

The politics of corporate responsibility and child labour in the Bangladeshi garment industry



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On 4 July 1995—after more than two and a half years of controversy—a memorandum of understanding (MoU) concerning child labour in the Bangladeshi garment industry was signed by the Bangladesh Garment Manufacturers and Exporters Association (BGMEA), UNICEF Bangladesh and the International Labour Office (ILO) Bangladesh.¹ Looking back at the 1990s, it becomes clear that the Bangladesh ‘case’ was quite a prominent one in the wider, re-emerging politicization of corporate responsibility in relation to child labour and labour rights more broadly. Arguably, it was a uniquely important one as well. To begin with, the MoU embodied some rather significant ‘firsts’, such as an entire industry entering into a partnership with two inter-governmental organizations (IGOs) to eliminate child labour, the acceptance of external monitoring and verification, and the involvement of the ILO–IPEC (the ILO’s International Programme on the Elimination of Child Labour) in this enterprise. Furthermore, the importance of the lessons subsequently drawn from the Bangladeshi experience cannot be overstated. A dominant theme in the process was the negative consequences for the child workers of the so-called Harkin Bill (a proposal to ban the importation into the United States of goods made with child labour) and the later boycott threat. The pressure on the Bangladeshi garment industry was widely seen as misplaced, and the application of the pressure was characterized as either self-interested protectionism in disguise or as well-intended, but uninformed and misguided. There are clear links to broader debates about boycotts, trade sanctions, social clauses and the ‘real’ motives of industry critics; more specifically, the lessons from Bangladesh subsequently influenced—and have often served as the explicit basis for sustaining—some of the views and actions of key players in the field, such as UNICEF, ILO and Save the Children, and also more widely shared elements

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¹ Memorandum of Understanding between BGMEA, UNICEF and ILO Bangladesh regarding the placement of child workers in school programmes and the elimination of child labour, 4 July 1995. This and other documents referred to are on file with the author.

of ‘common sense’ concerning child labour.² The analysis below offers a fundamental challenge to some of these beliefs.

This article sets out to explore a question which remains virtually unasked: why did the MoU come into existence and take that particular form? To be sure, most treatments of the Bangladesh case give answers to this question, but these tend to be provided in passing, as background information on journeys departing from somewhat different questions and traversing other terrain—for example, the positive/negative consequences of the MoU for the children, new approaches to child labour and best corporate practice, the pros and cons of linking trade and labour standards, or of boycotts. While these are all important considerations, one effect of the emphasis on them is that—in spite of all that has been said and written about this case—the question as formulated at the beginning of this paragraph has not yet been explicitly addressed.³ There is a point here of wider application: beyond the Bangladesh case, this inferring answers to questions rather than addressing them specifically is to some extent also more generally characteristic of a CSR literature dominated by a range of intellectual agendas.⁴

The agreement

In essence, the MoU stipulated that all underage workers—defined as those who had not attained 14 years of age—in the garment industry should be moved from work and into school programmes on or before 31 October 1995. The MoU consisted of four key components:

- *an initial fact-finding survey* to identify the child workers;
- *a special education component* to be arranged by UNICEF in cooperation with local NGOs and in consultation with Bangladeshi authorities;
- *an income maintenance component*, which—primarily through regular payments of what was then approximately US\$7 per month—was to compensate (in part) for the lost income of the child workers who were to be taken out of employment;

² See e.g. testimony of Gabriela Stoikov, manager of ILO-IPEC, in US Department of Labor, Bureau of International Labor Affairs, *Public Hearings on International Child Labor*, 12 April 1994, Official Record (Washington DC: Department of Labor, Bureau of International Labor Affairs, 1994); Rachel Marcus and Caroline Harper, *Small hands: children in the working world*, Working Paper no. 16 (London: Save the Children, 1997 [October 1996]); Susan Bissell and Babar Sobhan, *Child labour and education programming in the garment industry of Bangladesh: experiences and issues* (Dhaka: UNICEF Bangladesh, 1996). See also Jo Boyden, ‘Postscript: implementing the Convention on the Rights of the Child—who decides about children’s welfare?’, in Allison James and Alan Prout, eds, *Constructing and reconstructing childhood: contemporary issues in the sociological study of childhood*, 2nd edn (London: RoutledgeFalmer, 2003), and Naila Kabeer, *The power to choose: Bangladeshi women and labour market decisions in London and Dhaka* (London: Verso, 2000).

³ There is one quite elaborate text on the background: Bissell and Sobhan, *Child labour*. Susan Bissell was UNICEF’s daily point person in the negotiations of the MoU.

⁴ Morten Ougaard with Michael E. Nielsen, ‘Teaching CSR: agendas and inquiries’, in Mette Morsing and Christina Thyssen, eds, *Corporate values and responsibility: the case of Denmark* (Copenhagen: Samfundslitteratur, 2003).

- a *monitoring and verification component* led by the ILO; the agreement stated that verification ‘may involve unannounced factory visits’, but did not mention violations or sanctions.

In relation to the organizational set-up, the absence of trade unions and labour rights organizations is noteworthy (and a feature of many other ‘new’ social partnerships). However, the MoU represented the first occasion on which an entire industry entered into a partnership with two IGOs to eliminate child labour and provide alternatives for the displaced children.⁵ UNICEF and the ILO subsequently began to cooperate more, and a number of similar partnerships involving the two were formed—replicating, with modifications, the Bangladesh programme in other contexts.⁶

The focus of the MoU and similar initiatives has been mainly on the enforcement gap, i.e. the gap between the standards set on paper and the reality. This has not rendered the ‘traditional’ approach to child labour meaningless,⁷ but has introduced a normative change in the way responsibility is distributed, essentially shifting it from the nation-state to other societal actors, most notably corporations. Here the agreement focused on the local industry, rather than extending the responsibility of the international buyers of the garment industry’s products.⁸ The MoU actually went beyond international law in terms of not allowing older children to perform light work. More than anything, however, the MoU entailed a normative shift from condoning activities that are illegal (under national and international laws) towards emphasizing compliance. This move from illegality towards compliance is perhaps the most significant feature of many CSR initiatives, and yet CSR is very often defined and characterized—or glossed over—as something moving or being ‘beyond the law’.

Monitoring and verification were key components of the MoU, and this involved some significant change: it actually preceded some of the ‘ground-breaking’ independent monitoring agreements and subsequent debate and it was the first time that the ILO decided to become involved in monitoring. As for the scope of the MoU, it was quite comprehensive in the sense of incorporating components aimed at addressing the underlying causes of child labour as well as the consequences of eliminating it. In another sense, however, its scope was very limited, covering only the Bangladeshi garment industry and only the formal sector, that is to say members of the BGMEA—thus excluding not only thousands of clothing workshops in Bangladesh but also the vast

⁵ ILO-IPEC, ‘15 examples of selected successful action programmes’, available at www.ilo.org, accessed 8 Sept. 2001.

⁶ e.g. ILO-IPEC, ‘Pakistan—IPEC successfully applies model programme in football-making industry’, available at www.ilo.org, accessed 8 Sept. 2001.

⁷ Put briefly, the traditional approach was characterized by an emphasis on international standard-setting and technical assistance through the ILO and legislation and enforcement by national governments.

