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RESEARCH ARTICLE

Collective Voice without Collective Bargaining: Pandemic Induced Wage Theft Claims and Worker Responses in Apparel Supply Chains

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Abstract

Concentrated corporate power and failures to manage the distribution of risk mean that workers bear the heaviest burden in globalised apparel supply chains. Law and associated normative frameworks seek to strengthen collective worker voice and other worker rights to tip the scales of unequal bargaining power to benefit the workers. However, some of the traditional tools of labour law such as unionising and collective bargaining have weakened over the years and exacerbated during the COVID-19 pandemic. Using a conceptual framework based on regulatory theory, feminist insights, and semi-autonomous social fields, this article examines the law-practice gap for regulating just wages within the apparel supply chain, responses, and how workers fight wage theft and carve out pathways to demand just wage standards. Drawing from the case of Sri Lanka, the article discusses how alternative forms of worker voice seek to fill in the implementation gaps. The findings of this study demonstrate worker initiatives to shape the regulation of just wages and how networked labour activism, especially by women workers, prompts to re-imagine structures of actor accountability on wage rights.

Keywords: apparel supply chains; labour rights; women workers; networked regulation; semi-autonomous social fields

1. Introduction

Law and associated frameworks work to distribute concentrated corporate power in managing power asymmetries among actors in globalised apparel supply chains. Some of these traditional tools of labour law, such as unionising and collective bargaining, have weakened over the past three decades and remain further impacted by the COVID-19 pandemic. With rampant COVID-19 outbreaks beginning in April 2020, garment workers in South Asia, women being a majority, bore compounding burdens and high economic insecurity among other hardships.[1] When the fashion brands achieved profitability during the pandemic, workers experienced unpaid wages, benefits, and severance pay.[2]

[1] Three-quarters of worldwide garment industry workers are women and as per the global distribution of garment supply chains, it is women in developing countries who are hit the hardest: See (OECD 2020) and (Hoskins 2022).

[2] *See* Business and Human Rights Resource Centre (2021) and Asia Floor Wage Alliance (2021a).

The study considers the global South manufacturing countries, with the focus on Sri Lanka. Asia is aptly named the "garment factory of the world" (International Labour Organization 2022, 3). The apparel industry employs approximately 60 million workers and forms a critical component of Asian economies (International Labour Organization 2022, 4–6). In Sri Lanka, the industry employs one in seven women and has an important impact on women's economic participation (International Labour Organisation 2020c, 2). However, its size and importance have not resulted in decent employment for the majority of the industry's workforce. Insecure forms of employment, weak law, and policy enforcement mechanisms, alongside inadequate worker representation are common in manufacturing countries. Apparel workers—women in particular—often absorb downward pressure in working standards in the global apparel supply chain leaving them vulnerable. This was most evident, during the pandemic with claims of wage injustices among other challenges. In the absence of legal provisions regulating "wage theft" in Asia, asymmetrical power relations resulted in workers having to find creative ways to press their claims for higher standards. In Sri Lanka, workers sought to enhance their power by harnessing resources from a globalised apparel industry by linking with a transnational labour and civil society network that helped them to leverage power on the state and employers, locally.

In this article, I explore how apparel workers, women being a majority in the workforce, negotiated their right to just and equitable wages during the pandemic. Drawing on the case of Sri Lanka and its globalised apparel supply chain, I argue that the marginalisation of autonomous forms of collective worker voice, in negotiating worker rights, leads to the emergence of alternative, community-based and networked initiatives that either function autonomously or strengthen other autonomous forms of worker voice to leverage power and influence in labour rights negotiations. These alternative forms of worker voice legitimise the claims by drawing on the plural norms present and applicable to industrial relations and labour rights in the globalised apparel supply chain. Such initiatives also reflect that regulatory change requires the right formal legal standards (from international labour conventions to industrial ethical standards), but any change will greatly depend on the interactions between the formal laws and industry norms around labour bargaining with the realities at the ground level that workers struggle with (Haines 2003, 4).[3]

The article unpacks this argument in several steps: First, it maps the background to Sri Lanka's apparel industry, wage injustices during the COVID-19 pandemic and legal standards on worker wage, and different norms for negotiating wage rights. Second, it illustrates gaps and worker and worker-representative experience in fighting wage injustices through first-hand narratives. Third, it frames the globalised apparel supply chain as a complex social field within which a concept of actor and normative or legal plurality operate, and worker networks solidify. Finally, through findings, the article analyses an emerging regulatory order within which workers harness power through a transnational network and norms to respond to wage injustices. It also considers dynamic regulation and implications for the role of the law and labour activism in strengthening workers' ability to negotiate their wage rights.

This research contributes to the prevailing scholarship in several ways: first, it seeks to create an understanding of the apparel sector wage theft regulations and gaps using the case of Sri Lanka; second it offers a bottom-up analysis of resistance to wage theft, and how apparel workers express voice and leverage power through transnational networks to negotiate wage injustices and shape regulation across the supply chain, adopting a regulatory approach. Finally, the research draws on Sally Falk Moore's semi-autonomous social fields framework, and her analysis of New York's dress industry in the 1960s (Moore 1978, 57) to explore complex actor dynamics and the use of plural norms in today's globalised apparel supply chain.

[3] Fiona Haines tests the interaction between the regulatory context frameworks and the social context in relation to workplace health and safety in factory settings in Thailand.

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2. Regulating wage theft: A framework for carving out pathways for labour's voice

The analysis in my research focuses on labour strategies adopted by workers and their representatives to influence and change the behaviour of other regulatory actors such as employers and global fashion brands. I use networked regulation and aspects from transnational feminist movements (TFM) in understanding the strategies adopted by workers, especially women workers, in Sri Lanka's garment factories to fight wage theft. In order to make sense of the supply chain complexities and plural norms against which labour networks form and solidify, I draw on semi-autonomous social fields as a framework.

Regulation for this article means intervening and participating in influencing and shaping the behaviour of actors and organisations, and the flow of events (Braithwaite, Coglianese and Levi-Faur 2007, 4). Julia Black defines regulation as "the intentional activity of attempting to control, order or influence the behaviour of others" (Black 2002, 25). Acts of regulation are not limited to those of the state. Lange and Haines explore the regulatory capacity of the non-state, social sphere. With an emphasis on "harnessing the social power" they recognise the importance of civil society for the regulation of social and economic risks posed by and for business activity (Lange and Haines 2015, 1–27). This offers a new direction for exploring labour and civil society networks.

The idea of networked regulation and governance focuses on the actions of relatively weak actors and identifies the significance of local, regional, and international groups working together for a common goal such as fighting wage injustices. Networked regulation, for this research, involves the idea of intervening in the regulatory process to resist, influence, demand, coerce, and create change (Braithwaite and Drahos 2000, 7, 35). It is premised on the idea of having "connected strands of weak or strong influence or control" in creating influence and shaping behaviour (Drahos 2017, 258). Braithwaite and Drahos also theorise networked partners can unite in the form of counter-forces that can observe and control non-compliant behaviour (Braithwaite and Drahos 2000, 612). Therefore, networks are a strategy through which weak actors create regulatory and governance opportunities.

