



Marta Giaconi*, Lorenzo Giasanti and Simone Varva

The Value of “Social” Reputation: The Protection of MNE Workers from the Consumer’s Perspective

<https://doi.org/10.1515/gj-2020-0076>

Published online April 15, 2021

Abstract: The virtually immediate information propagation has reduced the gap of knowledge once existing between MNEs and customers (i.e. Rana Plaza collapse, 2013). Consumers begin playing an important role in supporting workers. Their growing social awareness has clear economic consequences. MNEs have tried to react to the loss of social reputation, mainly adopting (and imposing to their suppliers) codes of conduct and ethics providing a minimum standard for decent work standards. This article aims to analyze the social reputation and social sustainability that have recently attracted stakeholders’ interest, from different points of view (MNEs, consumers, government and non-government organizations, unions). Those “new” forms of social initiatives (code of conduct, social ranking, consumers campaign, boycotting) are informative and could help to spread ILO labour standards. Clearly, they can represent only an additional support for workers who are struggling in the typical conflict between Work and Capital. The tendency to use a single parameter for assessing the social sensitivity of the MNEs, valid both for the countries “in development” and for those “already developed” risks to lead to a “race to the bottom” trend.

Keywords: social reputation, labour and employment conditions, multinational enterprises

One can survive everything, nowadays, except death, and live down everything except a good reputation, O. Wilde, *A woman of no importance*, 1893

This whole ranking thing, just comparing yourself to people who – Have you seen my charger? – only pretend to be happy. I said don’t borrow this! High fives like Naomi, I bet they’re suicidal on the inside, Black mirror-Nosedive, 2016

***Corresponding author: Marta Giaconi**, Labour Law Researcher, Università Milano Bicocca, Milano, Italy, E-mail: marta.giaconi@unimib.it. <https://orcid.org/0000-0003-0093-2679>

Lorenzo Giasanti, Associate Professor of Labour Law and **Simone Varva**, Associate Professor of Labour Law, Università Milano Bicocca, Milano, Italy, E-mail: lorenzo.giasanti@unimib.it (L. Giasanti), simone.varva@unimib.it (S. Varva)

1 Introduction

Globalisation has had several significant effects on the economy, particularly on the labour market. Similarly, the digital revolution has massively affected the spread of data and information around the world. Thanks to the globalization and Industry 4.0, obtaining knowledge about multinational enterprises' (MNEs) productive processes is now almost immediately available and instantaneously disseminated around the world (Thierer et al. 2016).

The virtually immediate propagation of information has reduced the knowledge gap that once existed between MNEs and customers in the area of working conditions and employment relationships. The growth of social understanding and sensitiveness (Haas and Eckert 2015) has had implications for the traditional conflict between Work and Capital; indeed, consumers are becoming increasingly aware of the impact of their choices, and their purchasing decisions are often influenced by social considerations such as the working conditions of the employees of MNEs and their supply chain partners.

Thus, when the consumer community acts not only to satisfy its personal and atomistic interests but also to pursue a collective interest, it plays an important role in supporting workers in the battle for better working conditions. This collective interest is traditionally presented in terms of environmental aims but has more recently begun to include social goals. Consumers' social awareness has clear economic consequences. The diffusion of alliances, associations, campaigns, boycotts and a variety of other initiatives proves that customers often prefer to buy products produced through a "fair trade" process, which "seeks to promote responsible consumption and provide shoppers with socially and environmentally friendly products" (Raynolds 2012; see Furuno 2019). Notably, consumers favor commodities guaranteed by the use of a "social label" or "social evaluation". Hence, consumers may reward virtuous companies and punish those for not complying with social requirements by making socially conscious purchasing decisions.

From a specular perspective, MNEs have tried to react to the loss of social reputation (and decreasing profits) resulting from the diffusion of information about the absence of decent working conditions, the presence of dangerous workplaces and the use of child labour. In particular, in addition to the corporate social responsibility (CSR) system (ex multis Devinney 2009; Sheehy 2015; Mohr, Webb, and Harris 2001; Öberseder, Schlegelmilch, and Gruber 2011; Smith 2007), many valuable MNEs have adopted and imposed on their suppliers codes of conduct and ethics, thus setting minimum standards for acceptable working conditions and decent work standards provided by international law (despite some

issues related to the control and enforcement of these standards). The use of transnational campaigns to increase the pressure on MNEs and to try to change their behaviour does not represent an innovative tactic. In the United States context, for instance, consumer protests have been utilised since the end of the eighteenth century. More recently, since the 1970s, globalisation has led different groups of stakeholders (e.g. consumers, non-governmental organization (NGOs), community leaders, politicians, religious groups, trade unions and workers' associations) to call for consumer boycotts of products and services, or these groups have decided to attack companies and their brands by drawing attention to the companies' behaviour in an effort to realise their organisational objectives. According to Friedman, boycotts differ with regard to their intended scope: international boycotts appear to have grown considerably in the last few years, especially those concerning social and environmental issues (Friedman 1999). Recently we assist to different form of actions and boycotts, not represented by consumer abstinence but as a “more proactive “buycott” strategy (Friedman 1991, 1996, 1999) that urges consumers to increase their support for exemplary firms” (Kimeldorf et al. 2006).