⁸ The process arguably did, however, play an important role in relation to a number of specific companies, as well as more broadly in relation to the emerging wave of codes of conduct.

majority of child labourers in the country, many of whom were in much worse situations. Nor did the MoU did not include any of the basic labour rights.⁹

The background

The Bangladeshi garment industry

From the early 1980s the Bangladeshi garment industry went through a period of 'phenomenal growth', and by the early 1990s it had become the nation's primary earner of foreign exchange—accounting for 52 per cent of total national exports in 1992/3.¹⁰ This entailed a high degree of dependency on overseas markets, with North America and western Europe accounting for more than about 95 per cent of the industry's exports, and the world's largest importer of apparel, the United States, alone accounting for approximately half of the total.¹¹ In spite of the rapid growth, however, the Bangladeshi garment industry nonetheless accounted for a quite insignificant share of all US apparel imports.¹²

Production was predominantly organized through international subcontracting, involving about 250 buying houses. These international buyers not only provided designs and specifications, but also undertook the supply of imported fabrics and quality monitoring.¹³ In a global commodity chain dominated by US and European buyers, the Bangladeshi garment industry occupied a subordinate role.¹⁴ The growth of the industry was spurred in part by the large pool of low-cost labour, the low entry barriers associated with the production processes carried out in Bangladesh, and the variety of economic concessions offered by the Bangladeshi state, associated with the country's shift in the early 1980s towards an export-oriented strategy.¹⁵ The rise of garment manufacturing in Bangladesh was, of course, part of a much broader, fundamental and continuing change in the territoriality of global garment production and trade, which in the 1980s primarily involved a migration of production

⁹ For a critique, see e.g. Samuel Grumiau, *Garments 'Made in Bangladesh': the social reality behind the label* (Brussels: ICFTU, 2000). In these respects, the MoU—for better and for worse—is similar in kind to a number of 'focused' initiatives (and served to inform many of these), but different from e.g. codes of conduct, which tend to operate with different inclusions and exclusions.

¹⁰ The quotation is from Mojibul H. Bhuiyan and Harvey Shaw, 'Profile of the textile and clothing industry in Bangladesh', *Textile Outlook International*, May 1994, p. 91; the figure is from World Bank, *Bangladesh: from stabilization to growth* (Washington DC: World Bank, 1995), p. 27.

¹¹ World Bank, *Bangladesh*, p. 76; GATT Secretariat, 'GATT trade policy review: Bangladesh', *World Trade Materials* 4: 4, July 1992, p. 6; Anisul M. Islam and Munir Quddus, 'The export garment industry in Bangladesh: a potential catalyst for breakthrough', in Abu N. M. Wahid and Charles E. Weis, eds, *The economy of Bangladesh: problems and prospects* (Westport, CT: Praeger, 1996), p. 187.

¹² The figure for 1993 was 2.18%, according to Gary Gereffi, 'International trade and industrial upgrading in the apparel commodity chain', *Journal of International Economics* 48, 1999, p. 50.

¹³ See World Bank, *Bangladesh*.

¹⁴ See Gary Gereffi, 'The organization of buyer-driven global commodity chains: how US retailers shape overseas production networks', in Gary Gereffi and Miguel Korzeniewicz, eds, *Commodity chains and global capitalism* (Westport, CT: Greenwood, 1994).

¹⁵ The New Industrial Policy of 1982 involved a fundamental shift from an import-substituting to an export-oriented industrialization strategy—a shift which was reinforced in the Revised Industrial Policy of 1986 and in the Industrial Policy of 1991, and which, of course, mirrored similar shifts in many other countries at that time.

from the 'Big Three' Asian countries (Hong Kong, Taiwan and South Korea) to mainland China and a number of South-East and South Asian countries.¹⁶ This shift was to a considerable extent driven by the changing global sourcing patterns of the dominant retailers and 'manufacturers',¹⁷ and the dynamics generated by the international trade regime, in particular the GATT Multi-Fibre Arrangement (MFA): 'International buyers were initially attracted to Bangladesh by its favorable situation under the Multi Fibre Agreement. As a least developed country it could benefit from the quotas which otherwise limited the supply from more traditional garment producers such as Hong Kong and the Republic of Korea.'¹⁸ In spite of quotas being imposed on certain items in the mid-1980s, the industry sustained its rapid growth, and in 1992 it was the negative effects of the likely *phasing out* of the MFA (and not the imposition of new quotas) that were a cause of concern for the Bangladeshi manufacturers.¹⁹

In a poverty-ridden and largely agricultural economy, in which the more traditional exports were stagnant, the garment industry had become extremely important by the early 1990s, both by virtue of its centrality to the new private sector, export-oriented development ideology and corresponding institutional framework and, of course, because of its material contribution to the nation's exports. So important had the sector become, in fact, that the industry association, the BGMEA, was now a central political player: 'The special status which the industry earned by its impressive early contribution to exports enabled the emergence of BGMEA as a strong industry association that could command the direct attention of the political establishment.'²⁰ Indeed, key manufacturers were members of the 'political establishment'—Redwan Ahmed, who became president of the BGMEA in 1993, was not only a garment manufacturer but also a member of parliament for the ruling right-wing Bangladesh Nationalist Party (BNP).²¹ The BGMEA also had a considerable degree of political and administrative control over the industry, since it administered the export quotas, and only its members had the legal right to export clothing.²²

The industry also had its vulnerabilities, and faced a number of uncertainties relevant to the process analysed below. To begin with, the growth of the industry was based on production processes and working conditions directly

¹⁶ Gereffi, 'International trade', p. 49.

¹⁷ These—and the underlying competitive pressures, such as the retail revolution and the double squeeze on 'manufacturers'—have been analysed extensively elsewhere, including in Gereffi, 'The organization'.

¹⁸ World Bank, *Bangladesh*. The MFA was a multilateral system of 'voluntary export restraint' agreements first signed in 1973. For an in-depth analysis, see Geoffrey D. Underhill, *Industrial crisis and the open economy: politics, global trade and the textile industry in the advanced economies* (London: Macmillan, 1998).

¹⁹ Negotiations to phase out the MFA had been under way since the mid-1980s as part of the GATT Uruguay Round, and an agreement was reached in late 1993.

²⁰ World Bank, *Bangladesh*, p. 78.

²¹ See e.g. 'US team calls on BGMEA president: no child labour in any garment factory', *Telegraph* (Dhaka), 14 Oct. 1993.

²² Grumiau, *Garments*, p. 3; Asian-American Free Labor Institute (AAFLI), *Report on child labor in Bangladesh, prepared for the US Department of Labor* (n.p.: AAFLI, 1994), p. 22.

and clearly linked to consumption in Europe and North America—markets on which the industry had become highly dependent and where most consumers arguably found its production processes and conditions unacceptable. Indeed, the ‘return of the sweatshop’ was increasingly on the agenda in the United States, where several groups were conducting campaigns to oppose child labour and promote labour rights. The Child Labor Deterrence Act—which set out to ban the importation into the United States of products made using child labour—had already been introduced in Congress, and its reintroduction in 1992 was important in this case (as will be examined in more detail below). In Bangladesh itself, the characteristics of the garment industry—its prominence and visibility, including many formal-sector, large-scale enterprises located in Dhaka and Chittagong—were generally favourable to labour organizing. The Asian-American Free Labor Institute (AAFLI, part of the AFL-CIO) was already engaged in labour organizing in the garment sector in Bangladesh when the process described below started.²³ What is more, there were some very close links between AAFLI and the other US NGO involved in the process, the Child Labor Coalition (CLC). AAFLI’s country director, Terry Collingsworth, was also legal counsel to the US-based International Labour Rights Fund (ILRF). The ILRF, in turn, was a member of the Child Labor Coalition, whose co-chair was the ILRF’s executive director, Pharis Harvey.

The framework of governance: law and practice

Briefly put, child labour in Bangladesh was regulated by a number of laws and ordinances—‘a confusing maze of conflicting provisions relating to the regulation of child labour’.²⁴ However confusing, the national legal framework was ‘generally in agreement with similar provisions’ of ILO Convention 138 (concerning minimum age for admission to employment, 1973).²⁵ There was one notable difference, though, which played into the process below: unlike ILO C138, Bangladeshi laws on child labour did *not* allow for light work to be done by older children.²⁶ Although this regulatory framework was in place, it was not enforced.²⁷ The Bangladesh Department of Labour and Inspectorate of

²³ Marilyn Rock, ‘The rise of the Bangladesh Independent Garment-Workers’ Union (BIGU)’, in Jane Hutchison and Andrew Brown, eds, *Organising labour in globalising Asia* (London, Routledge, 2001).

