryde, 2011: 214). Democracy also concerns questions about basic human rights such as autonomy, self-determination and self-development (Werhane, 1985). Traditionally, democracy is seen as being realised when citizens can choose freely by whom and how they are governed, a process that is circumscribed by geographical boundaries at the nation-state level or membership in associational structures. By this account, democratic representation should be proportional to the extent that people are affected by collective decisions. Democratic theorists have called this the ‘all affected interests principle’ (Goodin, 2007).

Can existing governance structures in the international system be democratised in line with this principle or do we need a different conception of democratic representation? In a globalised economy and world society, people are increasingly being affected by economic and social processes, as well as by decisions at the other side of the globe. The boundaries of who is impacted by decisions are redrawn by globalising economic and social relations. At the same time, supply

chains create new forms of social connectedness (Young, 2006), which have prompted consumers to start raising questions about how geographically distant workers are treated. As a result, working conditions in South and South-East Asian factories are often shaped more strongly by Western corporate policies and consumer sentiment than by state oversight or local union negotiations with local employers (Reinecke et al., 2018). This has led to private efforts to establish labour standards in global supply chains. Our focus in this book is on the question of representation beyond national geographical boundaries and the possibility of democratic input into these private governance processes.

The rise of private, transnational labour governance has been well documented (Bartley, 2007; Hassel, 2008; Locke, 2013). Under sustained pressure from labour activists, consumer groups and increasingly public bodies, global buyers have come to acknowledge a degree of moral responsibility for labour conditions in their supply chains. As a result, a substantial element of labour governance has shifted from public authorities to private bodies, who set labour standards and, at least in principle, enforce them through the potential sanction of terminating existing or future commercial contracts. Typically, scholars have seen this as a pragmatic, second-best response that developed in the absence of a system of global justice and the inadequacy of the ability of nation-states and international organisations to reach across the multiple countries in which production is located (Locke, 2013). A more optimistic approach suggests that private governance is illustrative of an alternative model of democratic politics that embeds corporate political activities in decentralised processes of democratic will-formation (Crane et al., 2008; Scherer and Palazzo, 2011). These processes involve an array of non-state actors, including global NGOs, activists, social movements, civil society actors, multi-stakeholder initiatives, brands and industry associations in decision-making processes. Increasingly, such mechanisms of private governance also intersect with, or are actively supported, enabled or even mandated by Western governments (Knudsen and Moon, 2017).

According to this account, firms become embedded in processes of democratic deliberation and fill the regulatory vacuum in global governance, perhaps even assuming a state-like role to fulfil governance roles where state systems fail (Scherer and Palazzo, 2011). As corporate citizens, firms pledge to protect, enable and implement citizenship

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rights (Crane et al., 2008). In their codes of conduct, they promise to ensure that workers can exercise their democratic human and labour rights. Based on the ILO's Core Labour Standards, codes of conduct typically have provisions for guaranteeing freedom of association or collective bargaining. In principle, there is a commitment to respect and even enable citizenship rights: however, studies of code enforcement have shown consistently that outcome rights that may lead to reputational risks, such as health and safety violations, are more rigorously enforced than process rights that may conflict with managerial control (Barrientos and Smith, 2007; Anner, 2012; Bartley and Egels-Zanden, 2016). Similarly, Locke et al. (2013) highlight that private standards are a poor substitute for public regulation in highly contentious areas such as freedom of association.

Private regulatory initiatives are thus highly ambiguous in terms of democratic legitimacy. Private actors have no democratic mandate for engaging in labour governance, are not subjected to democratic control and cannot be held properly accountable except by the court of public opinion. Arguably, corporations have positioned themselves purposefully within a legal grey area, if not a vacuum, where they escape legal liability for workplace conditions in supplier factories. While corporations participate in and increasingly develop governance standards aimed at protecting labour rights, exposure to competitive market pressures undermines not only their ability, but also their motivation, to enforce these standards. This leads to the problem of weak enforcement due to voluntary contributions and absence of effective sanctioning systems. Studying various private initiatives to improve labour standards in the global footwear and electronics industry, Richard Locke (2013) and Locke and colleagues (2013) argue that while private governance may lead to an initial improvement in labour standards in supply chains, ultimately this levels off when these standards threaten the competitive nature of the supply chain model itself. Rather than a form of democratic embedding, critics therefore view private governance initiatives as protecting brand reputations and limiting the legal liability of global corporations (O'Rourke, 2006).

Amidst these debates about the process of democratic representation and participation, trade unions have largely been overlooked as a structural mechanism for worker representation. Instead of acknowledging claims to greater representation, there is a tendency towards

paternalistic benevolence. Workers are often treated as passive recipients of global buyers' corporate social responsibility (CSR) programmes, which points to a core weakness of such approaches (Donaghey and Reinecke, 2018). If democracy demands that all those who are affected by economic and social processes are included in deliberative processes, then it is surprising that workers – the core beneficiaries – have been excluded from the debate about global governance. This raises the important question of how democratic representation of transnational interests is constituted. A political unit of all affected interests has typically been defined by territorial boundaries, such as the nation-state. But if nation-states are no longer the sovereign authority in the international legal system, then we need to ask whether and how this principle can be extended to global supply chains. Who legitimately constitutes the transnational demos? Who is included and who is excluded? Whose interests are legitimately represented and through what mechanisms?

1.3 Two Approaches to Associational Democracy

In this book, we bring together two distinct approaches to democratic representation: representation as claim and representation as structure as the theoretical underpinning of the approach adopted. While often highly contrasting in their approach, the argument presented is that these two conceptual lenses can be brought together to aid the understanding of the dynamics of an emerging approach to transnational labour governance.

1.3.1 *A Discursive Model of Transnational Democracy: Representation as Claim*

Significant questions exist around the democratic credentials of private labour governance. How can governance through private bodies be democratised when there is a lack of representative structures? Some political theorists have argued that representation can be reconceptualised as 'discursive representation' (Dryzek, 1999; Dryzek and Niemayer, 2008; Mansbridge, 2011). This has focused on the role of discourse, deliberation and communication. Saward (2010), for instance, suggests that representation is about making a 'representative claim'. This means that a wide range of actors can