Further, Braithwaite, Charlesworth and Soares discuss that networked regulation and governance offer a model of creative persistence (2012, 263). Drawing from this conceptualisation, I observe an array of strategies to demand justice for wage theft at the grassroots level and the support networks for vulnerable workers to step up and enter formal justice pathways. Support and resources are imperative for regulatory and governance networks driven by grassroots labour organisations to persist and grow. Networked regulation, therefore, offers an important framework to analyse this issue for its scope to capture workers' use of different complaint mechanisms to seek redress as well as what makes it possible for women apparel workers to have access to those mechanisms.

It is particularly interesting how women appear in this network, given the gender stereotypes, culture and social expectations around factory women.[4] From a TFM perspective, Shanti Dairiam, a Malaysian feminist, in her analysis of culture and stereotyping in feminist struggles discusses how only having the right rules in place will not result in change, although rules are essential (Dairiam 2014, 371). She states how individuals must have the capacity to take advantage of the opportunities that the laws

[4] Capitalist notions of including women in the economy couched in expressions such as "productive femininity" and "slender, nimble fingered" women. These along with other expressions such as "feminized cheap labour," "cheap, docile and dexterous third world woman worker" are used more critically by sociology and gender scholars. It is too convenient to assume that women more readily accept exploitative labour conditions due to said docility or succumbing to economic pressure: *See* Elson and Pearson (1981), Ruwanpura (2011), Salzinger (2003), and Wright (2007).

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offer. Nevertheless, culture conditions how women are not positioned to take action to their best advantage in the same way as men. She discusses how this limits women's options in public life and leads to structural inequality. In my research, gender struggles and the culture of excluding women from seeking legal pathways for redress feature prominently. Although my analysis does not fully engage with the idea of TFM, it draws from the importance of grassroots level activism and the broader implications it has for women workers (Moghadam 2014, 54–57). I expand on this in the context of wage theft complaints as well as the movement and activism in shedding light on the struggles of women workers in harnessing labour networks.

The apparel industry, at the local level, is a classic eco-system where there is industrial pluralism and multiple actors that compete to regulate. Actors located transnationally and locally are international buyers and fashion brands, contractors, employers, workers, their representatives, and others. Diverse norms ranging from national law and policy, industry codes, collective bargaining arrangements, international human rights, and other standards apply to labour regulation within the industry. The apparel industry and its associated supply chain can be conceptualised as a semi-autonomous social field. Moore explains that a semi-autonomous social field "has rule making capacities, and the means to induce or coerce compliance; but it is simultaneously set in a larger social matrix which can and does affect and invade it, sometimes at the invitation of persons inside it, sometimes at its own instance" (Moore 1973, 720). As a result, actors within the industry can choose what norms should govern them at a given time. Sally Falk Moore in her book *Law as Process* draws the example of the New York "dress industry" in the 1960s to illustrate how a semi-autonomous social field works, its internal and external links, and how legal, non-legal and illegal norms "intermesh" in its activities throughout the year. The social field of the apparel industry appears even more complex after four decades since Moore's exploration. It leaves scope to examine how the different actors draw in norms to legitimise regulation and regulatory influence within the industry and across its complex globalised supply chain, through the issue of wage theft in my study.

With a focus on worker voice, I use qualitative methods in analysing empirical data of worker experiences. I conducted fieldwork for this study between 2021 and 2022 in the form of semi-structured interviews with workers, women's labour organisations, trade unions, activists and state regulators in Sri Lanka and other apparel sector stakeholders such as representatives of regional labour collectives. I use pseudonyms for all workers who are quoted in this article, for their safety. Data have been further supplemented by reports on wage theft by labour and civil society organisations. In order to centre the discussion on the lived experience of workers, this study explores labour negotiations beyond the laws and related rules. In this study, adopting a socio-legal methodology (Grace and Wilkinson 1978, 4–44), I construct what transpired at the ground level in order to meaningfully engage with the implementation of the law. In doing so, I draw out themes around labour's response to wage theft beyond rule implementation, in a broader social, political, and economic context that is further complicated by the different layers of the globalised apparel supply chain. The article maps a dynamic multi-layer regulatory system with the potential to address wage injustices that emerge from interactions between workers, their representatives, and other stakeholders, not limited to national and international laws and policy standards.

3. Contextualising the issue: Understanding pandemic induced wage theft

> During the lockdown period, people who earlier earned Rs. 40,000 (AUD 191.10) only received Rs. 9500 (AUD 45.39) as salary [per month]. We could not survive with that

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> money . . . . We needed to pay the boarding fees, send kids to school, pay vehicle leases, loan interests, instalments for pawned gold jewellery, and we had bought household goods on credit. Workers covered all these payments with that little money they earned. In the end, when we received only Rs. 9500 we had no fallback option.[5]

Chandi, who I quote above, a Juki machine operator at a garment factory in the Katunayake export processing zone (EPZ) in Sri Lanka described the hardships caused by low wages during the pandemic. All women workers interviewed for this research believed that, even in normal times before the pandemic, their wages did not reflect the time and effort invested in their jobs. They described situations in which they were required to stand in front of the machine for long hours and cut their lunch break short so that they could meet the daily target. Meeting these targets set by employers will secure them an efficiency bonus at the end of the month. Whereas the entry-level salary of a machine operator varies from LKR 22,000 to 25,000 (AUD 105.10– 119.44) per month, the living wage for an apparel worker in Sri Lanka for 2022 is calculated to be LKR 94,400 (AUD 450.99) per month by labour organisations (Asia Floor Wage Alliance 2022).[6] Like Chandi, workers at 35 other manufacturing factories in Sri Lanka faced unpaid wages, forced resignations, and wage deductions during COVID (Business and Human Rights Resource Centre 2020).

Underpayment or non-payment of wages is recognised as wage injustice that amounts to wage theft. Wage theft occurs when the employer does not pay the worker the minimum amount, or allowances or entitlements outlined in the contract of employment or the agreement that one works under (Wage Theft Australia 2023). Wage theft is not limited to non-payment or paying a lesser amount than what the workers are entitled to as wages. Although this study closely examines a pandemic example of wage theft, the issue of low wages, non-payment of wages, and paying workers below the national minimum wage persisted even before the pandemic, hidden under the layers of global production chains.[7] International worker coalitions claim that buyers or the brands from the global North were liable for the non-payment of full wages/allowances/other entitlements of workers in garment factories in the global South as such non-payment is a direct consequence of the actions of these global companies and brands (Asia Floor Wage Alliance 2021b).

Wage theft also includes other forms of injustices through which employers unduly benefit, e.g. not paying the entitled benefits, not paying overtime, not providing legally stipulated breaks, non-payment of or incorrect calculations of compensation for lay-offs, and not giving workers statutory leave. Wage theft is not only a loss for workers, but also has a detrimental impact on the overall economy of a country. Therefore, countries in the global North have introduced laws to regulate this matter. There are claims on non-implementation of existing laws in the global South countries in general (Advocacy Unified Network 2023). In this context, Sri Lanka currently does not have direct legal provisions regulating wage theft.

