BUILDING BLOCKS FOR GOVERNING THE GARMENT INDUSTRY

WORKING PAPER 2

GARMENT INDUSTRY STRUCTURE:

OBSERVATIONS, CHALLENGES AND RECOMMENDATIONS FOR HUMAN RIGHTS GOVERNANCE DESIGNERS

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About the *Building Blocks for Governing the Garment Industry* series:

This series aims to assist policymakers, labour advocates, civil society actors and anyone else interested in designing the new forms of governance needed to improve protection of human rights and the environment in transnational supply chains. With garments as a test case, we hope to help 'catalyse' new, multi-disciplinary strategies to make 21st century supply chains fairer and more sustainable.

CONTENTS

INTRODUCTION

Katalyst Initiative has identified a number of 'Building Blocks' that we believe are needed to design and implement a robust, effective and democratically-based system for governing global industries like the garment industry. This paper focuses on Building Blocks related to the structure of the garment industry and what it means for governance design.

Industry structure includes the ways businesses relate to each other; how power and wealth are distributed; the ways companies compete or cooperate; and the legal and physical distance between a group of workers and the actual power centres in supply chains. All of these characteristics have profound consequences for effective human rights governance design.

This paper grows out of Katalyst's Working Paper 1: Sizing up the Garment Industry. It is informed by both the questions that prompted that paper, and the findings presented in it. We outline five challenges related to industry structure that we believe governance designers will need to consider as they develop new laws, regulations, collective bargaining systems and other forms of governance.

The five challenges are:

1: Governance solutions must account for the garment industry's shared supplier base.

2: Highly-fragmented industries like the garment industry require different governance strategies than those effective in highly-concentrated industries.

3: The garment industry needs to be segmented into logical subsectors to make governance more manageable.

4: Strategies to govern brands need to be aligned with the structure of the garment workforce.

5: Evolving business models have implications for the ways brands' human rights and environmental responsibilities need to be governed.

It is early days in defining and overcoming these challenges, and so while we offer a few recommendations that may be useful in the short term, we are primarily aiming here to:

1. Sketch out how a number of structural issues in the garment industry interact with each other, and

2. Explore what those issues mean for the next generation of human rights governance for the garment industry.

In an effort to keep this paper brief and focused on the core issues, we have greatly simplified the discussion. In reality, each of these topics requires much more work to bring it fully into focus for governance practitioners, and each would benefit from multi-disciplinary perspectives – across law, economics, governance, and many other fields.

We would appreciate hearing from others working on these or related questions, and seek to engage with multi-disciplinary experts to explore the topics covered here briefly in greater detail.

WHY ARE NEW FORMS OF HUMAN RIGHTS GOVERNANCE NEEDED?

Governance is about the rules of collective decision-making in settings where there are (many) actors or organisations and where no formal control system can dictate the terms of the relationship between these actors and organisations.[1]

This is exactly the context the global garment industry operates in: spread over dozens of countries and sub-industries, with no government or other institution large enough to control the entire industry.

Nonetheless, in the early 2020s, political will and policy space is emerging, particularly in Europe, to create effective human rights and environmental governance solutions for global supply chains. There is an acknowledgment that the voluntary self-regulation model of the last 25 years has failed to deliver the protections and respect for rights it had promised.[2]

The proposals emerging out of the EU and its member states, such as legislation on Human Rights Due Diligence[3], as well as calls for new forms of transnational social dialogue mark an important shift towards new rules for businesses that are designed for the complexity of a globalised economy.

These efforts mark the beginning of a process to regulate the 21st century economy. Collectively, we have just begun to come to terms with the garment industry's rapid transitions in recent decades – due to new technologies, trade policy, financialisation, political realignments and other forces. And even more radical changes are on the way.

Governance of supply chains is ultimately about the power to define and compel certain behavioural norms among companies that support respect for human rights and the environment. There is a rich governance literature which discusses how to structure the relationship between governments and trade unions, NGOs, business associations and other entities in ways that can lead to effective outcomes.[4]

Given that so many of the 21st century's biggest challenges – like ensuring human rights in the garment industry – are both international and extremely complex, it seems highly likely that effective governance will need to involve networks of governments, and of non-state actors (trade unions, NGOs, etc.).

The idea that the power to compel business to behave in certain ways should be distributed across different kinds of organisations is reflected in the design of, for example, many national labour relations systems. It is also reflected in the 'smart mix' concept of public and private regulation familiar to many from the UN Guiding Principles, which extends the into transnational supply chains.