The theoretical analysis of the impact of the new mechanisms of reputational feedback on the consumer market is massive and its description is not among the goals of this essay. Yet it is meaningful to stress that the over mentioned “give-a-rank” trend can be usefully applied to the employment market and, more generally, to labour and employment relationships.

2 Aim and Structure of the Paper

We aim to analyse how due to the concern of worsening their social reputation companies tend to react by joining some association and social campaign (par. 4.2, 4.3) or by adopting an internal code of ethics (par. 4.1). In particular, we choose to focus on the MNE's formal regulatory performance, mostly represented by the adoption of an internal code of ethics and conduct, to understand whether such policies have a real and effective impact on the increasing conditions of workers. We conclude that MNE's “social” policies, such for instance codes of conduct, could be seen as useful tools for helping State lawmakers to improve working conditions all over the world; we have a more sensitive effect when these (soft or quasi-soft) legal tools are adopted in a developing country, regardless of the real MNE worthy purposes or their potential use as marketing strategies. By discussing an environmental example we demonstrate how in this specific field the role of consumers' opinion serves as an indirect instrument of market regulation (Klein and John 2003). Both environmental and social considerations, indeed, can drive

consumers' choices and, as a consequence, correct MNEs' behaviour (Perulli and Marrella 2009). The structure of the paper represents the three different perspectives: the MNEs' one, the Consumers' one and the Institutions' one. We selected these three stakeholders because they all play an essential part in reaching the UN Sustainable Development Goal n. 8 ("decent work and economic growth") of the 2030 Agenda: it aims to "*promote sustained, inclusive and sustainable economic growth, full and productive employment and decent work for all*".

From the first perspective, MNEs began adopting a code of ethics and, what is more important, imposing their adoption on their suppliers from developing countries. We attempt to understand which is the common content of the above-mentioned codes of conduct and the potential impact of their provisions on the improvement of working conditions and fair competition between market players.

Then, after a description of the most recent and spontaneous consumers' campaign, especially in the garment sector, we outline which is the potential role of the international institutions and the other international players. Taking into account the relevance of MNEs on the global market, we focus our considerations on the ILO initiatives: the MNE Declaration and the Helpdesk for Business on international labour standards. The ILO effort to guide enterprises on social policy and sustainable workplace practices gains more and more importance over time if we consider that the most common code of conduct content is represented by the core labour standards embodied in the 1998 ILO Declaration on Fundamental Principles and Rights at Work.

3 The Environmental Example

One of the most important boycott campaigns concerning an environmental issue has been the dolphin-safe campaign started by the Earth Island Institute (an NGO providing support for the environmental projects) in 1988, with its boycott against the canned tuna industry because of its impact on the safety of dolphins. Indeed, in the Eastern Tropical Pacific Ocean, yellowfin tuna and dolphins tend to stay and swim together; for this reason, the presence of dolphins has been used as an indicator of the presence of tuna. Consequently, dolphins can become entangled in the nets of tuna fishermen, and once trapped the dolphins rarely survive. Because of this unnecessary bloodshed, a boycott of the canned tuna industry was launched, focusing on one of the strongest brands in the tuna industry: StarKist, a Heinz brand. The boycott also extended to all Heinz products. As a direct result of the boycott campaign in 1990, StarKist Tuna decided to become a "dolphin safe" entity. Other US tuna companies quickly followed this example. The Earth Island Institute site stresses that as a consequence of industry participation in the

Dolphin-Safe Tuna Program, “dolphin mortality rates have dropped significantly from 100,000 a year in the 1970s to less than 3000 in 1999, declining further to around 1000 per year more recently” (see <https://friendofthesea.org/marine-conservation-projects-and-awareness/save-the-dolphin-safe/>).

On the other hand, in order to prevent accidental dolphin deaths, the US Marine Mammal Protection Act was modified in 1990 and introduced a general prohibition on the fishing of marine mammals, including dolphins. In 1990, the US Congress adopted the Dolphin Protection Consumer Information Act (DPCIA), codifying the requirements for attaching the Dolphin-Safe label to tuna products. Certain trade restrictions were imposed “which became the core of this Tuna dispute” (Jakir 2013). When some countries did not comply with DPCIA provisions, an embargo was placed on them. Three cases also were brought forward under the GATT and WTO regulations: US–Tuna I (Mexico); US–Tuna (UE–Netherlands); and US–Tuna II (Mexico).

The legal dispute brought by Mexico in 1991 under the GATT provisions was based on the embargo that the US applied to the tuna exporting countries that could not prove to the US authorities that they had adopted the dolphin protection standards set out in the US law. The ensuing panel report in 1991 concluded that the US could not place an embargo on tuna products simply for this reason. The 1991 panel report, although not officially adopted by GATT, also asserted that the US policy of requiring tuna products to be labeled “dolphin-safe” (thereby giving consumers the choice of whether to buy the product or not) did not violate GATT rules.