Chandi and 21 other workers from their garment factory are complainants to an inquiry on their factory's non-payment of wages and compensation during the pandemic and factory closure following the pandemic. Their complaint was filed in April 2021 with the Industrial Disputes Division of Sri Lanka's Labour Department against their local companies and international buyers as joint-employers. This complaint sets a precedent for two key reasons: first in examining the connection of international buyers and fashion

[5] Interview with Chandi, worker in a garment factory in the Katunayake Export Processing Zone, Sri Lanka, held on 27 October 2021.

[6] Latest living wages AFWA released in 2022.

[7] For instance, *see generally* Rosa (1991); 1000 garment workers in Cambodia went on a strike over unpaid wages and benefits in January 2020. It took more than a year for worker salaries to be paid after selling the factory's assets; *See* Sovuthy (2020, 2021).

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brands as joint-employers of local apparel workers, and second, in utilising the industrial disputes mechanism without any dedicated laws and procedures to combat wage theft. These workers claimed that international buyers have benefited from their work for a number of years and should be considered joint-employers in this complaint, alongside their factory. Another group of workers from a different factory followed with a second complaint. Accordingly, two groups of apparel workers lodged complaints of joint-employer liability for non-payment of wages and compensation and other related benefits with the Industrial Relations Division of Sri Lanka's Labour Department.[8] These complaints break new ground in trying joint-employer liability for wage theft in global supply chains.

Wage-related injustices necessitate collective bargaining and worker voice. Effective worker voice and negotiation mechanisms can open up discussions on wage-related issues. Such forums enable employers and other regulators to make better decisions that meet the demands of the workers. However, these forums have been weakened and therefore either inaccessible or ineffective, which I discuss below. In the case of apparel supply chains, I observed how workers are resorting to collective pathways as the existing conventional worker voice mechanisms are not effective in influencing regulators to address injustices that the workers face at the ground level.

Although wage-related injustices impact all workers across sectors, the article examines how the injustices affect women workers in the apparel supply chains differently. In addition to being at the very bottom of the supply chains, gendered discrimination specifically places women workers at a disadvantage as shop floor workers. Adding to the vulnerability of women workers were pandemic and economic crisis-related risks. During interviews, workers shared extreme concerns about job security and in some cases securing the family income by being the breadwinners of their families.

3.1. Wage theft in apparel supply chains and formal labour bargaining: The gaps

Inequitable wages and wage-related injustices have been at the centre of worker action and advocacy for about a decade[9] but scholarship around wage theft is relatively recent. Moreover, literature and legal and policy responses to wage theft remain noticeably underdeveloped in Asian countries. Scholars, mostly with a focus on the global North, discuss aspects such as the causes of wage theft (Clibborn 2020, 331) failure of the current enforcement regimes (Hallett 2018, 94), and regulating wage theft (Lee and Smith 2019, 759–822).

Setting a minimum wage is the first step in regulating wage theft. That in itself cannot address the full extent of the issue of unjust wages (Hallett 2018, 94–152; Lee and Smith 2019, 759–822). Sri Lanka does not have dedicated wage theft laws[10] such as the USA[11] or Australia.[12] All countries in Asia, including Sri Lanka have a stipulated statutory minimum

[8] Two complaints jointly taken up under the complaint number IR/M/11/2021, originally filed with the Industrial Relations Division of the Department of Labour Sri Lanka; Interview with Swasthika Arulingam, Lawyer and activist, held on 08 August 2021.

[9] For example, *see* Milkman et al. (2010) and Wallace-Wells (2016).

[10] However, there are criminal penalties for the non-payment of wages and the contribution from the employers to a worker's employee provident fund (EPF) and the employee trust fund (ETF); Employees Provident Fund, Act No. 15 of 1958 (Sri Lanka) and Employees' Trust Fund Act No. 46 of 1980 (Sri Lanka).

[11] For instance, Assembly Bill 1003 by state lawmakers in 2021, in California, criminalises wage theft by adding a provision to the Penal Code. This law establishes that intentional theft of wages or tips is punishable as theft: *California Assembly Bill* 1003 (2021-2022, Regular Session).

[12] See for instance, intentional underpayment of wages, including by making wage theft is a criminal offence and attracts significant civil penalties under the Fair Work Act: *Fair Work Act* 2009 (Cth), s 325, 326. A new Amendment in 2003 permits only employee-authorised deductions: *Fair Work Legislation Amendment* (Protecting Worker Entitlements) Act 2023 (Cth).

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wage (International Labour Organization 2020a, 62). Sri Lanka, in fact, boasts of paying a higher than the minimum wage for apparel industry workers. The apparel industry minimum wage for a skilled machine operator is LKR 13,550 per month (AUD 65.36)[13] whereas the national minimum wage is a fraction lower at LKR 12,500 per month (AUD 60.29).[14] This minimum wage for the industry, however, is relatively too low compared to other sectors and the gains of the industry as the highest export earning industry in the country.

However, rules around minimum wages are only part of what is needed to address wage theft. ILO in its Global Wage Report 2020–2021 suggests that a minimum wage can help reduce wage and income inequality only if the following factors also exist: effectiveness of timely reforms, adequacy of implementation measures, and characteristics of wage earners and their ability to bargain (International Labour Organization 2020a, 60–158). As such, non-compliance, the level at which the minimum wage is set (setting it too low will not protect workers and their families), and too infrequent amendments to minimum wage laws that do not reflect inflation, etc. determine its impact on inequality (International Labour Organization 2020a, 98). In Sri Lanka, minimum law revisions are infrequent and currently do not reflect inflation. I discussed above how there is a massive gap of close to LKR 70,000 (AUD331.55) between the minimum wage for an apparel worker in Sri Lanka and the living wage that will help them achieve a better quality of life. ILO, therefore, emphasises how deciding the minimum wage must be done with the full participation of all stakeholders by way of evidence-based negotiations (International Labour Organization 2020a, 65). Furthermore, the impacts of the pandemic on total wages fell differently on lower paid workers and men and women (International Labour Organization 2020a, 27). Women in low-paid jobs were disproportionately impacted.

In addition to ILO, other studies discuss different strategies to combat wage theft. More broadly analysing the issue of wage theft, a US-based study[15] reveals that the most common strategies to regulate wage theft, in general, fall into five categories: "(1) authorize worker complaints; (2) create or enhance penalties; (3) regulate information; (4) strengthen anti-retaliation protections; and (5) expand employer liability" (Lee and Smith 2019, 762). While all these strategies are crucial in battling wage theft from various angles, the first barrier for vulnerable workers is accessing these mechanisms. This reality is crucial to my case study.

Even if the laws are in place, wage rights claiming and accessing rights enforcement mechanisms can be difficult for different worker groups. Lee and Smith note how complaining may not be an option for vulnerable workers (Lee and Smith 2019, 762). A legal consciousness scholar Susan Silbey notes how claiming rights may be "easier to bear for those who have many forms and volumes of capital" but is "a heavier, often disabling burden that reinscribes disadvantage for those with less" (Silbey 2005, 354). I observed this in women workers' responses to questions on payment of wages during the pandemic.