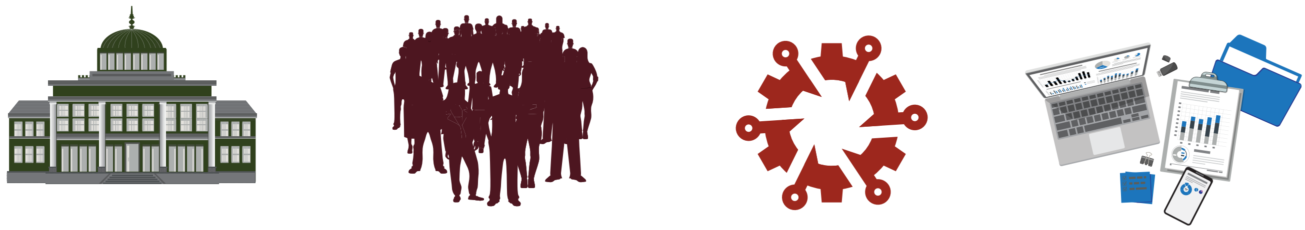
1 We find this definition by Vasudha Chhotray and Gerry Stoker highly relevant for the garment industry.

2 For the arguably definitive documentation of what's wrong with private regulation strategies, we recommend Sarosh Kuruvilla's 2021 book *Private Regulation of Labor Standards in Global Supply Chains*

3 The Danish Institute on Human Rights has just published a useful overview.

4 For example, Leach et al. (2007); Gunningham & Sinclair (2017); Braithwaite*, (2017);* Holly & Shearing *(2017).*

Fig. 1: FULL-SPECTRUM GOVERNANCE



(TRANSNATIONAL) PUBLIC REGULATION

(SUPPLY CHAIN) SOCIAL DIALOGUE & COLLECTIVE BARGAINING

NEW & HYBRID GOVERNANCE FORMS

VOLUNTARY PRIVATE REGULATION

Unfortunately, we already see ‘smart mix’ language being co-opted by some businesses to emphasize voluntary efforts. Katalyst has developed the concept of ‘full-spectrum governance’: which firmly places public regulation and collective bargaining as core elements of garment industry governance. It also makes space for new and hybrid forms of governance, such as investor-led sustainability initiatives or voluntary but legally-enforceable agreements with brands.

The idea of ‘full-spectrum governance’ also emphasizes the importance of a shared understanding of the context in which governance efforts take place.[5]

Most schools of governance thinking agree that **effective governance is context-dependent**. There is no off-the-shelf formula for good governance; effectiveness is predicated on understanding the specifics of the system being governed.[6] And in complex systems like the garment industry, there is no single, simple solution that will fix all the problems. Effective governance will require a network of solutions and ways to coordinate them.

We have therefore designed the Building Blocks working paper series for a variety of ‘governance designers’ working across the full spectrum: in governments, trade unions, NGOs, multistakeholder initiatives, think tanks and academia.

We aim to support this community of practice by illuminating under-documented aspects of the context in which the garment industry operates, (e.g. Working Paper 1). We also explore what that context means for governance design, (e.g. this paper).

5 For a concrete example, Shelley Marshall makes an excellent case for the importance of coordinated governance in Ch. 9 of her book on living wages.

6 Several authors in Peter Drahos’ recommended (and open access) book *Regulatory Theory* discuss this idea; from another perspective, Marissa Brookes highlights the importance of ‘context-appropriate power’ in her analysis of success factors for transnational labour activism..

GOVERNANCE CHALLENGE 1:

Governance solutions must account for the garment industry's shared supplier base.

One of the most vexing problems for garment industry governance is the result of the shared supplier base.

What do we mean by a shared supplier base? There are two characteristics of garment industry supply that are important to keep in mind:[7]

1. Garment brands almost never own the factories that make their products.

2. Most factories make products for many brands – 10, 20, or more.[8]

We cannot talk about each factory being part of *a* supply chain; we have to talk about each factory being part of *many* supply chains.

And this also holds true for workers: 10% of a garment worker's time may be allocated to making one brand's product, 15% to another brand, and so on. Each garment worker is also part of many supply chains.

This fragmentation of factories and workers across multiple supply chain creates serious problems in governing lead firms in ways the benefit workers.

We illustrate the consequences of the shared supplier base by contrasting it with a 'vertically integrated' supply chain, where the lead firm owns or is the only customer of its suppliers. The example shows 'Tier 1' suppliers, but the principle is true and effects often more acute further down the supply chain (e.g. textile mills, farms, etc.).

In Figure 2, where suppliers are *not* shared – it is possible to regulate a brand and have a significant impact on workers. In this hypothetical and extremely simplified example, we have four brands, each with their own separate supply chain. 'Brand 2' is based in a country where, for example, a new law comes into effect requiring brands to ensure there is no excessive overtime in their supply chains. (But it could be anything that support human rights: living wage requirements, safety conditions, etc.)

Brand 2's supplier employs 25% of the industry's workforce. And that means 25% of the workforce can benefit from the new legislation's effects. At a minimum, this situation creates an 'island' of good working conditions in a larger industry; or it might create a jumping-off point to extend improvements to the rest of the industry.