²⁴ AAFLI, *Report*. Bangladesh had not ratified the ILO Convention 138, concerning minimum age for admission to employment (1973); ILO Conventions 29, 87, 98, 105 and 111 were ratified on 22 June 1972; Convention 100 was ratified in 1998, and Convention 182 in 2001 (International Labour Organization, ratifications of the ILO fundamental conventions, as of 25 Sept. 2003, available at www.ilo.org, accessed 25 Sept. 2003). Bangladesh had, however, ratified the UN Convention on the Rights of the Child on 2 Sept. 1990 (Office of the United Nations High Commissioner for Human Rights, status of ratifications of the principal international human rights treaties, as of 7 July 2003, available at www.unhcr.ch, accessed 25 Sept. 2003).

²⁵ Embassy of Bangladesh to the United States, ‘Written testimony’, in US Department of Labor, Bureau of International Labor Affairs, *Public Hearings on International Child Labor*, 12 April 1994 (Washington DC: US Department of Labor, Bureau of International Labor Affairs, 1994).

²⁶ Bissell and Sobhan, *Child labour*, p. 14.

²⁷ A situation hardly unique to Bangladesh: see Assefa Bequele and Jo Boyden, eds, *Combating child labour* (Geneva: ILO, 1988).

Factories was said to be lacking 'sufficient resources, staff and logistical support to adequately perform the task of monitoring child labour laws'.²⁸

As far as the dominant norms of corporate responsibility and the state of self-regulatory initiatives are concerned, the 'second wave' of recent developments in this area was only emerging in the early 1990s, and when the process started rolling in 1992 there were very few signs of any changes in this area.²⁹ Thus, to a considerable extent, norms and practices of corporate responsibility in relation to child labour may be characterized in terms of a more or less tacit acceptance that 'that's just the way things were done over there'.³⁰ Along with Reebok, Levi Strauss claims to have been a first mover in taking a new stand on child labour and other labour practices, and in relation to the Bangladeshi garment industry developed a programme of its own that was quite similar to the eventual MoU.³¹

Child labour in the garment industry

The number of children working in the Bangladeshi garment industry in 1992 is difficult to ascertain with any degree of precision,³² but reasonable estimates range between 50,000 and 100,000 (the government of Bangladesh being the source of the higher figure). This was only a tiny fraction of the total number of working children in Bangladesh; the children's work was generally not hazardous, and the AAFLI survey found no incidences of bonded labour in the industry. As Naila Kabeer has forcefully argued (mainly focusing on adult workers), in spite of the working conditions in the garment industry, in some respects employment in this sector offered a positive social potential for women workers both at the microlevel and at the macrolevel, in terms of gender relations and traditions in Bangladesh.³³ In a context of deeply patriarchal traditions and a general undervaluing of the girl child, working in the garment industry might even be seen as preferable by the children and their parent(s). Moreover, the

²⁸ US Department of Labor, Bureau of International Labor Affairs, *By the sweat and toil of children*, vol. 1: *The use of child labor in US manufactured and mined imports* (Washington DC: US Department of Labor, Bureau of International Labor Affairs, 1994), pp. 32–3; Grumiau, *Garments*, p. 16.

²⁹ See e.g. Rhys Jenkins, Ruth Pearson and Gill Seyfang, 'Introduction', in Jenkins, Pearson and Seyfang, eds, *Corporate responsibility and labour rights: codes of conduct in the global economy* (London: Earthscan, 2002).

³⁰ Meryl Davids, 'Global standards, local problems', *Journal of Business Strategy*, Jan.–Feb. 1999.

³¹ William Maroni (responsible for government affairs and public policy at Levi Strauss), testimony, in US Department of Labor, Bureau of International Labor Affairs, *Public Hearings on International Child Labor*, 28 June 1996 (Washington DC: US Department of Labor, Bureau of International Labor Affairs, 1996); Karl Schoenberger, *Levi's children: coming to terms with human rights in the global marketplace* (New York: Grove, 2000).

³² Not only are statistics on child labour generally notoriously difficult to establish (see e.g. Alec Fyfe and M. Jankanish, *Trade unions and child labour: a guide to action* [Geneva: ILO, 1997], pp. 13–14), but the problem is aggravated in this particular case by the fact that the Bangladeshi manufacturers had already started to lay off children before the spotlight really focused on the problem in late 1992. What is more, the figures reported at the time should be approached with more than a little caution as they also reflected the narrow interests of those reporting them. Statistics on child labour in the Bangladeshi garment industry, in other words, were part and parcel of the politics of child labour and corporate responsibility analysed below.

³³ Kabeer, *The power to choose*.

prevalence of child labour in the industry must be seen within the context of deep and widespread poverty, the poor state of the education system and the general absence of day-care options (related both to the absence of social services and to changes in the social and geographical foundations of kinship resulting from migration flows).³⁴ The industry workforce consisted predominantly of women: female child workers were found to account for roughly 60 per cent of the child workers, a common explanation for the latter being that 'mothers bring their children to work in the garment factory and the owner kindly allows the children to earn some money by helping out'.³⁵

This picture of child labour in the garment industry is problematic on a number of counts. The work of underage children in the industry was clearly *illegal*, and production in the garment industry entailed widespread violations of basic labour rights.³⁶ Working conditions in the industry have been characterized as generally involving working days of 10–14 hours, often without breaks and with only half a day off in a week; payment made late (sometimes no payment at all); overtime being frequently required and rarely entailing extra pay; frequent violations of employment formalities, such as being given no employment letter (enabling employers to dismiss workers without the statutory termination benefits); physical working environments characterized by poor lighting and ventilation and often hot, crowded and locked factory buildings; and the 'imposition of harsh forms of discipline and supervision'.³⁷ Furthermore, the above account characterizes child labour in the garment industry as a 'lesser' problem, when—on a number of counts—it was precisely the opposite. A key characteristic of child labour in Bangladesh was that it was prevalent in the country's leading and most important export industry, suggesting that the potential for forcing change in this 'limited sphere' was perhaps quite considerable; the problem was certainly much more visible; and factory work has tended to be seen as more exploitative. In addition, the explosive growth of the industry had been accompanied by an equally marked numerical increase in the incidence of child labour in it.³⁸

Furthermore, the link between child labour and poverty may be said to cut both ways (that is, while children's earnings may be important in poor households, child labour, in turn, perpetuates poverty), there is no natural law related to stages of economic development and poverty (that is, the persistence/eradication of child labour is also a matter of social forces for and against it), and

³⁴ Primary education in Bangladesh was both free and compulsory, but the education system was of a very poor quality, school accessories still had to be paid for, and formal education was often (perceived to be) of little use for the future. See e.g. US Department of Labor, Bureau of International Labor Affairs, *By the sweat and toil of children*, vol. 1, p. 33; AAFLI, *Report*, p. 14.

³⁵ AAFLI, *Report*, p. 13–14.

³⁶ See e.g. US Department of State, *Bangladesh economic policy and trade practices* (Washington DC: US Department of Labor, Bureau of International Labor Affairs, 1994).

³⁷ Rock, 'The rise'; AAFLI, *Report*, pp. 12–14; US Department of Labor, Bureau of International Labor Affairs, *By the sweat and toil of children*, vol. 1, p. 30.

³⁸ This is not to argue that the children employed in the industry would otherwise have been attending school, but it is important to point out that there was a change in the real social relations of production and not merely in the discursive politics of child labour.

the logic of household poverty and the absence of day-care options may not be as straightforward as sometimes suggested. A survey conducted by AAFLI found that in Bangladesh adult unemployment in the immediate family of child workers was quite common, and that 'Very few (less than 15%) of the child workers interviewed had an immediate family member (father, mother, brother, sister) working in the same factory.'³⁹ In relation to day-care options, the survey notes: 'Interestingly, section 47 of the Factories Act of 1965 requires that in any factory with more than 50 women workers, the owner is required to provide a child care room for the children of the workers. *None* of the workers interviewed for this report was aware of any factory that met this requirement.'⁴⁰ As for the financial motivation for using child labourers, children were generally paid less than adults in the industry, but this wage differential was 'primarily because of the jobs held by the children, who tend to be given the less skilled jobs ... In cases in which a child worker is able to obtain promotion to a job as a sewing machine operator or ironer, they are paid the same wages as adult workers.'⁴¹ While the direct labour cost advantages of using child labour were thus rather limited in the sense of being confined to certain types of tasks, other facets of child labour—for example, child workers being more easily disciplined—were claimed to be important.⁴² Moreover, in competitive labour market systems, child labour may serve as a substitute for adult workers, putting a downward pressure on adult wages and enabling local manufacturers to increase their sometimes meagre profits, not only in terms of adult unemployment but also by serving to obstruct labour organizing. As the following comment of a garment manufacturer illustrates, not all garment manufacturers were keen supporters of trade unions: 'If it is necessary to kill workers, they will be killed, but there will not be a trade union in this factory.'⁴³

As far as rationalities are concerned, clearly 'local' gender values and traditions played a role in shaping the characteristics of child labour in the garment industry, but the growth of the garment industry and its entry into a transnational production chain also involved some profound changes in the rationalities of Bangladeshi politicians and manufacturers alike. Thus, child labour in the garment industry coexisted with some significant changes in values accompanying the widespread acceptance of 'new' and 'alien' values associated with global capitalism and a neo-liberal world order.