The second legal dispute initiated by Mexico in 2008 under the WTO rules system was based on the US Dolphin-Safe labeling regime for tuna products. During the proceedings, the US amended the DPCIA labeling rules twice, once in 2013 and again in 2016. As a result, in 2019, the compliance proceedings concluded, finding the US Dolphin-Safe labeling scheme—which had two specific objectives: consumer information and dolphin protection—congruent with the WTO rules system, even if “the question of whether environmental food labels are effective does not yield a clear answer” (Baroncini and Brunel 2019).

As a consequence, corporations became aware of the importance of reputation in terms of their environmental commitment even before they became aware of the importance of reputation in terms of social issues. For this reason, CSR was initially developed in response to environmentalism (see Khojastehpour and Johns 2014 which underlines “the importance of managing environmental CSR for corporations that intend to gain reputation and profitability” and observes how “CRS is an essential element in building and maintaining a favourable corporate reputation and profitability, which is regarded as an important strategic resource factoring into a company’s competitive advantage”; for recent analyses, see, Liao 2018 and

Dasa et al. 2019; for an attempt to integrate the approach to employment and environmental issues, see the “Nestlé Supplier Code” adopted in December 2013 at www.nestle.com. See also [Sen, Bhattacharya, and Korschun 2006]).

4 MNEs’ Initiatives

4.1 Codes of Ethics and Conduct

The ILO estimates that there are presently 24.9 million people in forced labour exploitation and 152 million child workers scattered across the global market (ILO 2013, 2017). Many of these people are being forced to work on the farms that supply the apparel industry, which is supported by the American and European fashion brands. Thanks to the aforementioned spread of information, detailed data on the many sad cases and examples of exploitation, practical abuses and unfair work conditions are rapidly being available to consumers, consumer associations and the media (Donahue 2018). Consider the media and social outcry as a result of the 2013 Rana Plaza collapse. After that disaster, nine organisations, among them Human Rights Watch and the Clean Clothes Campaign, sponsored the signing of a “transparency pledge”, listing the companies that signed on their institutional websites). This widespread availability of information has clear implications for MNEs, particularly those in the fashion industry, since “consumers perceptions are decisive” and “are also strongly affected by reputational crisis” (Sádaba, SanMiguel, and Gargoles 2019).

In response, since the mid-1990s, MNEs have increased their strategies to mitigate their loss of social reputation and offset the profit losses linked to customers choosing not to buy clothing and footwear produced in countries commonly known to use child labour or other forms of exploitation. Particularly in the garment sector, MNEs have started to adopt codes of ethics for employers in their supply chains (mostly in Bangladesh, India, Indonesia, China, and Pakistan) in an attempt to convince their customers that they have been taking concrete steps towards improving working conditions around the world (and in suppliers’ factories, in particular). Nike Inc. was particularly impacted by its loss of social reputation that was caused by the spread of information about its subcontractors’ working conditions. This loss of social reputation influenced its development of policies and image strategies, and in 1992, Nike adopted a code of conduct which it updates, publishes and promotes on its company website under the maxim: “commitment is everything” (Nike’s code of conduct states: “every supplier must comply with our Code of Conduct and Code Leadership Standards—they are a core component of reaching our 2020 targets. In 2017, we updated our NIKE, Inc. Code of

Conduct to better reflect our priorities across labor, health and safety, and the environment, as well as to further align with the expectations of key stakeholders for Nike and our industry [...]. The 2017 update [...] elevated key expectations from the Code Leadership Standards to the Code of Conduct to emphasize the depth of our work and standards on health, safety, and the environment as well as to highlight important labor requirements”. This code of conduct and the more detailed leadership standards code can be downloaded from Nike’s website: <https://purpose.nike.com/code-of-conduct>. See also Sellnow and Brand 2001).

Nike’s internal code of conduct looks like nothing more than a “soft law” instrument of CSR, adopted unilaterally and voluntarily by the company. Its purpose is to set very minimum standards linked to principles and basic freedoms that (at least in the European labour framework) are (or should be) taken for granted. They deal with child and forced labour, overtime abuse, health and safety and other labour standard compliance measures. In its “sustainable business report”, Nike offers consumers news and updates on the social goals it has achieved. This decision to adopt a code of conduct for its suppliers, subcontractors and business partners was followed by other actors in the garment sector like H&M.

Following Nike’s model, H&M also applies, as the basis of its code, international standards such as the United Nations Universal Declaration of Human Rights, the United Nations Convention on the Rights of the Child and applicable ILO Conventions. H&M’s code of conduct provides for workers’ wellbeing based on the main principles of international labour law like the prohibition of child labour, implementing health and safety protections (building and fire regulations), banning exploitation and discrimination, protecting freedom of association and ensuring the right to just and fair remuneration. Despite its social sustainability efforts, H&M has been criticised because of the low wages paid by its subcontractor in Bangladesh. The recent Clean Clothes Campaign (CCC) “Turn around H&M!” has focused on the lack of a living wage provided to the workers of H&M’s suppliers, which is something that H&M officially promised to ensure in 2013. This failure demonstrates the crucial gap that exists between transforming declarations into codes of conduct and ensuring their effectiveness (see <https://cleanclothes.org>).