Figure 3 is a shared supplier industry, like garments, where each worker's time is split across multiple brands. 25% of their time might be working on products for Brand 2, and covered by requirements prohibiting excessive overtime. But 75% of the workers' time is allocated to the other brands, who can continue to mismanage their production calendars, meaning workers will still face excessive overtime, despite the regulations Brand 2 is subject to.

The structural problem in this scenario is that the impact of brand-level governance will be diluted until a critical mass of brands fall under the same governance requirements. This is especially true for issues like living wages, where changes in brand behaviour are essential for sustained improvements[9].

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7 We are trying to summarize an complex issue, so this discussion is simplified. Our primary focus here is brand governance, so we do not delve into the role of producer-country governments, factory/farm management or trade unions here, even though in reality they are critically important.

8 The exact distribution is still poorly-documented. Knowing how many factories have 1 or 2 customers and how many have 25 or 50, and what the characteristics of each are, would help in customizing regulations for the different power relations in different types of brand/supplier relationships.

9 Our thinking about this governance challenges owes a debt to work on living wage issues, particularly that led by Doug Miller and Klaus Hohenegger. Please see references for more information.

Fig. 2: Separate (vertical) supplier bases

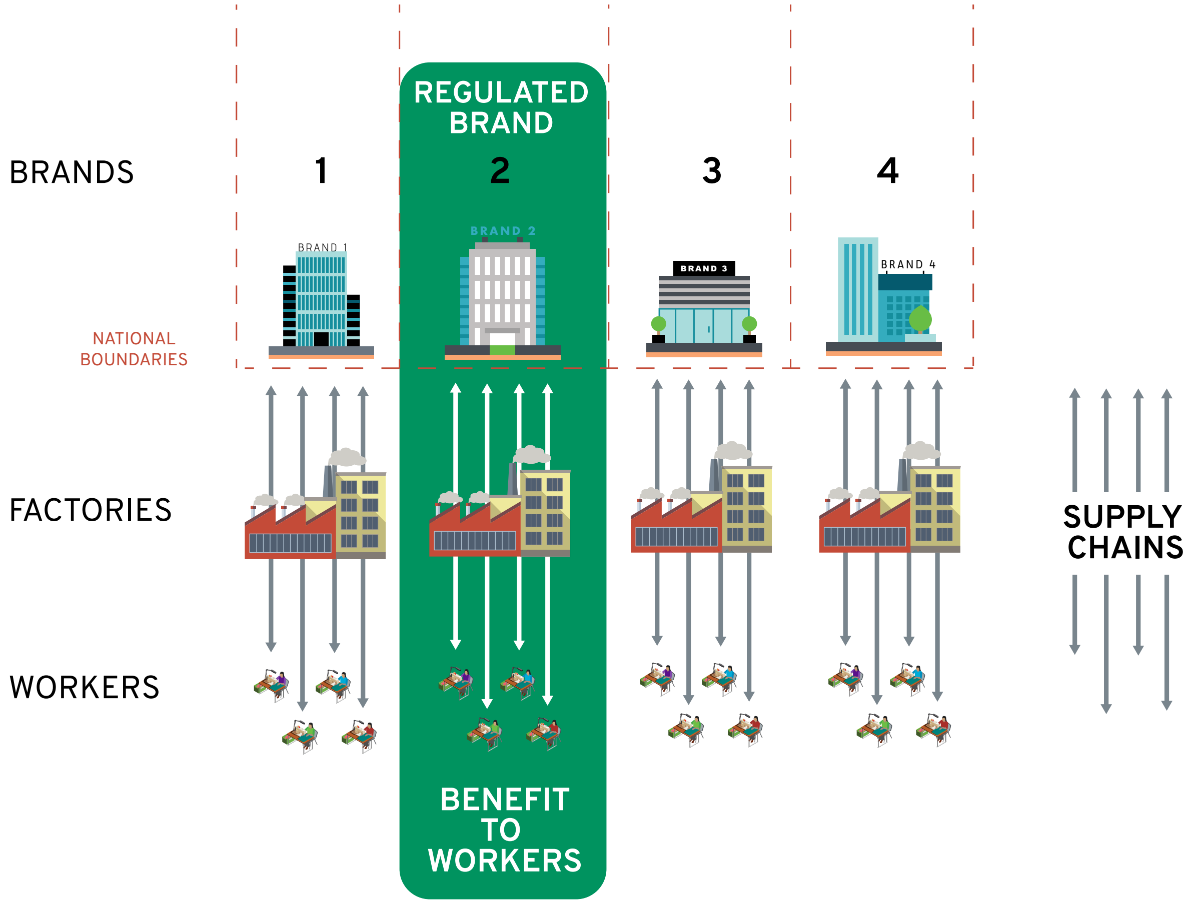
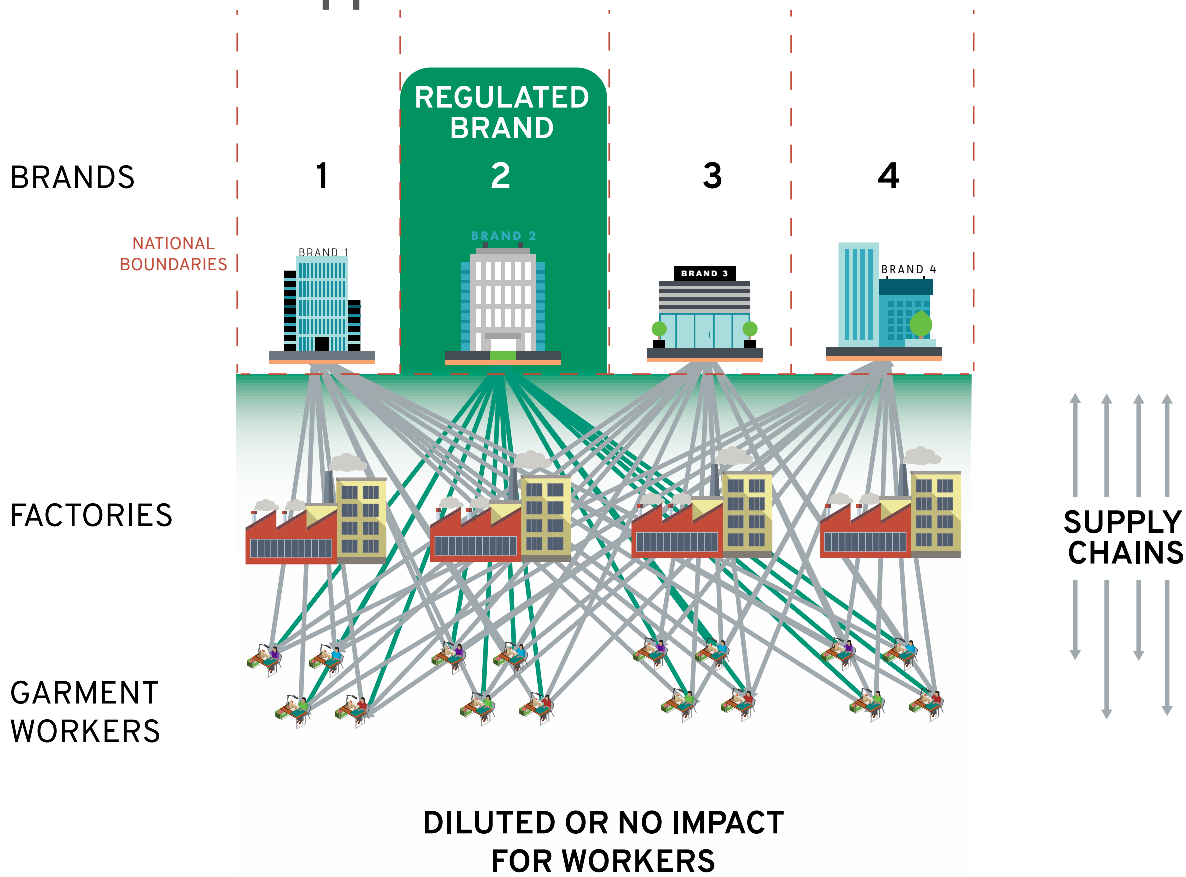