³⁹ AAFLI, *Report*, p. 13.

⁴⁰ AAFLI, *Report*, p. 13 (emphasis in original); Bissell and Sobhan, *Child labour*, pp. 8–9; Grumiau, *Garments*, p. 14.

⁴¹ AAFLI, *Report*, p. 12.

⁴² See e.g. US Department of Labor, Bureau of International Labor Affairs, *By the sweat and toil of children*, vol. 1, p. 31.

⁴³ Cited from Rock, 'The rise', p. 40.

The process

A chronology of events

In late 1992 the spotlight was turned on the use of child labour in the Bangladeshi garment industry.⁴⁴ Two events played crucial roles in the early formation of the agenda. The first was the introduction—or, more precisely, the use of this in Bangladesh—in the US Congress in August 1992 of the Child Labour Deterrence Act (also referred to as the Harkin Bill) to ban the importation into the United States of products manufactured using child labour.⁴⁵ In October the chief of the Economic Commercial Section of the US Embassy in Bangladesh, Phillip Carter III, wrote to—and later met with representatives of—the BGMEA. The then BGMEA president, Mohammad Mosharraf Hossain, subsequently sent a letter to BGMEA members, transmitting Carter's warnings about the pending Harkin Bill and the serious view the US Congress was inclined to take on the matter, and urging them to 'take note of the above developments for information and appropriate necessary action to maintain smooth flow of our exports to the United States'.⁴⁶

The second event was the broadcasting on 22 December of an item on NBC television which charged Wal-Mart with buying clothing from Bangladesh made by illegal child labour.⁴⁷ In the run-up to the programme, on 12 December, the BGMEA had written to Wal-Mart, assuring the company that 'all necessary steps had been taken to ensure that BGMEA garments would be child free. The BGMEA also indicated to Mr Emmanuel that it was going to open some schools for the working children in areas where there was a high concentration of garment factories.'⁴⁸ Terry Collingsworth from AAFLI was already in Bangladesh, where he had met with Carter from the US Embassy to discuss child labour and the garment industry, and on 26 December 1992 he met with the president of the BGMEA and proposed a collaborative effort to combat the problem. The proposal involved the establishment of a central organization to coordinate the work of other NGOs and the government in setting up schools for the child workers. The BGMEA would provide 'access to the workers to inform them of the program, physical space for the classrooms

⁴⁴ Child labour in the Bangladeshi garment industry had not gone entirely unnoticed, and there had been skirmishes between American trade unions and the local manufacturers. See e.g. Denis Campbell, 'Young Guardian: slaves to our appetites—the exploitation of child workers around the world', *Guardian* (London), 21 June 1989; Robert A. Senser, 'On their knees', *America* 167: 7, Sept. 1992.

⁴⁵ The bill had actually been introduced earlier, but had not yet been passed. See Congressional Record, 'Statements on introduced bills and joint resolutions (Senate, August 5, 1992)'; Congressional Record, 'The introduction of the Child Labor Deterrence Act of 1989' (House of Representatives, 24 May 1989); Congressional Record, 'Statements on introduced bills and joint resolutions' (Senate, 24 May 1990); Congressional Record, 'Introduction of the Child Labor Deterrence Act of 1991—Hon. Donald J. Pease' (Extension of Remarks, House of Representatives, 15 Nov. 1991).

⁴⁶ Mohammad Mosharraf Hossain (BGMEA president), letter to BGMEA members, 14 Nov. 1992.

⁴⁷ It also made allegations that Chinese clothing had been mislabelled to avoid import quota restrictions. See Don Longo, 'Wal-Mart must address some "press"ing issues', *Discount Store News* 32: 1, 4 Jan. 1993, p. 14; 'Wal-Mart stock falls ahead of TV show's report on imports', *Wall Street Journal*, 22 Dec. 1992.

⁴⁸ AAFLI, *Report*, p. 21.

where possible, and some degree of financial support'; would 'permit access to the adult workers for AAFLI to provide education and training. Again, the BGMEA would provide physical space and some degree of financial support, as well as cooperation in arranging times when the workers could attend our programs'; and would meet regularly with an AAFLI representative to be presented with information about labour law violations on the part of BGMEA members, at which point the BGMEA would have an opportunity to correct the problems 'before AAFLI used all available means to force compliance with the law'.⁴⁹

A few days before the NBC programme was broadcast, Pharis Harvey of the ILRF had written to Wal-Mart's president, requesting further information about the company's buying practices and policies. 'Reeling from the negative exposure from the Dateline program, Mr Glass responded with a detailed letter which included commitment by Wal-Mart to establish "a fund for factories and/or garment associations in order to help educate the children of Bangladesh"'.⁵⁰ At this point, however, the garment manufacturers were already 'contemplating to clean up low-age workers from their factories' and—according to Rosaline Costa, a Bangladeshi human rights activist—as many as 5,000 children had already been dismissed in December 1992.⁵¹ This 'cleaning up', however, did not involve the provision of educational alternatives or any substitute income for the children, and this became an important concern as the debate continued. Representatives of the BGMEA and the government of Bangladesh engaged in talks with a number of different parties, including the US embassy and AAFLI. Wal-Mart, Levi Strauss and other international buyers of Bangladeshi garments sent representatives to 'visit' the country early in 1993.⁵² Neither Wal-Mart nor Levi Strauss chose to pull out of Bangladesh. Instead, Wal-Mart actually increased its buying in the country and announced a new set of sourcing standards, and Levi Strauss developed a new 'model' programme of its own.⁵³ In March the Child Labor Deterrence Act was reintroduced in Congress, giving rise to further debate, and in late spring an informal working group was formed with representatives from the government of Bangladesh, the BGMEA, UNICEF and the ILO, AAFLI and several local

⁴⁹ Quotes from Terry Collingsworth, telefax to Pharis Harvey, 23 March 1993. See also 'US labour body offers to train garment workers' and 'Garment manufacturers likely to clean low-age workers to protect US market: BGMEA warns members of dire consequences of employing children', *Telegraph* (Dhaka), 31 Dec. 1992; 'AAFLI, BGMEA to solve problems of child labour', *Bangladesh Times*, 31 Dec. 1992.

⁵⁰ AAFLI, *Report*, p. 21.

⁵¹ 'Garment manufacturers', *Telegraph* (Dhaka); Collingsworth, telefax to Harvey, 23 March 1993.

⁵² 'Malpublicity in United States against readymade garments of Bangladesh', *Morning Paper* (Dhaka), 6 Jan. 1993 (AAFLI translation); United States Information Agency (Dhaka), Memorandum 0340, 'Bangladesh atmospherics for 1/13/93: child labor in the garment industry', 13 Jan. 1993; 'Unwanted garment workers', *Daily Star* (Dhaka), 18 Jan. 1993; AAFLI, *Report*.

⁵³ 'US companies start taking actions against Bangladeshi contractors', *Daily Star* (Dhaka), 15 March 1993; AAFLI, *Report*; Louise Kehoe, 'Bold fashion statement: Levi Strauss's decision not to invest in China', *Financial Times*, 8 May 1993; Joanna Ramey, 'Wal-Mart sets sourcing rules to monitor labor conditions', *Women's Wear Daily*, 10 June 1993.