4.2 The Ethical Trading Initiative (ETI)

Although we have only mentioned Nike and H&M, almost all codes adopted by MNEs in the garment sector are characterised by the same features: they are an expression of soft law, they arise from companies’ unilateral decisions, they base their effectiveness on MNEs’ internal inspectors’ abilities to oversee subcontractors’ workplaces to ensure compliance and they summarise (at least a part

of) the ILO's international labour standards. Some of those features have attracted criticism because of the (in)ability of codes of conduct alone to improve working conditions. In 1997, this situation led to a discussion among a group of companies, trade unions and NGOs on how codes could be made more effective.

A group of companies in the United Kingdom, along with trade unions and NGOs, pursued a solution in 1998 by establishing an alliance to define together how companies should implement their codes credibly and effectively. The Ethical Trading Initiative (ETI) now comprises 90 companies that collectively represent nearly 10 million workers across the globe. The ETI's activities are more complex than passively and unilaterally adopting a code of conduct. From an internal perspective, the ETI promotes a "base code" of labour practice that must be implemented by its corporate members who have committed "to undertake activities intended to promote respect for workers' rights and to achieve real improvements in working conditions within their supply chain" (The ETI Base Code "contains nine clauses which reflect the most relevant conventions of the International Labour Organisation with respect to labour practices". See <https://www.ethicaltrade.org/resources/eti-base-code>). All commitments made by the ETI's members are enforced through a special disciplinary procedure that the ETI activates when an investigation confirms a suspected serious failure by a member company to fulfill its obligations. From an external perspective, its main activities focus on promoting, supporting and stimulating workers' awareness of their rights and on lobbying governments on labour law (e.g. by lobbying the Bangladeshi government on wages).

4.3 Is It Time for Social Reputation Agencies?

In recent years, MNEs have become aware of the economic value of their reputation (Greif 1989; Sudararajan 2016; Zarro 2017). Information about a company's reputation can be easily altered or misused; for this reason, some entities have tried to guarantee and to provide trustworthy information on economic operators. A good example is Mevaluate, also known as "the bank of reputation". It is an Irish holding that was founded in 2013 to create "a place on the web where the first democratic reputation network germinates, rigorously documented and characterized by diffused public control" (<http://www.mevhld.com>). On its website, it states:

"Mevaluate's revolution claims the democracy of online reputation, granting reply per tabulas (through documents), defusing the power of gossip, affirming the supremacy of objective evidence while supplying a compass to avoid mistakes made when putting our trust in just anyone. With Mevaluate the era of ingeniously falsified positive and negative reputations ends, and a new world community is born, where the only background noise is the relentless rustling of papers".

Mevaluate underlines how it is very difficult for consumers to be certain about a company’s reputation and argues that “this represents significant barriers to business relationships and a real risk in social relations”. According to its site, “Mevaluate measures and gives a value to the real reputation of individuals, companies and institutions, identifying the exact degree of trust that can be accorded to them [...] reputation becomes a new asset”. It also published on its website a bombastic “Code of Universal Reputation” in which it describes how reputation is an essential asset to human activities to assure social transactions between natural and legal persons, feeding feelings of fiduciary entrustment.

What is more interesting in terms of this analysis is that from the reading of Mevaluate’s code, it is possible to deduce that it regards reputation as “the most widespread economic asset in the world”. The use of such sensitive information is clearly a huge problem. In some countries, this activity is considered unlawful because the collection of massive amounts of information affects the intimate dignity of persons, and the protection of human dignity prevails over the freedom to conduct business (see Italian Data Protection Authority’s decision n. 5796783 made on 24 November 2016 at www.garanteprivacy.it; Smorto 2016. Some other initiatives have started to promote systems to evaluate employers’ characteristics and provide information about employers to employees to balance the information asymmetry in the labour market, i.e. the English search engine GlassDoor and the Italian social network start-up Beproved. See also Amazon’s Mechanical Turk).

5 Consumers (and Their Relationships with Workers)

5.1 The Clean Clothes Campaign

One of the most well-known campaigns formed in response to poor working conditions in garment factories is the CCC. Started in 1989, this initiative brings together trade unions and NGOs (a detailed report on one of the most important anti-sweatshop campaigns protesting against poor working conditions in Indonesian garment factories is described in Harrison and Scorse 2010). Its main goals are to improve working conditions and support the empowerment of workers in the global garment and sportswear industries. Hundreds of organisations and unions in garment-producing and consumer markets are involved in the CCC and are committed to the aim of developing campaign strategies to support garment workers in achieving their goals. The global network of partners is headquartered in Amsterdam and has offices in Austria, Belgium, Czech Republic, Finland,

France, Germany, Ireland, Italy, Norway, Poland, Spain, Switzerland, Turkey and the United Kingdom.