Furthermore, rules, collective bargaining and tripartite agreements do not always translate into the envisioned goals. Such situations place particularly vulnerable women workers at risk. One such example is a tripartite agreement by the Sri Lankan apparel industry stakeholders to prorate worker wages during the pandemic (International Labour Organization 2020b). When COVID-19 was rampant within the EPZs in particular, several

[13] The total amounts to LKR 17,050 with two additional budgetary allocations: *The Wages Boards Ordinance*, in the Gazette Extraordinary of The Democratic Socialist Republic of Sri Lanka (07 January 2022), 9A <https://labourdept.gov.lk/images/PDF_upload/ExtraGazettes/2261-75_e.pdf≥.

[14] The National Minimum Wage of Workers Amendment Act No. 16 of 2021; LKR 16,000 with two budgetary allocations.

[15] The first comprehensive survey and critical analysis of state and local laws enacted over roughly the past decade through a compilation of 141 state and local laws in the USA: *See* Lee and Smith (2019).

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factories across the country closed down or opted for mass worker retrenchment (Dias 2020). In order to mediate the situation and prevent job loss of workers, apparel industry stakeholders including national level trade unions entered into a tripartite agreement.[16] During the early stages of the pandemic, the Ministry of Labour, the Employer's Federation of Ceylon (EFC), and some national level trade unions entered into a collective agreement regarding payment of wages. The agreement was for employers to,

> apportion and pay wages for the days worked based on the basic salary, and for the days not worked (days on the bench without any work) wages will be apportioned and paid either at the rate of 50% of the basic wage or Rs. 14,500, whichever is the highest.[17]

This agreement was effective during COVID-19 health and travel restrictions, aiming to ensure the continuity of business and promises to prevent retrenchment/lay-off of workers.

The agreement led to several unforeseen issues that were evident in my field interviews. During interviews, workers shared that all the allowances that they were usually paid in addition to their basic salary, such as efficiency allowances, were stopped, and the attendance allowance was cut in half after the pandemic.[18] Workers received only the basic salary, which was inadequate to meet their monthly expenses. Worker organisations confirmed that some workers such as Chandi received less than the statutory national minimum wage, which is a violation of the national law.

Later, local labour lawyers argued that this ad hoc agreement had no legal basis due to two reasons: (1) It was signed by the parties but has not been formalised in any manner (such as being gazetted). The agreement sought to vary the existing employment law, but its informal nature made it impossible to hold any party accountable. (2) The agreement sought to change existing employment contracts of workers, employment laws such as the Wages Board Ordinance and the National Minimum Wage of Workers Act and was silent on matters such as the inability of employers to pay (Dunuwille and de Alwis 2020, 2–3). Furthermore, women's organisations and new women-led trade unions questioned the origins of this agreement for the lack of worker representation in its negotiation process. They advanced that there was no sufficient representation of workers, especially of women workers, and that the negotiations only involved a few leading trade unions.[19] When labour bargaining was ineffective in this manner, the women's organisations resorted to other pathways to demand justice for wage violations by the employers.

Autonomous worker voice is crucial to hold employers and the state accountable under the laws or rules flowing from collective agreements. Scholars identify that "energised worker movements" are key to driving the state to act on promoting the rights of low-wage workers (Lee and Smith 2019, 761). This is not to completely rule out the formal bargaining mechanisms, like the trade unions. Given Sri Lanka's current political state and economic crisis (Al Jazeera 2022; Maduwage 2020). litigation, advocacy, and other related pathways hold the most promise in addressing wage injustices faced by low-paid women workers.

[16] ILO, 'Tripartite Agreement Reached to Pro-rate Wages Based on Varied Levels of Deployment' (Website, 08 May 2020), https://www.ilo.org/resource/news/tripartite-agreement-reached-pro-rate-wages-based-varied-levels-deployment.

[17] The Scheme of the Tripartite Agreement as conveyed by the Employers' Federation of Ceylon Circular No. 31/2020.

[18] Interview with Chandi, worker in a garment factory in the Katunayake Export Processing Zone, Sri Lanka, held on 27 October 2021; interview with Chami, worker in a garment factory in a remote town in the Western Province of Sri Lanka, held on 05 September 2021.

[19] Interview with Chamila Thushari, Coordinator, Dabindu Collective Sri Lanka, held on 10 August 2021.

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4. A worm's eye view of negotiating wage injustices in Sri Lanka's apparel industry

> On the first day of every new year, our management welcomes workers with elaborate speeches on how we are all like family. But our factory closed down in the early months of the pandemic and we were left without jobs. I would like to ask how anyone could abandon their family during difficult times.[20]

Like Latha, whose words I quote above, over 1400 Sri Lankan apparel workers, largely women, were affected by lay-offs, partial payment or non-payment of wages, and non-payment of benefits in early 2020. This section presents the ground reality of wage theft using findings from field interviews.

Worker wages are more likely to absorb "downward competitive pressure" in attaining a competitive market price for manufactured goods than other costs[21] in the global value chains (Joint Ethical Trading Initiatives 2015; Starmanns 2017, 5). Wages are directly influenced by the purchasing practices of buyers with their suppliers, and imbalances of power and lack of information for workers which leave them dependent on employers. Buyers, in fact, possess more decision-making power than suppliers and workers remain largely absent from any bargaining in this equation (Joint Ethical Trading Initiatives 2015, 23; Vaughan-Whitehead and Pinedo 2017). Scholars have identified the issue of wage theft as one with serious impacts on the working poor, yet receiving little attention from law and policymakers (Hallett 2018, 94). I discussed above an example of a collective agreement that ultimately failed to protect the interests of workers. In this context, data demonstrate that workers actioned a collective voice through two different pathways: wage theft campaign and wage theft complaints.

4.1. Wage theft campaign

In the wake of the pandemic in 2020, Sri Lanka was forced into several lockdowns, just like other garment industry hubs in South Asia, which had severe implications for the garment industry. Several factories across Sri Lanka closed down or opted for mass worker retrenchment (Dias 2020). During interviews, a representative from Asia Floor Wage Alliance, an Asia-based labour collective mentioned that "the closure of the factory was a strategy for mass retrenchments, and evasion of payment of full wages and benefits, when facing reduced orders from the brands."[22] Asia Floor Wage Alliance (AFWA) facilitates and supports the wage theft campaign in the South and Southeast Asian countries.

Although opening factories during the early days of the pandemic was a positive move in the interests of the global supply, it had a negative impact on the workers. The factories which initially could not operate under lockdown conditions started opening in May 2020. It was a welcome move to ensure uninterrupted supply for the demands of international buyers. Apparel workers at one point were recognised as an "essential service" and therefore exempted from COVID restrictions in the country (Ecotextile News 2021). This meant that the workers risked their lives under unsafe health conditions at the workplace and while travelling to work. The number of workers called into work per shift was reduced significantly due to social distancing requirements, but this was not reflected in a change in the daily production

[20] Interview with Latha, a worker in a garment factory in the Western Province, Sri Lanka, held on 27 September 2021.