Fig. 3: Shared supplier base



Another way to think of this problem is that you cannot protect part of a worker from human rights violations. But nearly all current forms of brand governance – from MSIs to national laws to global framework agreements – are weakened by this structural feature of the industry.

We want to make clear that in pointing out the real difficulties caused by shared suppliers, we are in no way justifying inaction. Brands have used fragmentation as an excuse for doing little for many years.

Nevertheless, until we develop strategies for dealing with this dynamic, governance efforts will be hampered.

Recommendations:

A. In the near term, efforts that lead to improved behaviour by a minority brands should still be encouraged and rewarded.

Brands who, for example, pay a living wage premium for the time workers spend making their products, are helping workers. But as long as the rest of the industry is allowed to ignore these obligations and costs, they are being rewarded for bad behaviour. Such a situation is neither sustainable nor fair – to workers or to responsible brands – in the long run.

B. The potential impact of increasing leverage[10] on the shared supplier problem needs to be carefully considered.

One way to reduce the shared supplier problem is to increase leverage – e.g. for brands to buy more products from fewer factories. Many well-known brands claim to have shrunken their supplier bases over the last few years.

While we would agree that brands with fewer suppliers are better positioned to understand and manage their supply chains, the degree to which brands could or would increase leverage, and the impact of those changes, remains very unclear. Aside from the issue that factory owners may find being reliant on a small number of large customers too risky, we need a much clearer understanding of the state of leverage across the industry.