Each year, the CCC publishes a report on the specific activities that it has promoted its achievements and its failures. The CCC mainly puts pressure on companies and governments to ensure their respect for and implementation of basic rights for manufacturing workers in global supply chains. The CCC operates in solidarity with organised workers in global supply chains who are fighting for their rights; it also takes action in cases involving workers' and activists' rights violations. Moreover, the CCC plays a part in information campaigns on working conditions and driving individual customers' choices and acts as a trigger for collective action (one of its most recent and significant campaigns is "Filling the Gap: Achieving Living Wages through Improved Transparency").

5.2 MNEs' Social Ranking

The increasing tendency to classify and rank MNEs also affects consumers (Zysman and Kenney 2016) in the wider context as it is characterised by "consumer-to-consumer" conversations (Hearn, Foth, and Gray 2009) in which "users are empowered to express their views", thereby creating a "new equality in communication" (Sádaba, SanMiguel, Gargoles 2019). This nascent "give-a-rank trend" could have positive effects on MNEs' social sustainability. A practical example can be found in the Good On You initiative in which a group of campaigners, fashion professionals, scientists, writers and developers assesses and ranks major brands in the fashion industry on their sustainability and social responsibility, giving each brand an "easy-to-understand score" and "choosing and rewarding responsible fashion brands that do good over the ones that don't" (see <https://goodonyou.eco/>). The updated Good On You brand rating system considers impacts on labour, the environment and animals. From a labour law perspective, the ratings are based on worker policies and empowerment, in particular the protection of workers' rights across the supply chain, including monitoring health and safety, child labour, forced labour, freedom of association, collective bargaining, non-discrimination, gender equality, modern slavery, reasonable hours, the right and capacity to make a complaint, low-risk production, a living wage, knowing suppliers and supplier relationships). By directing consumer choices (and influencing media and brands themselves), these kinds of initiatives can encourage companies to act responsibly, sustainably and fairly (Pomering and Johnson 2009).

Another example of MNEs' social rankings can be found in the context of the Ethical Fashion Report (edited by a religious association); the first was published in 2013 just after the Rana Plaza collapse. In 2019, the Ethical Fashion Report assessed

130 fashion companies, awarding each of them a grade from A to F based on the strength of their labour rights management systems according to more than 30 criteria. The report offers a measure of companies’ efforts to fight forced labour and worker exploitation in their supply chains (see “The 2019 Ethical Fashion Report: The Trust behind the Barcode”, at <https://www.business-humanrights.org>).

5.3 Spontaneous Activities by Workers

The media have recently focused on an interesting example of a spontaneous boycotting initiative launched by workers from a factory that produces clothes for fashion brands like Zara, Mango and Next. In particular, workers deliberately decided to put protest messages into clothes sold in Istanbul stores, claiming they had not been paid for their labour. The “boycott labels” that spread in 2017 stated: “I made this item, but I didn’t get paid for it” and included a link to a petition that said: “We want our rights, not charity” (Young 2017). The workers involved were employed by Bravo Tekstil, a subcontractor for the aforementioned fashion brands. The petition claimed Bravo Tekstil had not paid its workers for three months (just before shutting down without notice). Since supplier factories like the one involved are actually factories for global brands, through the boycotting label, workers were asking consumers to support their petition and induce global brands to pay them their due wages. Although characterised by its spontaneity and the absence of any structured organisation, the “Bravo workers’ petition” is a clear example of the potential for effective cooperation to take place between workers and consumers (“Tell Zara, Next, and Mango: Pay Your Workers the Wages They Earned!” petition on Change.org was able to collect 307,732 signatures. See Sádaba, SanMiguel, and Gargoles 2019; see also [Lopez and Iglesias 2010]).

6 The Institutional Perspective

6.1 The ILO Tripartite Declaration of the Principles Concerning Multinational Enterprises and Social Policy (The “MNE Declaration”)

The MNE Declaration is defined by the ILO as its only instrument that provides direct guidance to enterprises on social policy and inclusive, responsible and sustainable workplace practices. The MNE Declaration was elaborated on and adopted by governments, employers and workers from around the world 40 years ago. Its

principles address MNEs, governments, employers' associations and workers' organisations. It covers areas such as employment, training, conditions of work and life and industrial relations. All principles introduced in the Declaration are linked to the international labour standards provided by ILO Conventions and Recommendations. The reason for its longstanding importance is that MNEs, which remain the key drivers of globalisation, can affect the working and living conditions of people worldwide through their business strategies. The drawback is that MNEs also play an increasingly significant role in promoting economic and social progress.

In 2017, the Declaration was revised by the ILO governing body in response to new economic realities, including the growth of the global supply chain. In particular, in addition to new principles addressing specific workplace-related issues about social security, forced labour, transition from the informal to the formal economy, wages and victims' access to remedies and compensation, the Declaration now offers guidance to companies and operators on the due diligence system, particularly its most basic (and critical) component: labour rights. The Declaration is not only directed at enterprises and organisations but also governments since they need to pursue not only the typical goals of companies but above all prioritise the main goal of stakeholders, in other words, they need to offer decent work (e.g. by providing support and training, addressing CSR and sustainable business practices and encouraging virtuous behaviour) (Stevis 2009).