[21] Such as material, transport or energy; *See* Joint Ethical Trading Initiatives (2015), p. 23.

[22] Interview with South Asia Coordinator, the Asia Floor Wage Alliance, held on 10 August 2021.

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target.[23] While the daily targets remained the same as pre-pandemic times worker wages and all their allowances were slashed.

In addition to non-payment or partial payment of wages, AFWA reported underpayment of overtime, non-payment of overdue overtime, and non-payment or partial payment of bonuses for Sri Lankan apparel workers which are also forms of wage theft (Asia Floor Wage Alliance 2021a, 31–33). Confirming this, during my interviews, Sandi from a garment factory in the Katunayake EPZ shared that their bonus payment for December 2020 was delayed until a local trade union interfered, set up a union within the factory, and negotiated on behalf of the workers.[24]

A year into the pandemic, worker organisations started to flag wage injustices in apparel supply chains and how the non-payment of wages or salary cuts incurred significant hardships for workers. The already dysfunctional bargaining mechanisms for the industry led to the formation of a tripartite agreement which was later noted to have "no legal basis" (Dunuwille and de Alwis 2020), which I have discussed above. Reports covering the wage theft campaign in Asia, explore the compounding effects of wage theft on shop floor workers in Sri Lanka, which are often obscured. Their key findings reveal the heightened vulnerability of this workforce: during the period of non-payment or reduced payment of wages, workers did not have enough savings even to survive short lay-off periods of one month without: "1) reducing consumption; 2) incurring debt or buying essentials with deferred payments, or 3) liquidating assets" (Asia Floor Wage Alliance 2021a, 33).

Sri Lankan women workers' organisations and other trade unions joined a global campaign against international fashion brands that abandoned workers during a difficult time. About 200 organisations worldwide launched this global campaign against fashion brands to hold these international buyers accountable for the economic plight of apparel workers in their sourcing countries (Clean Clothes Campaign 2021). Brands and retailers refused to pay the dues (Clean Clothes Campaign 2021), cancelled their orders including those completed as well as those in mid-production (Worker Rights Consortium 2020), and used the decreased consumer demand for clothing during the pandemic to solicit even lower prices from manufacturers and suppliers (Reza and Du Plessis 2022). This is in fact when some of the big apparel brands (ResearchFDI 2021) had returned to profitability. Here, the wage theft claims were based on the joint-employer liability of these fashion brands for the plight of the workers.

Sri Lankan workers, along with trade unions and organisations, led several campaigns to urge action on the part of fashion brands such as Nike and Next. Among these are the #payyourworkers petition (Pay your Workers Organisation 2021) and Money Heist—COVID-19 Wage Theft in Global Garment Supply Chains Reports and campaign (Asia Floor Wage Alliance 2021d). The extent of the campaigns was significant—over 200 unions, civil society organisations, and groups from over 40 countries joined in solidarity with this cause (Clean Clothes Campaign 2021). The range of actors involved those from local grassroots women's labour groups, worker unions, regional trade union alliances, and international organisations and networks such as the Clean Clothes Campaign (CCC). In that light, this movement appears as a positive trend in worker activism.

Overall, the wage theft campaign was a significant labour milestone in Sri Lanka for its focus on a previously uncontested issue. Campaign's awareness creation, spotlighting worker struggles at the local level and transnational alliances gave rise to a strong bottom-up force against wage injustices.

[23] Worker interviews conducted with Sri Lankan apparel workers in May–December 2021 and March–April 2022.

[24] Interview with Sandi, a worker in a garment factory located within the Katunayake EPZ, Sri Lanka, held on 08 November 2021.

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4.2. Wage theft complaints

While advocacy around wage theft was ongoing, Sri Lankan women-led labour unions and organisations—the Stand Up Movement and the Textile Garment and Clothing Workers Union (TGCWU)—lodged two complaints with the Labour Commissioner for an inquiry into non-payment of worker wages and bonuses, and mass retrenchments without adequate compensation in two factories, Hirdaramani Mercury Apparel (Pvt) Ltd and Smart Shirts Lanka Ltd. in Katunayake, Sri Lanka. These complaints were filed as joint liability claims against the local employers as well as their international buyers for factory-level labour rights violation during the pandemic. Allegedly, big global fashion brands pulled out their orders.[25] The local wage theft campaign by grassroots women's organisations, trade unions, and regional labour collectives called out these "irresponsible purchasing practices" by the fashion brands resulting in "unfair labour practices" which had "human rights impacts on workers" (Asia Floor Wage Alliance, 2021c).

Over 1400 garment workers, a majority of low-income earning women workers, of two factories were directly affected (Asia Floor Wage Alliance 2021c). According to a report by a labour collective, workers have claimed that they were paid their wages when one factory shut down in April 2020 during the first countrywide lockdown (Asia Floor Wage Alliance 2021a, 19–40). Workers who had a period of service of less than six months with the factory were all terminated without compensation (Asia Floor Wage Alliance 2021c). Another batch of workers was terminated between May and September 2020, allegedly without adequate compensation (Asia Floor Wage Alliance 2021b, 23). When workers reported back to work in May 2020 the production targets that were given, according to workers, were impossible to meet and they received only the basic wages with no overtime or bonus payments (Asia Floor Wage Alliance 2021b, 23).[26] Those who had been with the factory for over one year were offered the option either to accept compensation and leave the job or to transfer to another factory of their group. "Since there was no opportunity to choose where they would be transferred to workers who had been working for long years were forced to leave the factory without full compensation," claim the worker representatives.[27] Worker representatives also claim that in calculating the compensation amount, the date considered was April 2020, although different workers resigned at different time periods even after that. As a result, "workers who completed 5 years of employment after April 2020, lost their gratuity payments," they added (Asia Floor Wage Alliance 2021c). Although the management had indicated the factory would close down, some factories re-opened for production with only 400 workers in January 2022, after closing down in September 2021. Worker representatives suspect that the factory closure during COVID was a strategy for mass retrenchments and evasion of payment of full wages and benefits to workers.[28] Labour collectives highlight how, in this process, the global fashion brands being "buyers" maintain distance from the suppliers, thereby evading their legal obligations towards workers (Asia Floor Wage Alliance 2021b).

[25] During interviews, worker representatives referred to fashion brands such as Levi Strauss & Co., PVH Corp., ASICS, Columbia Sportswear Company, G-III Apparel Group Ltd: Interviews with Lalith Dedduwakumara, Chief Organiser of the Textile Garment and Clothing Workers Union (TGCWU) of Sri Lanka on 10 August 2021 and 28 March 2022; Interview with Ashila Dandeniya, Executive Director of the Stand Up Movement, interview held on 12 September 2021; and Interview with South Asia Coordinator at the Asia Floor Wage Alliance, held on 10 August 2021.

[26] Interview with Chandi, a worker in a garment factory in the Katunayake Export Processing Zone, Sri Lanka, held on 27 October 2021.