The question to ask about increased leverage - and much else when it comes to industry structure - is 'relative to what'? What if, for example, following a supply chain consolidation process, a group of factories went from 30 customers to 25. Would that make a real difference in terms of the fragmentation of responsibility?

A deep dive into leverage is well beyond the scope of this paper, but given that it is a fundamental piece of much human rights thinking at the moment, there is a clear need for a much better understanding of the possibilities and limitations of leverage changes in the garment industry.

C. Explore two pathways to reaching a critical mass of brands

We see two ways to organize a 'critical mass' of brands for any governance initiative. One has to do with the scope of the governance effort - either a). making it larger (meaning it encompasses more brands); or b.) concentrating on a smaller part of the industry. It is critical that such efforts are designed to mirror the underlying structure of the industry. (See Governance Challenge 4). coordination between different efforts will also need careful consideration. Hundreds of micro-efforts are not likely to be effective for workers or easy to enforce.

Concentrating on or targeting a smaller portion of the industry (option b) is essentially the logic of the Bangladesh Accord, Members were prohibited from sourcing from factories that did not meet safety requirements.[11] Worker Rights Consortium's 'Designated Supplier Program' similarly sought to create a virtuous production ecosystem for university-licensed garments.

10 We assume most readers are familiar with the UN Guiding Principle concept of leverage – whether taken to mean percentage of production that a brand buys from a factory, or in the broader sense of influence that a brand has with a supplier.

11 See e.g. Reinecke and Donaghey for more on this idea.

GOVERNANCE CHALLENGE 2:

Highly-fragmented industries like the garment industry require different governance strategies than those effective in highly-concentrated industries.

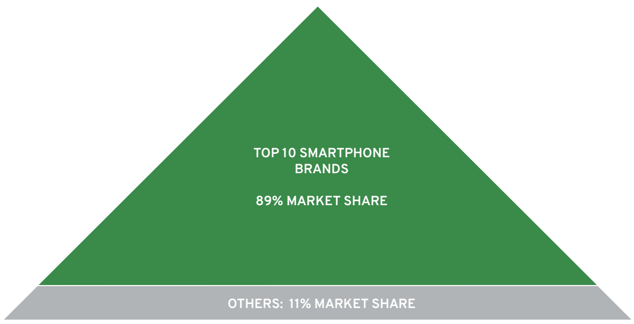
At a brand level, the garment industry is extremely fragmented. There are thousands of brands competing in the market, a structural issue which needs to influence governance design, and which exacerbates other issues, like the shared supplier base problem outlined in the last section.

It is not surprising that the default approach to laws, organising, and other governance activities is often to focus on the largest companies in a given industry. We see this in the French Duty of Care law, the recent German supply chain law, organising efforts, etc. Often, it makes a lot of sense.

However, as we explored in Working Paper 1 and recap here, focusing on the largest players in an industry can be an ineffective strategy in fragmented industries like garments. It is even less effective when there is also a shared supplier base.

We use the smartphone industry as an example to illustrate the issue: ten companies make up 89% of the retail market for smartphones. If some form of governance can get those 10 companies to change behaviour, it can impact the lives of most of the people who make smartphones.

Fig. 4: Smartphone Concentration

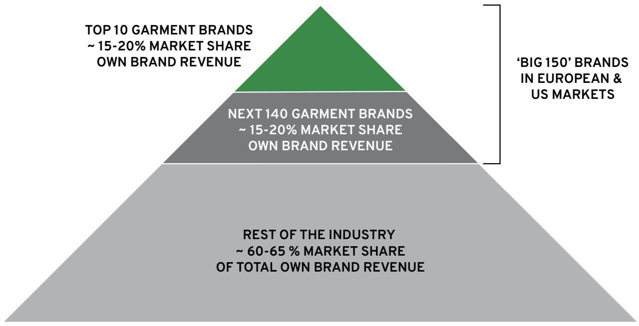


Source: Omdia/Informa PLC

Those 10 companies may share suppliers, but because collectively they control nearly the entire market, whatever benefit is created by the governance is available to nearly everyone working the industry.

However, in a in a highly-fragmented industry like garments, where sales are spread over a huge number of companies, our research indicates that even all of the largest clothing brands taken together do not collectively represent a majority of the market, and by extension, a majority of the workforce.[12]

Fig. 4: Garment Concentration - large European & US brand 'own brand' revenue



Source: Katalyst Initiative

Moreover, as we noted in Challenge 1, it is likely that the factories and garment workers supplying the largest brands also spend a portion of their time making goods for other brands, diluting the effect of regulations on those large brands.

In this example, we are focusing on concentration and shared suppliers, but it illustrates a larger point about needing to tailor governance solutions to the individual industry contexts. While there are certainly lessons to be learned from governance successes in other industries, solutions cannot be copied wholesale from one to another. Finding the right balance between universal and industry-specific requirements, based on an understanding of how each industry operates, will be essential for effective cross-industry regulation.