NGOs.⁵⁴ The working group had a mandate on child labour more broadly, not just in the garment industry, but it did have periodic meetings on the garment industry specifically (although these did not entail negotiation of an MoU). The group's work, however, was made difficult by, among other things, polarized views and discussions on the Harkin Bill, and time passed without much progress being made.⁵⁵

In early July 1994, the Child Labor Deterrence Act was introduced into Congress once more. The BGMEA announced that factory owners would cease to employ all child workers by 31 October and thereafter provide schooling for them.⁵⁶ However, neither schooling nor alternative employment for the child workers was forthcoming, and concerns over the potentially negative effects on the children were raised again. When October came, an appeal on behalf of a number of child workers was directed to UNICEF and the ILO (and the broader public), and the lay-offs were postponed. Subsequently, the negotiations that eventually led to the MoU began in a group consisting of representatives of the BGMEA, the ILO, UNICEF, the US embassy and AAFLI.⁵⁷ The negotiations, conducted under continued media attention to the industry, involved a number of thorny issues and disagreements, and they were further slowed down by the sweeping victory of the Republicans in the US mid-term elections as well as by the fact that two different versions of an agreement were in play.⁵⁸ On 31 January 1995, Pharis Harvey and Linda Golodner,⁵⁹ co-chairs of the Child Labour Coalition, which represented more than 10 million members, wrote to Redwan Ahmed, president of the BGMEA:

we have recently learned that very little if any progress has been made since last October, and that the BGMEA has expressed reluctance to allow independent monitoring of compliance with the program. This is disturbing . . . If the BGMEA does not intend to participate in the program as designed, then it can expect that organizations such as

⁵⁴ See e.g. 'US companies', *Daily Star* (Dhaka); Congressional Record, 'Statements on introduced bills and joint resolutions (Senate, 18 March 1993)'; AAFLI, *Report*; United States Information Agency (Dhaka), Memorandum 02339, 'TPC on child labor', 29 March 1993; Memorandum 02432, 'Bangladesh media reaction—March 31', 31 March 1993; Memorandum 02523, 'Bangladesh media reaction—March 31', 2 April 1993; Memorandum 02622, 'TPC on child labor/the Harkin bill', 7 April 1993; Memorandum 02705, 'Bangladesh media reaction—April 7', 8 April 1993.

⁵⁵ See Bissell and Sobhan, *Child labour*; AAFLI, *Report*; 'BGMEA can help avert adverse effect of Harkin Bill', *Daily Star* (Dhaka), 3 Aug. 1993; 'Harkin Bill "won't hit local industries"', *Morning Sun*, 3 Aug. 1993; 'Harkin Bill a reflection of protectionism', *Morning Sun* (Dhaka), 9 Aug. 1993; 'Harkin Bill to damage garment industry in Bangladesh', *Telegraph* (Dhaka), 10 Aug. 1993; 'AAFLI working against interest of workers', *New Nation* (Dhaka), 10 Aug. 1993; Nur Khan Liton, 'Fair deal for the kids: Harkin's Law will do more harm than good to Bangladesh's working children', *Dhaka Courier*, 10 Sept. 1993; 'No child labour', *Telegraph* (Dhaka), 14 Oct. 1993.

⁵⁶ Congressional Record, 'Introduction of the Child Labor Deterrence Act of 1994—Hon. George E. Brown, Jr.' (Extension of Remarks, House of Representatives, 1 July 1994); Agence France Presse (AFP), 'Bangladesh's garment industry to end use of child labour', 5 July 1994; Rahman Jahangir, 'US pressure forces Dhaka to free 36,000 child labourers', *Saudi Gazette*, 6 July 1994; AFP, 'Bangladesh garment exporters ban child labour', 24 July 1994.

⁵⁷ ILO-IPEC, *Action against child labour: lessons and strategic priorities for the future* (Geneva: ILO, 1997), pp. 23–4; AFP, 'Bangladeshi child labour lay-offs postponed', 31 Oct. 1994.

⁵⁸ E.g. Nick Nuckley and Nick Fielding, 'Why I'll never buy a pair of Levi's again: just 3p on the price of jeans would double the wages of these sweatshop girls in Bangladesh', *Mail on Sunday* (London), 27 Nov. 1994.

⁵⁹ President of the National Consumers League.

the Child Labour Coalition will be forced to publicize the continued use of child labour in the making of garments in Bangladesh.⁶⁰

The BGMEA did not reply, and at the Annual General Meeting of the BGMEA on 11 March a decision on the agreement was postponed.⁶¹

More communication ensued from DC to Dhaka, the tone increasingly sharp, and a boycott was threatened if the agreement was not formalized in May.⁶² On 17 May a BGMEA Extraordinary General Meeting ended with a rejection of the agreement (by 311 of 352 members)—and the BGMEA again announced that all child workers would be out of the factories by 31 October.⁶³ The Child Labour Coalition called for the boycott, and the BGMEA came under heavy pressure from various quarters.⁶⁴ For a couple of days it stood firm, at one point even threatening a ‘counter-campaign’ abroad, but soon—at an emergency executive committee meeting on 24 May—decided to return to the negotiating table.⁶⁵ Ironically, this decision coincided with an announcement from UNICEF headquarters that it would not buy from companies that exploited children.⁶⁶ The talks continued throughout June, and eventually the agreement was signed and presented on 4 July.⁶⁷

⁶⁰ Linda Golodner and Pharis Harvey, telefax to Redwan Ahmed (BGMEA president), 30 Jan. 1995.

⁶¹ The BGMEA had a tremendous PR opportunity to sign an agreement around the time of the forthcoming visit of the US First Lady, Hillary Clinton, to Bangladesh. According to the BGMEA, however, an agreement required the approval of an extraordinary general meeting: Redwan Ahmed, telefax to Pharis Harvey, 25 April 1995; Humayun Kabir (Bangladesh ambassador to the US), telefax to Harvey, 25 April 1995; UPI (United Press International), ‘Bangladeshi child labor takes spotlight’, 2 April 1995.

⁶² Pharis Harvey, telefaxes to Redwan Ahmed, 13 March, 14 April, 19 April, 20 April 1995; ‘Bangladesh, Guatemala under fire’, *Women’s Wear Daily*, 25 April 1995; ‘Bangladesh makers: we’ll try’, *Women’s Wear Daily*, 26 April 1995.

⁶³ Tabibul Islam, ‘Bangladesh—child labor: Bangladesh, US clash over child labor’, Dhaka, Inter Press Service/Global Information Network, 7 June 1995.

⁶⁴ Linda Golodner and Pharis Harvey, telefax to members of the Child Labor Coalition, 18 May 1995; Pharis Harvey, telefax to Terry Collingsworth and Lydia Sigelakis (AFLI-Bangladesh), 19 May 1995; Pharis Harvey, telefax to Redwan Ahmed, 20 May 1995; Jack Sheinkman and Carolyn Kazdin (president and legislative director, respectively, of the Amalgamated Clothing and Textile Workers Union, ACTWU), telefax to Redwan Ahmed, 25 May 1995; Pharis Harvey, telefax to Redwan Ahmed, 26 May 1995; Jay Mazur and Evelyn Dubrow (president and vice-president/legislative director, respectively, of the International Ladies’ Garment Workers’ Union, ILGWU), telefax to Redwan Ahmed, 26 May 1995; Linda Golodner, telefax to Redwan Ahmed, 31 May 1995; Nadeem Qadir, ‘Bangladesh garment exports to US threatened by row over child labour’, AFP, Dhaka, 20 May 1995; Joanna Ramey, ‘Bangladesh apparel seen facing boycott’, *Women’s Wear Daily*, 22 May 1995; Joyce Barrett, ‘Boycott of apparel made in Bangladesh planned’, *Women’s Wear Daily*, 23 May 1995.

⁶⁵ AFP, ‘Bangladeshi clothes trade hits at US protest against child labour’, 22 May 1995; UPI, ‘Bangladeshi manufacturers to protest boycott’, 23 May 1995; AFP, ‘US welcomes call for talks on child labour by Bangladeshi garment exporters’, 25 May 1995; Redwan Ahmed, telefax to Linda Golodner, 3 June 1995.