[27] Interview with Lalith Dedduwakumara, Chief Organiser of the Textile Garment and Clothing Workers Union (TGCWU) of Sri Lanka on 10 October 2021 and 28 March 2022; Asia Floor Wage Alliance (2021c); South Asia Coordinator at the Asia Floor Wage Alliance, held on 10 August 2021 and 04 April 2022.

[28] Interview with Lalith Dedduwakumara, Chief Organiser of the Textile Garment and Clothing Workers Union (TGCWU) of Sri Lanka on 10 August 2021 and 28 March 2022.

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The logic of the wage theft claims was that the supplier is fully dependent on the brands financially and that the brands have overarching power on the supply chain at all stages including worker performance and wages. AFWA identifies this as "a concealed relationship of control" (Asia Floor Wage Alliance 2021b). Worker organisations argue that the industry norms on employer–employee relationship should be extended to joint-employer liability (Asia Floor Wage Alliance 2021b). This effectively means that the international buyers cannot have impunity for non-payment of worker wages in offshore manufacturing facilities. During the pandemic, in particular, suppliers in the manufacturing countries were unable to pay their workers. This was partially owing to buyers' decisions to cancel orders or ask for discounts. Therefore, the workers collectively claim that the buyers, who still have recorded noticeable profits in the second half of 2020, need to be held accountable too. Supply chain exploitations occur due to a "significant governance gap" in interactions within them, as a result, the domestic (of buying and even supplying countries) and international law does not appear to regulate corporate activity (Sarfaty 2021, 229–33).

The labour organisations claim that irresponsible purchasing practices of global fashion brands have caused several months of extreme hardship to workers employed in the two factories specifically. Added to this are the strenuous working conditions and risks workers faced during the pandemic time. In the complaints made, complainants have urged the Labour Commissioner "to hold the brands jointly liable for compensating the economic loss suffered by the workers." Swasthika Arulingam, counsel for these joint complaints stated that, "It is for the first time that an inquiry will be conducted within the national jurisdiction of a garment production countries into the actions of global fashion brands that led to adverse impacts for workers in their supply chains." The Labour Commissioner accepted the complaints for further investigation in April 2021.[29] During my recent interactions with the claimants, I learnt that the case has now been directed for arbitration under the Industrial Disputes Act of Sri Lanka.[30] Claimants shared that the "employers are more powerful than the state" but that they remain hopeful about the national labour law apparatus before seeking remedies provided by international law.[31] Next, I examine the wage theft complaints using networked regulation and governance and supply chain complexities based on semi-autonomous social fields.

5. "In search of cheap wages, capital roams around the world": Collective voice to influence wage theft regulation

> Neoliberalism means that when wages go up here, they move to a cheaper place. They don't care what happens to the people who used to work here. That beautiful name of "flexibilisation" is in fact brutal and violent. It may just be another name for being fired, for poverty, for murder, and for degrading human value. In search of cheap wages, capital roams around the world.[32]

This quotation is extracted from a book by the Korean author Ji-Young, in which she chronicles the tragic story of Ssangyoung Motors worker retrenchments and worker suicides that followed (Jae-bong 2012). The extraction offers a profound beginning to my

[29] Interview with Abiramy Sivaloganathan, South Asia Coordinator at the Asia Floor Wage Alliance, held on 10. August 2021; Asia Floor Wage Alliance (2021c).

[30] *Industrial Disputes Act* (Sri Lanka), s 3(1)(c) and 4(1).

[31] Interview with Lalith Dedduwakumara, Chief Organiser of the Textile Garment and Clothing Workers Union (TGCWU) of Sri Lanka on 10 August 2021 and 28 March 2022.

[32] Ji-Young Gong translated and quoted in Choo (2022), p. 83.

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analysis in this section by highlighting the structural injustices of supply chains that frustrate workers at the lowest levels of the supply chain. Fortunately, in my case study, there is resistance instead of submission to these structural injustices.

I expand on the above examples of workers navigating wage injustices and examine workers' contribution to regulation more broadly below. This is with a view to considering different forms of collective worker voice and a dynamic regulatory structure emerging from the ground and to understand how they organise and legitimise their claims within and outside the apparel industry.

5.1. Supply chain model and structural injustices: Is there a way out for workers?

The supply chain model facilitates various forms of exploitation of its workforce. This links to my conceptualisation of the apparel industry as a semi-autonomous social field, above, that can govern itself by norms and actors within the industry. However, it can be influenced by the larger legal and social matrix outside. Worker advocates claim that this structure is created purposely to maintain continuously "low and exploitative wages which fall far short of meeting the most basic needs of garment workers and their families . . . despite brand commitments on living wages" (Business and Human Rights Resource Centre 2021, 19). The industry has its own rule and norm-making ability which significantly weakens the position of the workers when they cannot effectively participate in that rule making process. At the same time, when there is no effective and accessible redress even outside this industrial world, workers must bear the toll.

Supply chain exploitations occur due to a "significant governance gap" in interactions within the different layers of the supply chain. This governance gap is a result of at least two key reasons: First, the complex transnational relationships within the supply chain obscures the flow of information and therefore leads to power imbalances making the position of workers weak; second, the complexity obscures accountability.

On the first point of information, the shop floor workers do not receive adequate information about their rights and entitlements. During interviews with workers, it was clear that the most crucial piece of information communicated to women workers are the daily targets and their efficiency. Information about the production process as well as rights and entitlements are crucial for effective labour rights negotiations. However, there are no mechanisms to effectively communicate these to workers.

A strong example for this is the non-autonomous forms of labour bargaining, such as employees' councils, endorsed by the apparel industry that disempower workers. Sri Lanka currently hosts about 300 garment factories registered with the Export Development Board ranging from large, medium to small scale (Sri Lanka Export Development Board 2024, 3). These factories are situated both inside and outside of the 11 designated EPZs and Industrial Parks dispersed across the island. The Board of Investment of Sri Lanka (BOI) extends its special access and tariff concessions to all factories, opened through them, regardless of whether factories are situated inside or outside the EPZs (Athukorala 2018, 150). A common policy governs industrial relations within the zones. As a result, the factories have established a forum called "employees' councils" as an enterprise-level discussion and a negotiation forum for employers and employees (Board of Investment of Sri Lanka 2004). Trade unions attempt to attain some power and representation of workers but they are too weak (Ruwanpura 2015, 118–41) to compete with employees' councils. These councils, although consisting of elected worker representatives and representatives from the management, are too dependent upon employers which restricts workers' autonomy. Unlike trade unions, which depend on their member-funded "check off," employees' councils are funded by the employers, employers organise elections depending

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on the necessity, and workers claim that they cannot raise genuine workplace issues at these forums as they fear being identified and losing their jobs.[33]

Furthermore, women workers are often not visible in the trade union leadership spaces which are considered autonomous, especially at the national level where crucial labour rights are discussed and negotiated. For instance, the National Labour Advisory Council (NLAC) a tripartite consultative mechanism (administrative) that provides for consultation and cooperation between the state, trade unions, and employers at the national level on matters relating to labour policies and international labour standards did not have women representation from workers until 2021.