12 Please see Katalyst's Working Paper 1 for a much more detailed discussion.

Recommendations:

A. Shift governance focus from individual garment brands to groups of brands.

We need to rethink the assumption that if we focus on changing the behaviour of a few, large, individual brands, that will be enough to improve conditions for a majority of workers. The numbers simply do not bear this assumption out.

Governance efforts will need to focus on changing the behaviour of groups of brands, and as we will discuss, finding better ways to organise those groups. We can learn from current and historical examples,[13] but they will need to be adapted to work in transnational supply chains.

B. Better document what exists beyond the handful of large global brands.

Working Paper 1 begins to explore how the industry is divided between smaller and larger brands. Our findings indicate that smaller brands collectively represent a significant portion of total industry production and industry workforce.

Furthermore, brands likely to be covered by EU or US-based governance efforts share suppliers with brands from other parts of the world. The structure of the rest of the world's brands needs to be documented and figured in to most governance efforts.

The variety and sheer number of businesses who would qualify as 'brands' or lead firms makes it difficult to map the industry, but we estimate that globally there are likely a few thousand brands with less than €1 billion in annual revenue, and many thousand SME (small & medium enterprise) brands under the €40 million level.

Katalyst plans to continue mapping more of the industry, and to cooperate with others carrying out similar work.

C. Design, deploy and mandate collective solutions for smaller brands.

The place of smaller brands in governance efforts remains contested. The UNGPs make allowances for the limited capacity of smaller brands. However in operationalising the UNGPs we need to assume that smaller brands make up enough market share to have a significant impact on the success of governance efforts, both industrywide and when considering many individual factories.

A €10 billion brand and a €10 million brand who each purchase 5% of a factory's production bear the same amount of human rights risk for that factory. Both are equally capable of, for example, poor purchasing practices. The collective impact of all those smaller companies must be addressed in designing industry governance.

We would argue the appropriate way to address lack of capacity, expertise or leverage common in smaller brands is not to exempt them from regulation, but rather to develop and mandate collective action among groups of smaller brands. Civil society, with labour unions, NGOs and researchers, should have a leading role in the design of such efforts.

D. Better document how large brands influence the rest of the industry.

Large brands may not dominate garments as they do smartphones, but they still have impact. Market share is only one aspect of their influence. There are many assumptions about the way innovation and change spreads in the garment industry, particularly between larger and smaller brands. We need to understand those processes better. For example, when innovations lead to more profit, their spread is self-reinforcing;[14] it is unclear however if innovations that improve respect for rights and the environment but cost more would spread without being mandated.

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13 See e.g. Anner, Bair, & Blasi, (2010) on jobber's agreements and Salminen on contract-boundary-spanning governance; Jeroen Merk examined how social dialogue has begun adapting to transnational supply chains.

14 Despite a growing consumer interest in sustainable products, we argue it would be naïve to assume that more sustainable brands will be rewarded by the marketplace. When planning for the future, the responsible approach is to assume that price will remain the primary consideration for most consumers, and build our governance solutions accordingly.

GOVERNANCE CHALLENGE 3:

The garment industry needs to be segmented into logical subsectors to make governance more manageable.

The garment industry is not a monolith. It is a network of many smaller industries linked together in complex and often dysfunctional ways.

Given the vast size of the overall industry, and the challenges presented by the shared supplier base, efforts to segment the industry for governance purposes – e.g. governing more manageable subsections of the garment industry – should be encouraged and expanded.

Nevertheless, more work is needed on developing strategically effective ways to segment the industry for governance purposes, beyond labels like 'fast fashion' or national boundaries. In a world where identical shirts can be ordered from thousands of factories in dozens of countries, the reality is far more complicated.

One alternative is to design governance around product types, gathering all the competing brands and suppliers that make one particular type of product - regardless of where those factories and brands are located – under an international trade agreement, international CBA or other structure. In some cases, at least, the industry structure around certain types of products may open governance opportunities. For example, as our colleagues at the New Conversations Project have been exploring, some parts of the footwear industry appear to be far more concentrated than other types of products, in terms of both brands and manufacturers.

But it may well be that other factors – such as retail markets, brand ownership similarities or certain business model characteristics will prove to be useful nodes around which governance can be organised.[15] It is likely that a combination of factors will need to be considered and addressed.

Recommendations:

A. Identify and document garment industry segments in ways that create critical masses of brands and suppliers. Then design governance accordingly.

Better mapping of the industry's power relations, legal and financial structures is essential to organize governance efforts in ways that will be impactful, and that can adapt to changes as the industry's structure evolves.

B. Look beyond consumer-facing market segmentation when designing governance.

Market labels like 'fast fashion' or 'sportswear' can obscure the actual underlying structure of the industry. It is entirely possible, for example, for the same factories to produce garments for fast fashion and sportswear brands, or luxury brands, or any number of other markets.