6.2 The ILO Helpdesk for Business on International Labour Standards and Other Supports Offered by the ILO

The ILO Helpdesk is defined as a “one-stop shop for company managers and workers on how to better align business operations with international labour standards and build good industrial relations” (<https://www.ilo.org/empent/areas/business-helpdesk/lang-en/index.htm>), and it is considered a useful support and guidance for companies in outlining the principles which inspire their codes of conduct and social policy. The ILO Helpdesk for Business, which can be easily contacted by email, provides information on a wide range of labour topics, all derived from the ILO's MNE Declaration: e.g. child labour, collective bargaining, discrimination and equality, employment promotion, forced labour, freedom of association and right to organise, occupational safety and health, the security of employment, wages and benefits and working time.

The ILO Helpdesk also constitutes a neutral place in which to discuss issues of mutual concern for companies and trade unions. Since the main minimum social standards imposed on suppliers through codes of conduct are based on ILO Conventions and Recommendations, it has become even more important today for

companies and trade unions to take advantage of the opportunities for capacity building and training activities that are offered by the ILO’s International Training Centre (about more on these kinds of courses, for instance, see the courses on international labour standards and CSR in the framework of due diligence which seeks to align operations, including supply chains, with ILO principles).

7 A New Form of Collective Action: The Cooperation between Workers and Consumers

At the beginning of the twentieth century, unions perceived labour boycotts as another form of struggle alongside strike action. Launching a boycott, “which can be viewed as the counterpart of the strike on the consumer side of the labour-management relationship, was suggested as the alternative” (Friedman 1996, 1999) but it was not easy to realise. For the last 40 years, progressively, unions have been (re)evaluating the opportunity to use boycotts as a strategy. As developed by the US labour union activist Ray Rogers, a corporate campaign must first analyse the targeted company’s corporate, financial and political connections to design specific strategies and tactics that will increase the amount of economic and political pressure on the company, its top executives and directors, as well as those institutions that can influence them (Rogers 1981). Nowadays, MNEs fear unionisation campaigns. Corporate campaigns are orchestrated not only by trade unions but also by NGOs, community leaders, politicians and religious groups. They aim to attack the brand more than the company itself by targeting top executives and shareholders; “they focus on human rights violations, issues like child labor, human trafficking and unsafe working conditions that are more likely to garner public attention and damage the company’s reputation among consumers, business partners and investors” (Baker and McKenzie 2014; see also Seidman 2007).

This definition of a corporate campaign was recently provided by an important international law firm to advise corporations on how to avoid becoming the target of a corporate campaign. It is suggested to conduct a “country by country assessment” of those that pose the greatest risk, typically in developing markets, and create a monitoring system focused on the major changes in labour law in each country (Baker and McKenzie 2014). As a matter of fact, over the past 30 years, the number of international corporate campaigns has increased. Unions and NGOs have been paying a lot of attention to MNEs’ respect for social labour standards, using the companies’ social reputations as weapons and tools with which to increase the social pressure on them (see, e.g. different actions taken in the late 1990s/early 2000s against companies like Nike, Starbucks, Gap and Walt Disney in

support of poor workers in Latin America and Asia) (Frank 2003). As a result, governments around the world have begun to impose stricter regulations on corporate behaviour. In Europe, a growing number of global union federations have put pressure on MNEs to sign international framework agreements setting minimum labour standards for everywhere they operate, such as complying with minimum wage requirements, upholding health and safety standards, banning child and forced labour and allowing workers to organise and engage in collective bargaining (an important global framework agreement dating to 2007 between the International Textile, Garment and Leather Workers' Federation and Inditex, one of the world's largest clothing retailers that owns, among others, brands like Zara, Pull&Bear and Bershka, was recently renewed on 13 November 2019 at ILO Headquarters in Geneva with the establishment of a global union committee to share best practices across the industry. For an updated list of the current global framework agreements negotiated on a global level between trade unions and multinational companies, see <http://www.industriall-union.org>. These global framework agreements implement the highest standards ensuring trade union rights, health, safety and environmental practices and work quality across a company's global operations, regardless of whether those standards exist in an individual country).

8 Discussion and Conclusion

Our contribution aims to underline the increasing importance of social reputation and social sustainability from the labour law perspective. Social goals and the implications of social actions within the global market have recently attracted the attention of stakeholders and must take into account the heterogeneous aims pursued by the different players (Hepple 2013). The protection of labour dignity (and environmental safeguards) is triggered by various interests—such complexity deserves a specific and self-conscious analysis.

We have reported such interests by trying to distinguish those that are pursued by MNEs (e.g. offsetting the loss of reputation) from those pursued by non-government organisations (e.g. stimulating consumers' social awareness), organisations like the ILO (e.g. enforcing international labour standards) and “traditional” trade unions and other forms of workers' unions or associations (e.g. improving employment conditions). Despite their different original aims, we find that the final effect of pursuing these interests—namely, ensuring the respect of minimum labour standards around the world—is abundantly relevant and the ends justify the means. If we consider the importance of the final result, it becomes quite irrelevant whether

the original decision to adopt a code of conduct or join an “ethical” association was taken as a strategic reaction to a loss of reputation and profit.