⁶⁶ This move followed a CBS exposé of child labour in the production of surgical instruments in Sialkot, Pakistan, which was incidentally also the first major step in the ensuing controversy over child labour in the soccer ball industry, in which UNICEF and the ILO-IPEC again partnered up. See Maggie Jackson, ‘Children make US soccer balls, UNICEF tools in Pakistan’, *Associated Press* (AM cycle), 5 April 1995; Barbara Crosse, ‘Unicef vows not to buy from companies that exploit children’, *New York Times*, 25 May 1995; Elliott Schrage, *Promoting international worker rights through private voluntary initiatives: public relations or public policy? A report to the US Department of State on behalf of the University of Iowa Center for Human Rights* (Iowa: University of Iowa Center for Human Rights, 2004, available at www.uichr.org), ch. 2.

⁶⁷ Redwan Ahmed, telefax to Linda Golodner, 3 June 1995; Lydia Sigelakis (AFLI Bangladesh), telefaxes to Pharis Harvey, 5 and 7 June 1995; Pharis Harvey, telefax to David N. Merrill (US ambassador to Bangladesh), 9 June 1995; Lydia Sigelakis, telefax to Pharis Harvey and Terry Collingsworth, 21 June

Defining the problem

One of the most significant aspects of this case is that, throughout the process, the problem was defined almost exclusively in terms of child labour. Of course, child labour *was* used, and this *was* largely acknowledged; but why this narrow definition, when other basic labour rights issues could also have been on the agenda?⁶⁸ AAFLI, at least, had an interest in defining the problem more widely to include other labour concerns—and it did bring these up.⁶⁹ For a number of reasons, however, there was no concerted or sustained effort to broaden the agenda in this way. To begin with, the NBC exposé focused on Wal-Mart and illegal child labour in Bangladesh; and most of the ensuing media attention likewise focused on child labour only. It was to some degree a coincidence, however, that the focus ended up being on Bangladesh and child labour, since the initial interest of the NBC crew was in Wal-Mart's 'Buy America' campaign: 'So this reporter with a television crew goes into a Wal-Mart. Underneath the banner "Buy America" there's these shirts, and he starts looking at them, and they all say "Made in Bangladesh"—"Made in Bangladesh"! ... if they had said "Made in Mexico," he would have gone to Mexico.'⁷⁰ The Dateline segment was undoubtedly important in raising child labour in the Bangladeshi garment industry as a matter of public debate, and it thereby also contributed to defining the problem as one of child labour. As far as the Bangladeshi media were concerned, the treatment of the issue was very much driven by the threat of the Harkin Bill—a threat related to child labour.

Indeed, the potential enactment of the Harkin Bill played a key role in relation to the narrow definition of the issue. For one thing, it constituted a source of leverage—a leverage that was tied directly and narrowly to child labour—over the Bangladeshi garment industry on labour issues, both for Carter from the US embassy and for AAFLI's Terry Collingsworth: 'He's in there, trying to talk to people about organizing, and what does he see? It's full of children! Now, Terry is a very good labour rights activist, and he said, "We can't have this." He also sees that this is a wedge.'⁷¹ More importantly, the Harkin Bill led to a sharply polarized debate, in which the negative consequences of the elimination of child labour quickly became a dominant theme.⁷² This was a point on which UNICEF, IPEC, the majority of the local

1995; Joanna Ramey, 'Bangladesh apparel agreement may be inked as soon as today', *Daily News Record* 25: 123, 27 June 1995; 'Pact nearly set on child labor in Bangladesh', *Women's Wear Daily*, 27 June 1995; AFP, 'Bangladesh garment manufacturers sign child labour agreement', 4 July 1995.

⁶⁸ The existence of the problem—i.e. the actual use of illegal child labour—was not seriously disputed.

There were some occasional denials by the BGMEA, but overall there was 'little room for any credible denial that there are significant numbers of child workers in the Bangladesh garment industry': AAFLI, *Report*, p. 4.

⁶⁹ Indeed, as Pharis Harvey recollects, the AFL-CIO were not 'that happy with child labor being a major part of Terry's work'. Interview with Pharis Harvey, Corralitos (CA), 6 May 2003.

⁷⁰ Interview with Terry Collingsworth, Washington DC, 20 March 2003.

⁷¹ Interview with a former senior official of the US Department of Labor, Bureau of International Labor Affairs, Washington DC, 15 April 2003; see also Rock, 'The rise'.

⁷² Bissell and Sobhan, *Child labour*, p. 3.

NGOs involved *and* the local manufacturers agreed, focusing the debate on depth (causes of child labour and consequences of eliminating it) rather than breadth (related labour rights), and it also had a significant impact on the discussions of the size of the problem, that is, how many children were actually working in the industry. Thus, the figures reported during the process varied widely, from the occasional denials that child labour existed to claims that 250,000 children were involved—and the logic of this number game or ‘stat war’ was in a sense turned upside down:⁷³ ‘Those who want to emphasize that the Harkin bill will result in the displacement of large numbers of children cite very high figures.’⁷⁴ More significantly, perhaps, the problem came to be redefined as a consequence of the Harkin Bill, the negative consequences for children, and malicious critics (as opposed to one of the exploitation of children and the responsibility of the manufacturers, i.e. the industry itself). This was used not only to criticize the Harkin Bill, but simultaneously to delegitimize AAFLI and other labour rights activists, charging them with an international conspiracy against the Bangladeshi garment industry, US protectionism, and working against the interests of the children in question.⁷⁵ All of this enabled the BGMEA to approach the controversy in the way it did, and constituted the background to the industry’s repeated threats to dismiss all the child workers at short notice. Would this have occurred, one might wonder, if the two international organizations—UNICEF and IPEC—had not been ‘specialized’ (working from a mandate narrowly focused on children), or if they had played a different role in the debate?

Finally, the critique of the industry’s labour practices was largely ‘northern driven’, coming primarily from AAFLI and the CLC. This observation is frequently used in the discourse on corporate social responsibility, in some cases pointing to an exclusion of key ‘stakeholders’ by powerful interests, in other cases delegitimizing—rightly or wrongly—the critics as not acting in the best interests of the intended beneficiaries. The latter allegation was made in the Bangladesh process: AAFLI and CLC were charged with being uninformed about the realities in Bangladesh and with not listening to the children and their families (this point is discussed further below). Beyond this, however, the repercussions against Rosaline Costa in this process also point to another facet of ‘northern driven’ criticism which is less often discussed: namely, the intimidation, repression and physical violence which local critics often face, which may be part of the reason why ‘northern’ critics are not always too keen on naming their ‘southern’ partners.⁷⁶

⁷³ On statistical warfare, see Joel Best, *Damned lies and statistics: untangling numbers from the media, politicians, and activists* (Berkeley: University of California Press, 2001).

⁷⁴ AAFLI, *Report*, p. 6.

⁷⁵ See e.g. *Telegraph* (Dhaka), 31 Dec. 1992; *Morning Paper*, 6 Jan. 1993; *Daily Star*, 23 Jan. 1994.

⁷⁶ E.g. *Morning Paper*, 6 Jan. 1993; ‘Harkin’s bill is going to be passed in the current month’, *Daily Janakantea*, 4 May 1994; Costa had aided the NBC crew back in 1992 and had been active from early on, cf. p. 569.

Targeting

A key aspect of targeting in this process was that while Wal-Mart was a target in the initial phase of agenda formation, that company and other international buyers were not central targets later on. The Harkin Bill constituted no serious threat to Wal-Mart and similar companies, and the BGMEA was a more 'suitable' target for a number of reasons. As described above, the BGMEA was targeted directly by the US embassy and AAFLI in 1992, and the BGMEA and the local manufacturers showed signs of being susceptible to pressure from the very beginning. Furthermore, the BGMEA represented the entire local industry, whereas targeting a few specific international buyers would affect only a fraction of the industry; the BGMEA, moreover, exercised considerable control over the (formal sector) garment industry in Bangladesh through its administration of export licences. In other words, it was an organization that could serve as the locus for overcoming potential collective action problems.