C. A segmented governance approach needs coordination.

We would argue that any work on segmented governance should be undertaken in a coordinated manner. Hundreds of small, uncoordinated efforts will most likely lead to reduced benefits to workers and high implementation burdens for governments, trade unions and other regulators. Brands with multiple product lines would be involved in multiple governance 'segments,' making governance implementation all the more complicated if each type of product is governed by completely different rules.

15 The groundbreaking work by Asia Floor Wage Alliance in rethinking how garment industry governance should be organised needs to be acknowledged here. AFWA's proposal for a regionally-negotiated living wage responds to destructive wage competition between countries supplying global brands. It remains an elegant example of organising governance following a new logic adapted for a new context.

GOVERNANCE CHALLENGE 4:

Strategies to govern brands need to be aligned with the structure of the garment workforce.

Many governance efforts of the past 20 years - be they multistakeholder initiatives, government-sponsored projects or campaigning efforts, were born out of a sense of urgency. A number of multistakeholder initiatives were expressly set up as temporary 'band-aid' solutions, designed to fill a gap until stronger public regulation and collective bargaining solutions fit for supply chains could be developed.

As momentum grows for implementing those stronger solutions, we believe it is important to adjust some common ways of thinking about which brands to engage with. Most of the efforts over the last 20 years have engaged with ad-hoc groupings of brands, based on their being headquartered in a particular country, or willingness to join a particular initiative, or meeting the criteria of a particular donor.

A growing number of governments, trade unions, NGOs, MSIs and other actors have recognized that better coordination is needed. Many are calling for greater cooperation between industry regulation efforts and greater scale of efforts.

We believe that overcoming the challenges outlined in this paper can help in (re) envisioning cooperative governance efforts going forwards. But at the end of the day, governance will need to be developed to capture 'the critical mass' of the industry.

Until now, most governance (and campaigning) efforts have focused on either brands with a commitment to being good 'corporate citizens' or on high-profile brands sensitive to their image with consumers. From now on, however, the focus needs to be on governing *all* brands, for the reasons discussed in Challenges 1 (Shared supplier base) and 2 (Highly fragmented market). Otherwise, many workers will see no real benefit from new governance strategies.

As the ultimate goal of governance efforts is to ensure workers' rights are protected, we believe governance design needs to start with the structure of the workforce, and let that determine which brands need to be governed.

The main focus of this paper is on the question of *Which brands need to be governed?* but we also touch here for a moment on the equally important questions of *Who should govern brands and how?* Building governance strategy up from the workforce structure is one important way to ensure that the relevant groups of workers are involved in governance design for any given part of the industry.

Recommendations:

A. When designing brand governance, identify the total supply chain workforce employed by the industry segment in question, and work backwards from there to figure out A. Which brands should fall under the effort; and B. How many of those brands need to fall under the regulation to ensure all - or at least most - workers will benefit.

In highly concentrated industries, like smartphones, the calculations will be relatively simple. For a fragmented industry with shared suppliers, like garments, it will be more complicated, given both the number of brands and the degree to which individual garment workers are part of many supply chains.

But starting governance design from the size and distribution of the workforce - rather than what brands are accessible - is critical. This approach is essential to overcome the shared supplier base problems, for example.

GOVERNANCE CHALLENGE 5:

Evolving business models have implications for the ways brands' human rights and environmental responsibilities need to be governed.

The analysis in Working Paper 1 highlighted three other complicating factors when it comes to designing governance for the garment industry.

Governance designers will need to be aware of ways in which the industry may evolve, and will need to develop solutions that are flexible enough to overcome the creation of new business models designed to escape human rights due diligence requirements or other forms of responsibility.

1. The definition of a 'garment brand' continues to blur and expand.

In general, thinking in the business & human rights space has tied much greater human rights responsibility to the act of commissioning garments to be made (i.e. (being a 'Brand') than to selling another brand's goods (i.e. being a 3rd-party retailer).

However, an increasing number of retailers are launching their own-house brands, in an effort to capture more revenue. This means a larger number of companies are commissioning goods to be made, even though their main business model is still retailing. This raises a number of questions about the capacity of those companies to adequately manage human rights risks in their supply chain.

2. In some markets, retailers may be growing more powerful than brands.

In markets like the United States, increasing retail concentration and the rise of massive retailers has additional and potentially serious consequences for human rights governance.[16]

What happens, for example, if brands agree to price increases to cover living wage payments, but then a handful of giant retailers who dominate the market refuse to sell goods at these higher price points?

The rise of giant retailers, the development of sales platforms that work on commission rather than wholesale/retail, and other evolutions in business structures may well shift the balance of power that we currently observe in the garment industry.