It is necessary to underline once again that on the one hand, we are convinced of the importance of “new” forms of social initiatives (namely, codes of conduct, social ranking, consumer campaigns and boycotting); on the other hand, we assume that these measures can only represent an additional (yet sound) support for workers who are struggling as a result of being caught in the middle of the conflict between Work and Capital. This statement is even more valid in light of the context. From this paper, it emerges that the labour standards considered by codes of conduct, consumer campaigns and other initiatives are mostly those also included in the ILO Conventions (e.g. the ban on labour exploitation, health and safety protection, the prohibition of child labour and non-discrimination. See [Treu 2017]). The implementation of these principles is an important objective in developing and recently developed countries; however, they have already (at least formally) been implemented in the legal systems of developed countries. Consequently, there is a risk associated with emphasizing setting “basic” standards because this attitude may lead to the amount of attention paid by consumers to the issue to decrease. The tendency to use a single parameter for assessing the social sensitivity of MNEs that is valid for both countries “in development” and those that are “already developed” risks starting a “race to the bottom” (i.e. social dumping). Since social progress and economic growth are connected, consumers’ social awareness (which is a useful means of support for workers) should therefore vary according to the standards of protection enforced in countries of production.

Can we confirm that the illustrated tool works? As usual, the answer is complex—it depends on many factors and even under the best circumstances, it can only be confirmed to a certain degree. For instance, according to the above-mentioned study by Harrison and Scorse, the anti-sweatshop campaign promoted by activists around the world in the 1990s was able to obtain a significant increase in the wages paid by textile, footwear and apparel plants in comparison to the rest of the manufacturing industry in Indonesia without leading to an increase in unemployment in the sector (Harrison and Scorse 2010).

Finally, the potential “win-win” of forming a strategic alliance between environmental and social aims were more intended to lead to the development of formal legal provisions (above all within European legal framework) than it was to manifest in practical actions, bearing in mind that despite new forms of instant and global communication, consumers’ ethical commitments will never be able to replace a genuine and traditional collective strategy pursued by workers and their trade unions.

References

- Baker, and McKenzie. 2014. *Brand Attack, How to Avoid Becoming the Target of a Corporate Campaign and What Actions to Take if You Do*. Labor Relations Report.
- Baroncini, E., and C. Brunel. 2019. "A WTO Safe Harbour for the Dolphins. The Second Compliance Proceedings in the US – Tuna II (Mexico) Case." *WP RSCAS* no.: 75.
- Dasa, G., J. Agarwal, N. K. Malhotra, and G. Varshneya. 2019. "Does Brand Experience Translate into Brand Commitment?: A Mediated-Moderation Model of Brand Passion and Perceived Brand Ethicality." *Journal of Business Research*: 479–90.
- Donahue, B. 2018. "China is Turning Ethiopia into a Giant Fast-Fashion Factory." *Bloomberg Businessweek*, Retrieved from: <https://www.bloomberg.com/news/features/2018-03-02/china-is-turning-ethiopia-into-a-giant-fast-fashion-factory>.
- Frank, D. 2003. "Where Are the Workers in the Consumer-Worker Alliance? Class Dynamics and the History of Consumer-Labor Campaign." *Political & Society* 31 (3): 363–79.
- Friedman, M. 1991. "Consumer Boycotts: A Conceptual Framework and Research Agenda." *Journal of Social Issues*: 149–68.
- Friedman, M. 1996. "A Positive Approach to Organized Consumer Action: The "Boycott" as an Alternative to the Boycott." *Journal of Consumer Policy* 19: 439–51.
- Friedman, M. 1999. *Consumer Boycotts: Effecting Change Through the Marketplace and Media*. Abingdon-on-Thames: Routledge.
- Furuno, S. 2019. *Time for Japan to Lead Asia in Cutting off Coal Power Financing: Government and Banks Must Close Loopholes and Avoid 'greenwashing'*. Also available at <https://asia.nikkei.com/Opinion/Time-for-Japan-to-lead-Asia-in-cutting-off-coal-power-financing>.
- Greif, A. 1989. "Reputation and Coalition in Medieval Trade: Evidence on the Maghribi Traders." *Journal of Economic History* 49: 857–82.
- Haas, A., and A. Eckert. 2015. "How Reputation Relates to Firm Value: The Roles of Industry and Market Sentiment." In *AMA Winter Marketing Educators' Conference. Marketing in a Global, Digital and Connected World*, A1. American Marketing Association.
- Harrison, A., and J. Scorse. 2010. "Multinationals and Anti-sweatshop Activism." *The American Economic Review* 100 (1): 247–73.
- Hearn, G., M. Foth, and H. Gray. 2009. "Applications and Implementations of New Media in Corporate Communications: an Action Research Approach." *Corporate Communications: An International Journal* 14 (1): 49–61.
- Heppele, B. 2013. "Diritto del lavoro, diseguaglianze e commercio globale." *Giornale di diritto del lavoro e delle relazioni industriali* 97: 27–48.
- ILO. 2013. *Marking Progress against Child Labour - Global Estimates and Trends 2000-2012/ International Labour Office, International Programme on the Elimination of Child Labour (IPEC)*. Geneva: Ilo.
- ILO. 2017. *Global Estimates of Child Labour: Results and Trends, 2012–2016*. Geneva: International Labour Office (ILO).
- Jakir, V. 2013. "The New WTO Tuna Dolphin Decision: Reconciling Trade and Environment?" *Croatian Yearbook of European Law and Policy* 9 (3): 143–76.
- Khojastehpour, M., and R. Johns. 2014. "The Effect of Environmental CSR Issues on Corporate/brand Reputation and Corporate Profitability." *European Business Review*: 330–9.
- Kimeldorf, H., R. Meyer, M. Prasad, and I. Robinson. 2006. "Consumers with a Conscience: Will They Pay More?" *Contexts* 5 (1): 24–9.
- Klein, J., and A. John. 2003. "The Boycott Puzzle: Consumer Motivations for Purchase Sacrifice." *Management Science*: 1186–209.