It is worth noting that the government of Bangladesh was not targeted. Certainly, the Harkin Bill constituted a threat not just to the garment manufacturers but also to the national economy. As in so many other cases where issues of corporate responsibility have been raised, however, the government lacked both the resources and the political will to act effectively, and had been ineffective for many years in enforcing its own laws. Furthermore, the BGMEA had very strong links with the political establishment, and attempts to change the practices of its members indirectly through the government—even if it could be argued that this would make 'good business sense' and would be compatible with (perhaps even assist) the export-oriented policy of the government—would most likely not have led anywhere. As AAFLI put it: 'The result of these close connections is that the BGMEA is not getting significant pressure from the government to act. Instead there are spectacles like Minister of Information Huda's speech that the Harkin bill is an "international conspiracy".'⁷⁷

Economic coercion

It should be clear by now that the threat of US trade sanctions against the industry under the Child Labor Deterrence Act was a key driver in this process: 'The entire public debate [in Bangladesh] seems to center on whether or not the [Harkin] Bill will be passed, and accepts as a foregone conclusion that if the law is passed, the garment industry will not be able to meet the requirements.'⁷⁸ As noted above, the bill was used from the very beginning by the US embassy and by AAFLI to put pressure on the BGMEA, and each of the subsequent reintroductions caused not only debate but also renewed uncertainties for the BGMEA, and gave AAFLI renewed leverage. At the same time, the potential negative consequences of the bill were used by the BGMEA as a

⁷⁷ AAFLI, *Report*, p. 17.

⁷⁸ AAFLI, *Report*, p. 15.

power resource: in late 1992, 1993 and again in July 1994 the threat of the bill's passage was followed by announcements from the BGMEA that it would start ejecting all child workers from the industry. Moreover, each time the bill failed to gain passage the uncertainties diminished, and the threat became less effective: 'The possibility of the Harkin bill's passage has been virtually the exclusive force in focusing attention on the problem of child labour, but now the momentum is stalled along with the Harkin bill.'⁷⁹ In late 1994, just after the MoU negotiations had begun, the Republicans took Capitol Hill, and the Child Labor Deterrence Act ceased to constitute a driving force in the Bangladesh process. A few months later, the CLC became involved in the process and—after four months of stepping up the pressure, and the BGMEA's postponement and then rejection of the MoU—eventually called for a boycott. Thus, in the end, it was the use of this second type of economic coercion that forced the BGMEA back to the negotiating table within a few days.

The use of economic coercion was highly contested (it still is, of course, and it is not uncommon for arguments against this to be based on the 'lessons' of Bangladesh). Bissell and Sobhan, for example, have argued that it was the softer tactics involved in the 'formation of trust' that were central in the process: 'Perhaps the most important investment of time during the course of the project was in the development of a rapport with industry representatives.'⁸⁰ This view is illustrative of a more general dichotomy between the use of softer tactics (trust-building, dialogue, learning, etc.) and blunter ones (trade sanctions, boycotts, lawsuits, etc.). At its centre is the question of what it takes to make 'global capital more responsible'⁸¹—and whether there would be any 'inside', any 'trust-building' or 'dialogue' at all without the 'outsiders' employing more 'radical' means. As a senior official of the US Labor Department during the process put it:

It's not that the companies didn't know it. It's not that anybody didn't know. And they were not interested in responding. In any way, shape, or form . . . And they knew what was happening. They were being approached. They had no incentive to change their way of working. None at all. So, what is incentive? It seems to me that this day and age, there is only one incentive: money. And if their purse is threatened, they will come to the table and begin talking. And that's what we did. Nothing else got those people to the negotiating table.⁸²

Or, as Pharis Harvey put it, 'trade sanctions are a very blunt instrument, but we were dealing with some very blunt people, and we got their attention.'⁸³ Or again, in the words of Terry Collingsworth:

⁷⁹ AAFLI, *Report*, p. 23.

⁸⁰ Bissell and Sobhan, *Child labour*, p. 10.

⁸¹ Pharis Harvey, in 'Working for labor rights: an interview with Pharis Harvey', *Multinational Monitor*, Dec. 1993.

⁸² Interview with former Labor Department official, 15 April 2003.

⁸³ Interview with Harvey, 6 May 2003.

My role was to scare the industry. I mean, we were the activists and we were there talking about what we would do if they didn't clean up their act ... UNICEF was a terrible negotiator, because they did not accept the bad faith of the industry. They took what the industry said at face value, and I'd be sitting there, just shaking my head, saying, 'You're kidding! Do you believe that?' I would say back to UNICEF—and I have—'Well, fine. Please tell me what your alternative is!' Because they seem so willing to put their head in the ... and trust that the government says they're going to fix the problem. They've been saying that for 20, 50 years!⁸⁴

Soft v. tough tactics, then, is a false dichotomy, and in this case the BGMEA was 'led' to compromise by both. Without the threat of the Harkin Bill, however, negotiations of the MoU might never have got under way, and without the boycott it would probably not have been finalized.

Of course, the use of economic coercion in this case and the negative consequences for the children have been identified as among the 'lessons' of Bangladesh, of which many people are aware and which continue to be 'taught'. Very often, this involves—as it did during the process—claims that this campaign was simply self-interested US labour protectionism in disguise and/or that the CLC was, at best, naïve and uninformed:

While not wanting to question the CLC's commitment to the abolition of child labour, it was clear that they were poorly informed about the prevailing economic conditions in Bangladesh, the reasons why children work and the steps that need to be taken to address this issue in a way that truly safeguards the child. Without this basic information, one could argue that it was inappropriate for the CLC.⁸⁵

That charge is an unsubstantiated one which results from—at best—unawareness of the close links between the CLC, AAFLI and the US embassy in Dhaka. As for protectionism in disguise, is any kind of trade-labour linkage automatically to be assumed protectionist? Should one not consider the fact that AAFLI was working to establish the Bangladesh Independent Garment-Workers' Union, that child labour was seen as a problem and a point of leverage which could provide AAFLI with access to the factories? Bissell and Sobhan acknowledge that 'AAFLI had been trying to open a field office in Bangladesh for some time ... AAFLI sought to work (and head) the monitoring cell of the CLWG [Child Labour Working Group] which would have provided them with immediate access to garment factories.'⁸⁶ Furthermore, it is worth noting that AAFLI's December 1992 proposal to the BGMEA did include the provision of educational alternatives, but this is hardly ever mentioned—in spite of the local media coverage after the meeting.

Finally, this critique of blunter instruments and the emphasis on negative consequences served to misplace the moral responsibility for both the previous exploitation and the displacement of children into worse situations: what about the Bangladeshi government, the garment manufacturers, the international buyers?

⁸⁴ Interview with Collingsworth, 20 March 2003.

⁸⁵ Quote from Bissell and Sobhan, *Child labour*, p. 14; see also Kabeer, *The power to choose*.

⁸⁶ Bissell and Sobhan, *Child labour*, p. 14; see also Rock, 'The rise'.

Modelling the solution

To begin with, the definition of the problem implied that some particulars were more or less 'given'—the agreement was on child labour; it included educational alternatives and income compensation for the child workers, and a survey to find them. The targeting of the BGMEA furthermore made it a 'natural' partner (with implications for the scope of the agreement). The critical issues related to a choice between two different agreements, monitoring and funding.

When the negotiations restarted following the boycott in May 1995, two versions of an agreement were still on the table. Briefly put, one version (which became the MoU) would move all underage child workers to school; the other version would move the younger children to school, but introduce a combination of work and education for those above the age of eleven. The US embassy and Department of Labor, CLC, ILRF and AAFLI were willing to accept either version, 'as long as either option provides sufficient oversight from international agencies in the survey and in monitoring compliance, and is carried out in a way that provides schooling for all retrenched child labourers'.⁸⁷ While consistent with international law, the combination of school and work for older children version would not have been consistent with Bangladeshi law. Furthermore, the BGMEA expressed concern at this point that this version would not be acceptable to the international buyers. Thus the BGMEA and the government of Bangladesh opted for the 'education only' version.