On the second point, supply chain complexities obscure the links between employers and employees and who benefits and profits from whose work. It also obscures accountability for rights violations. Transnational supply chains are such that they pass on accountability to the most direct employer, for instance, the local supplier who is the local employer of workers. As such there is no concept of linked employment relationships across local, national, and international levels. For instance, UNCTAD notes that the "lead firms (buyers) benefit from the severe competition among numerous and almost identical suppliers and select the ones that meet their short-term requirements" (United Nations Conference on Trade and Development 2013, 18). Also, as a result, the domestic (of buying and even supplying countries) and international law does not appear to regulate corporate activity (Sarfaty 2021, 229). Therefore, it is hard to attribute responsibility to actors who benefit the most from the industry transactions.

Sri Lanka's major markets are the USA, UK, and Europe (Sri Lanka Export Development Board 2022, 56); therefore, the major fashion brands that are buyers of the production are located internationally. Since the actors in the apparel supply chain are located both within Sri Lanka and internationally, the fluidity complicates the defining of the industrial relationships. Nevertheless, the connection between buyers and supplying countries is no longer indirect or implicit because buyers' rules and decisions have a chain effect on the production countries. From the choice of a supplier for placing orders to design approval, quality checking, and to factory audits, a lot is determined by the rules of the buyers located in the global North (Rose 2018). Accordingly, these decisions impact how the production process is regulated—how the production is run, production facilities are designed, etc.—in the supplying factories. At the same time, buyer's demands and urgency impact labour regulation or de-regulation due to the required efficiency levels and the ability to keep going until the order is delivered. During the pandemic, some fashion brands and retailers cancelled orders with their suppliers worldwide to cut costs and improve cash flow. These had devastating impacts on the suppliers and workers (Worker Rights Consortium 2020). Therefore, despite the location, buyers and fashion brands located outside the country have to be deemed a part of the semi-autonomous social field of Sri Lanka's apparel industry.

Industrial relations in supply chains appear very loose and unstable which negatively impacts its most vulnerable participants—the workers. Worker organisations argue that the industry norms on employer–employee relationship should be extended to joint employer–employee liability (Asia Floor Wage Alliance 2021b; Rogers 2010). This effectively means that the international buyers cannot have impunity for non-payment of worker wages in offshore manufacturing facilities. In this context, I have discussed the difficulty in filing a joint-employer liability claim against international buyers and fashion brands earlier in this article..

In the current issue of wage injustices considered here, rules on equitable wages and formal voice mechanisms stipulated in the books did not seem to translate into practice as

[33] Interview with Chami, a shop floor worker in a garment factory in the rural South of Sri Lanka, held on 05 September 2021.

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anticipated. However, in combatting structural injustices related to wages, labour rights and human rights standards are an important tool for workers and their representatives. The right to just and equitable remuneration and wages feature prominently in how wage theft complaints are filed as well as how the advocacy network is organised. However, the awareness of rights is highlighted by Moore as key to organisation and mobilisation (Moore 1973, 744). Miranda Forsyth highlights people's awareness of the law is crucial for the "activation" of the law's "instrumental power" (Forsyth 2018, 142).[34] Therefore actors' understanding of the law is often manifested in their behaviour. Unfortunately, most women workers are often unaware of their rights,[35] loyal or scared to raise them because of job security and are not proportionately represented in the leadership of trade unions. This aligns with Cooney et al.'s finding that "the impact of regulatory interventions in the field of labour law (within Asia) is likely to be considerably less predictable than in the west" (Cooney et al. 2002, 1–26). Hence, the strategic intervention by worker representatives through networks and complaints supplemented by awareness and education seems to be an effective approach.

This analysis highlights why grassroots labour organisations that are motivated by worker empowerment and transnational worker networks committed to common goals and justice are crucial. It is in the presence of this support system that workers are empowered to access different forms of worker voice in order to redress wage injustices, even though collective bargaining is ineffective.

5.2. Worker voice and networked regulation in the wage theft campaign and complaints

This article discussed two attempts by the workers to negotiate just wages during the pandemic. While they are both examples of different possibilities of how law translates into practice, they exemplify different dynamics of power, autonomy and collaborations, and the potential of collective labour voice, especially of women workers.

As it flows from the discussion, collectively workers can effectively launch demands for just wages. Findings from other studies confirm this. Lee and Smith in their research on regulatory approaches to wage theft advance, "worker movements can push agencies to reconceive of their approach and make existing anti-wage theft strategies more effective" (Lee and Smith 2019, 764). They claim that efficacy can be attained by (a) differentiating between employers, (b) increasing cooperation with employer networks and worker organisations. This harnessing power enabled the wage theft campaign to progress from the complaint stage.

First, in relation to wage theft complaints in Sri Lanka, these strategic wage theft complaints illustrate how workers leverage power through transnational actor networks. These wage theft complaints have been successful in coming through the labour process and referred to arbitration, without simply being dismissed at the outset. Even though during interviews, officers from the Labour Department of Sri Lanka suggested that holding international fashion brands accountable will only be possible if the brands are prosecuted in their own jurisdictions,[36] the transnational movement on wage theft complaints has proved that there is some hope for workers.

[34] Forsyth defines "Activation" as a concept "broader than enactment, gazettal, implementation, enforcement, or even information sharing or awareness raising, which are typically used in a positivist understanding of how the instrumental power of statute has effect."

[35] Worker interviews conducted with Sri Lankan apparel workers in May–December 2021 and March–April 2022.

[36] Field interviews conducted with the officers of the Legal Division of the Department of Labour, Sri Lanka, held on 27 March 2022.

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These complaints by Sri Lankan unions discussed above, also combine with a bigger transnational joint-employer liability movement. This matter collectively involves other wage theft complaints by worker organisations in eight destinations including Bangladesh and Asian and African countries (Asia Floor Wage Alliance 2021b, 18–23; Business and Human Rights Resource Centre 2021). These complaints resemble strong similarities to Sri Lanka's cases. In all eight cases, over 9000 workers have not been paid the full amount of their wages. The complaints concern 16 international brands that the workers stitch for. On a positive note, three brands H&M, Next and New Look "have indicated that they are engaging directly with local unions, worker representatives or labour groups involved in the cases" (Business and Human Rights Resource Centre 2021, 4). Therefore, Sri Lankan apparel worker representatives can draw inspiration and remain hopeful.

However, to successfully move from complaints to action and implementation there needs to be a transnational state-level consensus on the accountability of international buyers for the rights violations of shop floor workers for their brands. As a progressive step, the European Parliament passed new regulations that require large companies to conduct human rights and environmental due diligence in the entirety of their global supply chains (European Commission 2022). This has important implications for the wage theft issues raised by workers in the manufacturing destinations in the global South and should be explored in future studies.

5.2.1. Advocacy network on wage theft

As discussed above, the labour advocacy network for wage theft was instrumental in filing the wage theft complaints. The transnational network ranging from the workers, trade unions, women's labour organisations and civil society organisations, regional and transnational labour coalitions, and civil society associations all served a common purpose of demanding justice for unpaid workers.