- Liao, Z. 2018. “Environmental Policy Instruments, Environmental Innovation and the Reputation of Enterprises.” *Journal of Cleaner Production*: 1111–7.
- López, V. A., and S. Iglesias. “A Reputational-Performance Framework in an SME Context: Some Empirical Evidence from Spain.” *Irish Journal of Management*: 35–66.
- Mohr, L., D. Webb, and K. Harris. 2001. “Do Consumers Expect Companies to Be Socially Responsible? The Impact of Corporate Social Responsibility on Buying Behavior.” *The Journal of Consumer Affairs*: 45–72.
- Öberseder, M., B. B. Schlegelmilch, and V. Gruber. 2011. ““Why Don’t Consumers Care about CSR?”: A Qualitative Study Exploring the Role of CSR in Consumption Decisions.” *Journal of Business Ethics* 104: 449–60.
- Perulli, A., and F. Marrella. 2009. “Manifesto di Venezia per la regolazione della globalizzazione economica. La globalizzazione virtuosa.” *Rivista Italiana di Diritto del Lavoro* 27: 341–8.
- Pomeroy, A., and L. W. Johnson. 2009. “Constructing a Corporate Social Responsibility Reputation Using Corporate Image Advertising.” *Asutralasian Marketing Journal*: 106–14.
- Raynolds, L. T. 2012. “Fair Trade: Social Regulation in Global Food Market.” *Journal of Rural Studies*: 676–87.
- Rogers, R. 1981. “How to Confront Corporations.” *Business & Society Review*: 60–4.
- Sádaba, T., P. SanMiguel, and P. Gargoles. 2019. “Communication Crisis in Fashion: From the Rana Plaza Tragedy to the Bravo Tekstil Factory Crisis.” In *Fashion Communication in the Digital Age: FACTUM 19 Fashion Communication Conference*, 259–75. Ascona, Switzerland: Springer.
- Seidman, G. W. 2007. *Beyond the Boycott: Labor Rights, Human Rights, and Transnational Activism*. New York: Russell Sage Foundation.
- Sellnow, T., and J. Brand. 2001. “Establishing the Structure of Reality for an Industry: Model and Anti-model Arguments as Advocacy in Nike’s Crisis Communication.” *Journal of Applied Communication Research* 29: 278–95.
- Sen, S., C. B. Bhattacharya, and J. Korschun. 2006. “The Role of Corporate Social Responsibility in Strengthening Multiple Stakeholder Relationships: A Field Experiment.” *Journal of the Academy of Marketing Science* 34: 158–66.
- Smith, C. 2007. “Consumers as Drivers of Corporate Responsibility.” Centre for Marketing Working Paper No. 07–103.
- Stavis, D. 2009. *International Framework Agreements and Global Social Dialogue: Lessons from the Daimler Case*. Geneva: ILO.
- Sudararajan, A. 2016. *The Sharing Economy. The End of Employment End the Rise of Crowd-Based Capitalism*. Cambridge, Massachusetts: MIT Press.
- Thierer, A., C. Koopman, A. Hobson, and C. Kuiper. 2016. How the Internet, the Sharing Economy and Reputational Feedback Mechanisms Solve the “Lemons Problems”. *University of Miami Law Review*: 830–78.
- Treu, T. 2017. “Globalizzazione e diritti umani. Le clausole sociali dei trattati commerciali e negli scambi internazionali fra imprese.” *WP CSDLE Massimo D’Antona*.int.: 133.
- Young, S. 2017. *Unpaid Labourers Are “Slipping Pleas for Help into Zara Clothes”: The Workers Claim They’re Owed Several Months Wages*. Also available at <https://www.independent.co.uk/>.
- Zarro, M. 2017. “La Tutela Della Reputazione Digitale Quale «intangibile Asset» Dell’impresa.” *Rassegna di Diritto Civile*: 1504–27.
- Zysman, J., and M. Kenney. 2016. “The Next Phase in the Digital Revolution: Platforms, Abundant Computing, Growth and Employment.” ETLA Reports, n. 61. <https://pub.etla.fi/ETLA-Raportit-Reports-61.pdf>.