The issue of monitoring was also a conflict point. By 1995 independent monitoring had become a fundamental demand of AAFLI, the CLC, and the US embassy and Department of Labor. The BGMEA, on the other hand, was reluctant to accept this intrusion, in particular if it was to be headed by AAFLI, which had offered to monitor the programme, and was suggested as an obvious candidate for the role by the CLC.⁸⁸ Indeed, the delaying tactics of the BGMEA were closely related to this reluctance. In the MoU rejected in May 1995, however, the BGMEA had already achieved important concessions:

At BGMEA's insistence, the MOU provided that AAFLI and the other international organizations would not be permitted to do the inspections themselves. Instead, a Board of Directors, which included BGMEA, would hire a staff of inspectors to do the verification, and the MOU expressly provided that the information gathered could only be used for the purpose of implementing the MOU.⁸⁹

Furthermore, AAFLI was excluded from the negotiations, and the BGMEA indicated that only UNICEF and the ILO would be acceptable as external monitors, in spite of the fact that—until then—the ILO had not been willing to accept the role.⁹⁰ In the final stages, however, the US embassy and Department

⁸⁷ Harvey, telefax to Merrill, 9 June 1995; Sigelakis, telefaxes to Harvey, 5 and 7 June 1995.

⁸⁸ See e.g. Golodner and Harvey, telefax to Ahmed, 30 Jan. 1995.

⁸⁹ Collingsworth, telefax to Harvey, 19 May 1995.

⁹⁰ Harvey, telefax to Ahmed, 20 May 1995.

of Labor played an important role in pushing not only for independent monitoring but for the involvement of the ILO in this.⁹¹

The eventual inclusion of ILO-IPEC was related to, among other things, the question of funding. Until quite late in the process, crucial aspects of funding had not yet been decided upon. Shortly after the negotiations were reopened in May 1995, the ILO decided to become involved in monitoring, although it was still uncertain whether it would be a formal partner to the agreement: 'The ILO, of all people, has agreed to do the monitoring ... Currently the MOU would be signed by BGMEA and UNICEF. ILO is checking with Geneva to see if they can sign.'⁹² There were several reasons for this late entry, including the tripartite nature of the ILO, but the involvement of the US Department of Labor played a crucial role. The department was much concerned at the time with independent monitoring, and senior officials there had strong ties with and sympathies for the ILO. Moreover, the wider political backing for some of the Labor Department's work restricted this to child labour, and the ILO-IPEC, in turn, 'was also a place you could put your money and have the discussions'.⁹³

At the same time, the BGMEA's contribution to the earnings-substitution payments for children had not yet been determined. The US ambassador to Bangladesh was 'working on increasing the original amount' of the US contribution to the programme.⁹⁴ During the final stages of negotiations, however, the BGMEA was forced to contribute to this: 'UNICEF will contribute US\$175,000 in 1995, and additional support later, and BGMEA will contribute to the UNICEF sponsored school-programme US\$50,000 per year, towards the costs of educating underaged workers.'⁹⁵ Furthermore, the BGMEA would contribute 50 per cent of the cost of income-maintenance payments for displaced child workers sent to school, up to a maximum of US\$250,000 per year for three years. Reports indicated that BGMEA members started to fire children as soon as the negotiations were reopened in late May 1995, and continued to do so; still the number of children found by the survey went above the commitments of the BGMEA to fund payments, and more money was needed.⁹⁶ Thus, in spite of programme components such as the

⁹¹ The Labor Department and the US embassy, along with the government of Bangladesh, also played a role in the exclusion of AAFLI: 'At some point . . . [Terry Collingsworth's] personal influence was becoming a hindrance; he was just becoming a lightning rod . . . And so we talked to him about it and said, "We'll continue to talk to you, let you know what's going on, and you can continue to work on the sidelines, but right now you're the lightning rod, and so, can you step back?"' Interview with former Labor Department official, 15 April 2003.

⁹² Sigelakis, telefax to Harvey, 5 June 1995; Harvey, telefax to Ahmed, 20 May 1995; Harvey, telefax to Laura E. Jones, USAITA, 31 May 1995.

⁹³ Interview with former Department of Labor official, 15 April 2003.

⁹⁴ Sigelakis, telefax to Harvey, 5 June 1995. From early on, the BGMEA sought to link a possible programme to development assistance funds from the US, but this was rejected at the time: see United States Information Agency, Memorandum 02622, 7 April 1993.

⁹⁵ MoU; Sigelakis, telefax to Harvey, 5 June 1995.

⁹⁶ See Sigelakis, telefax to Harvey, 5 June 1995; Harvey, telefax to Merrill, 9 June 1995; Collingsworth, telefax to Harvey, 28 July 1995; Sigelakis, telefax to Harvey, 13 Sept. 1995.

survey and monitoring (intended to counteract negative consequences and enhance the effectiveness of the solution), the funding responsibilities of the BGMEA (as well as the outlook and actions of its members) appear to have worked against this.

Concluding remarks

This article set out to explore the question of why the MoU came into existence and took the particular form it did. In broad terms, there were signs of an emerging politicization of corporate responsibility in the early 1990s. More specifically in relation to Bangladesh, the reintroductions of the Harkin Bill were of fundamental importance. The bill was a tool by which leverage could be exerted on the industry in Bangladesh, used in particular by AAFLI, which was already engaged in labour organizing in the industry. (Accusations of ‘protectionism in disguise’ seem misplaced here, in particular in the light of AAFLI’s early engagements with the BGMEA.) It was also a significant threat, which led to a polarized debate with profound implications for the way the problem was defined. When negotiations lost momentum, and the Harkin Bill had ceased to be an effective driver, the Child Labour Coalition entered the process to keep up the pressure, and arguably the close links between AAFLI, the ILRF and the CLC were significant in this. The BGMEA, in turn, constituted an obvious target: it was vulnerable and susceptible to pressure, and it was a potential way to overcome collective action problems. The analysis also found that the choice between the two versions of the agreement was determined by Bangladeshi laws on child labour being stricter than international law, and by the industry’s concerns with losing international buyers. Finally, the exclusion of AAFLI and the entry of the ILO resulted to a considerable extent from the delaying tactics and reluctance of the BGMEA, in combination with the specific political preferences of the US Department of Labor, as well as funding practicalities.

Above all, this article represents a call for more in-depth analyses—including clear, detailed and documented chronologies of events—of why concrete changes that involve a shift towards corporate responsibility in the governance of social justice have occurred and taken on particular forms. By focusing on the struggles between conflicting forces and the selective inclusion and exclusion of issues, groups or organizations, such specific histories could be a significant counterforce in (and outside) a CSR discourse which is increasingly glossy, highly dominated by managerial needs and concerns, business cases and best practices, ‘partnerships’ and ‘dialogues’.

The analysis of this case has also shown that while it may be relevant to speak of CSR as going ‘beyond the law’ in terms of increasing the responsibility of dominant retailers and branded marketers, making the leap from illegality to compliance *with* the law is just as significant. The analysis has also been critical of some of the more or less established ‘truths’ about the Bangladesh case, many

of which are held to be of much wider relevance and use. To begin with, considering the duration of the process and the pushing and shoving it took to move the industry (the BGMEA in this case)—a problem that is far from unique—the praise of softer tactics and the criticism and/or rejection of tougher ones is as naïve as trade sanctions are blunt. Reaching a compromise often takes moderate compromisers *and* more radical critics, and it is often the sharper criticism that sets the wheels turning—and keeps them going. If more moderates would explicitly accept this, perhaps businesses and governments could be made to stretch just a little further. Warnings against tougher tactics sometimes come in the form of a mantra: ‘Do not rush into a boycott!’ When based on the Bangladesh case, such a mantra becomes problematic—claims that the Child Labour Coalition did so in Bangladesh are simply historically incorrect. Moreover, the mantra ignores the issue of what to do if the ‘target’ refuses to talk in the first place, or if the talks begin to seem endless (and hopeless).

Finally, while it is certainly important to be attentive to the negative consequences of eliminating child labour (and other problems), the above analysis also pointed to some negative consequences of being so: it may serve to redefine the problem, to narrow the agenda and/or to transfer moral culpability from corporations to critics.