3. Companies not typically associated with garments increasingly commission production.

In Working Paper 1, we also noted that supermarkets, sporting goods stores, and other companies that do not meet the traditional definition of a garment brand or retailer are commissioning garments directly from manufacturers.

As with retailers becoming brands, this should prompt questions about competencies to manage human rights risks in garments. It also raises important questions about companies for whom garments may comprise a small part of their revenue, but in absolute terms commission garment production at a rate commensurate with large brands. Definitions used in governance design must take such developments into account.

16 Most available research (e.g. Grullon, et al.) has to contend with time lags in data reporting, and looks at the economy broadly so it is difficult to ascertain the current state of affairs specifically in garment retail. However it seems reasonable to assume that broader trends in retail concentration will impact the garment industry, and to consider what consequences that may have for governance.

Recommendations:

A. Legislation and other governance should be designed around actual business activities, not around systems or definitions not originally designed to identify human rights responsibilities.

At a very minimum, the act of commissioning garments to be made[17] should trigger human rights responsibilities, regardless of the company's main business model. This 'operational' approach seems likely to offer a better reflection of where human rights risks like than relying on traditional definitions of what a 'garment brand,' retailer or wholesaler is. Statistical codes like NACE may be helpful in some cases, however great care must be taken to ensure that their use reflects the actual behaviours of businesses, and captures the full variety of companies who are commissioning garments to be produced.

B. In the longer term, better tools and logic for linking specific business activities and industry conditions to specific human rights responsibilities and liabilities needs to be developed.

In order to ensure the garment industry does not escape from regulation again – and to ensure that 'the buck stops' with the appropriate power centres in the garment industry – we need better tools to codify how power, wealth, risk and responsibility are linked in complex industries.

We can learn much from corporate finance, for example, which has developed sophisticated tools for quantifying and apportioning risk within business relationships, in ways that are legally enforceable. Similarly, anti-trust thinking has been dominated for decades by concerns about higher consumer prices, but that thinking can be expanded to consider human rights and environmental costs as well.

In short, tools developed to monitor and manage power relations in other areas of business can be adapted and deployed in support of human rights.

17 Much will rest on how 'commissioning garments to be made' is defined. In Working Paper 1 we discuss this question in further detail, and suggest that the experience of organsations like Fair Wear can be illuminating.

THE NEXT GENERATION OF GOVERNANCE: WHAT WE NEED TO KNOW ABOUT INDUSTRY STRUCTURE

While Katalyst hopes some of the ideas shared in this paper are helpful for short-term human rights governance efforts, many are aimed at supporting the next generation of human rights and environmental governance solutions. They will require much more development and refining from interdisciplinary perspectives.

We offer a few suggestions to support the development of these solutions, and other issues related to structure of the garment industry and what it means for governance.

A. Support is needed for research and mandatory disclosure efforts if governance is to be built on good data.

We need to ensure that the math behind our governance assumptions actually works and will lead to protections for workers. We cannot rely on guesswork in figuring out how to reach critical mass for change.

As we discuss in Working Paper 1, some important initiatives such as the Open Apparel Registry are making progress in illuminating the industry's structure. But much critical information about the structure of the industry remains undocumented, despite the explosion of ESG reporting.

Katalyst will share recommendations in an upcoming paper for some key metrics that will help in designing brand governance.

B. Collectively, we need to find the right balance between documenting the industry and being overloaded with information.

Throughout this paper, we call for activities that require information about the industry's business relationships. Given the size of the industry, constant changes in business relationships, reporting time lags, data gaps, and a host of other issues, we want to emphasize how important it will be to get the balance right in data collection and management. The goal should not be to create a perfect data model of the entire garment industry; it is to provide enough insight to support good governance design. Lessons from other fields' experience with 'big data' should inform this work.

C. In order to design supply chain governance that is informed by the structure of the industry, governments, donors and organisations may need to change their priorities and working methods.

Sprawling global industries like garments do not care much about national boundaries or other ways that governments, donors and civil society organisations define the scope and boundaries of their work and responsibilities. We see growing awareness of this reality in cooperation, for example, between EU member states, donor cooperation efforts and other efforts to confront the complexity of the industry.

This is a trend that needs to continue if we are to develop governance that can cope with transnational supply chains. We encourage actors in the political, funding and organisational environment that underpins governance design to also adapt their strategies to follow the underlying structure of the industry. In doing so, they can enable governance designers to be much more effective in their efforts.

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We owe much to many who have influenced the thinking behind this paper. This list contains sources that we have cited directly, as well as some whose influence is diffuse but undeniable.

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About Katalyst Initiative

Katalyst Initiative was founded by veterans of the business & human rights civil society network. The aim is to help civil society – trade unions, NGOs, academics and activists – and government policymakers to develop new forms of human rights governance in supply chains, using the garment industry as a model. Katalyst also sees close links between the root causes of human rights violations and environmental and climate risks, and aims to support closer ties between the human rights and environmental communities.

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