The findings in this study resonate with regulatory scholarship that highlights how the support of or regulation by private and social actors is critical for the success of any regulatory regime, not just governmental regulation. Developing on the idea of advocacy networks, Lange and Haines explore the regulatory capacity of a social sphere and recognise the importance of civil society for the regulation of social and economic risks posed by and for business activity (Lange and Haines 2015, 1–27). In that same vein, I argue that labour can assume such social power by harnessing influence and resources across the globalised labour networks.

The transnational advocacy network on wage theft where local and transnational labour organisations participate in exposing wage injustices in apparel supply chains is an example of harnessing power and resources from transnational labour networks. In their book *Global Business Regulation*, Braithwaite and Drahos map "dense webs of influence" that influence to pull off a global regulatory regime aiming to call relevant actors in business and the state to comply (Braithwaite and Drahos 2000, 13–14). Describing how these webs of influence could be "webs of dialogue, coercion and/or, rewards," Peter Drahos states that webs of influence "offer a more fine-grained explanation of how power is used within such networks to secure regulatory outcomes and bring about institutional change" (Drahos 2017, 258). In this case study, the value of this advocacy network is particularly in providing the necessary attention, education, resources, and power to check the powerful employers and fashion brands for wage theft.

Furthermore, Forsyth's analysis of how different regulatory orders enable or disable the agency and power of various stakeholders and reflect on different institutional realities and underlying values and principles is important here (Forsyth 2018, 140–43). I discuss this in combination with women's labour activism below.

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6. Negotiating wage theft by women workers: Regulation through a gender lens

A gender lens is significant for this study for two reasons. First, it concerns a disproportionate number of women workers aggrieved in the matter. Second, it captures the resistance of women labour leaders and women workers who go against the stereotypes of docile and less-troublesome workers. I further discuss how women are generally excluded from the formal labour bargaining mechanisms and have to rely on alternate forms of voice to negotiate their rights. This case study offers data to consider the potential of women workers and their representatives such as women's labour organisations (which function as civil society organisations) and a handful of women trade union leaders under governance networks.

In Section 3 of this article, I discussed how women workers had to undergo a chain of hardships due to not receiving timely wages, apart from the structural injustice of supply chains. These hardships including the inability to afford nutritious food, provide for their families, defaulted loan instalments, and having to borrow fast cash from loan sharks made them even more vulnerable. These vulnerabilities relate to both economic and social reproduction costs. During an interview, one worker shared that those hardships prompted her to join my interview and share what was happening at her workplace.[37] Therefore, both the wage theft complaints and the advocacy and support network around it are important for women workers. The fact that these women are located in the global South, far away from the international centres where international and national standards on wage rights and worker voice emanate from, makes a transnational network more important.

Women's solidarity in this case study can be analysed under two points: first, it dispels the myth that women need saving by others (Carty and Mohanty 2014, 91). However, my analysis does not undermine the value of cooperation from feminist and non-feminist organisations and actors to make these wage theft advocacy networks possible. Second, it documents links to feminism as well as other goals that drive the movement.

In relation to the first point, the lodging of the wage theft complaints by two women labour leaders is unconventional. This not only signals the capacity of these women leaders to initiate a labour claim without the involvement of male trade unions but also evinces their ability to command the support of the workers. For instance, signing up a list of claimants for a wage theft complaint is hard because of the various barriers at the grassroots level of labour organising. The broader network around this issue is an example of the willingness of women workers and women labour leaders to work collaboratively alongside conventional labour institutions such as male-led trade unions.

Second, a feminist vision and similar values are key for feminist movements to solidify. While this case study needs to be considered exclusively in the context of feminist visions for women workers, the extent to which feminist values link some actors in the network cannot be overlooked. For instance, the two women's unions that have lodged the wage theft complaint are part of a local feminist labour network. At the same time, AFWA as a regional labour collective is also driven by, among other labour values, feminist values and is committed to empowering women workers and their organisations in Sri Lanka and the region. It also highlights the importance of considering gender nuances and struggles in connection to wage theft and worker experiences.

[37] Interview with Selvi, worker in a garment factory located within the North, Sri Lanka, held on 08 October 2021.

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7. Conclusion

The research presented in this article illustrates two pathways in which women workers actioned a collective voice to negotiate their wage rights during the COVID-19 pandemic in 2020. It then traced how women workers organised to seek redress to wage injustices in a system where collective labour bargaining was ineffective. The analysis considered global apparel supply chains as semi-autonomous social fields with their own rule making power, as well as the power to influence the broader social field that it is a part of. In doing that, I attempted to highlight how the most vulnerable groups within the social field, in this case, women workers in particular, negotiate their rights when the formal laws do not have the anticipated impact.

The article developed on the basis that the most necessary step to ensure just wages was the effective implementation of labour rights and negotiation. While regulating wage theft in the global North countries takes different forms from rules to enforcement mechanisms, it highlighted how Sri Lanka does not have dedicated wage theft laws. Women workers must battle to safeguard their rights to just wages in that context. In this light, workers through other pathways such as wage theft complaints and labour advocacy networks fight wage theft. The discussion focused on the other forms of collective worker voice when the official labour bargaining mechanisms did not offer solutions. Rules will be ineffective without committed labour activists and advocates who support workers to enforce their rights. It examined the role of the labour representative in Sri Lanka in an opportune moment, during the pandemic to respond and file labour complaints on wage theft. Even though wage theft complaints are a single act at the national level, the precedent it sets and the advocacy and the campaign around it can translate into legal and policy interventions in the area to prevent future wage injustices in Sri Lanka. Similarly, advocacy on the complaints can act as deterrence for companies in other sectors and manufacturing industries within and outside the country.

The article adopted networked regulation as a lens to illustrate how workers form coalitions and draw power to navigate challenges through other mechanisms where the law is unable to facilitate the change that they desperately hope to make. The discussion on feminist insights and experience from the field highlight the value of considering them in a regulatory analysis. This notion of networked regulation is an alternate lens to re-imagine checks and balances in supply chains in order to balance out the exercise of power and hold more powerful actors in the supply chain, such as employers, buyers, international fashion brands, accountable. While these actions need to culminate in law and policy change, the efforts need to continue for effective implementation of the standards.

The complexity of apparel supply chains can pose barriers to rights claiming. I drew out the importance of labour networks and how they are organised in actioning worker voice. As a minor theme, I discussed how different norms and rights framing can gain workers' influence in wage theft regulation. The attention and repercussions for violators that a human rights framing attracts were both crucial for prompt action by employers. As a key focus, I also considered how women workers participated in labour organising and rights claiming. Here key considerations were using gender as a lens and understanding how structural injustices can further discriminate against women in the issue of wage injustices. The analysis of wage theft complaints and the advocacy network shows that women workers can have a regulatory influence on employers, states, and international buyers with the right leadership and purposeful, committed, and organised transnational support networks. Social actors can maximise the opportunity for securing women's autonomy at the workplace that the legal standards alone cannot always guarantee.

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