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Risk, Reporting and Responsibility: Modern Slavery, Colonial Power and Fashion's Transparency Industry

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Abstract

This article investigates the role of the Australian *Modern Slavery Act 2018* as a reporting mechanism aimed at preventing the use of forced labour in global supply chains. In the fashion industry, modern slavery legislation pursues the ambitions of activist movements that have long campaigned for increased knowledge about supply chain practices to improve the labour conditions of garment workers, especially for those in the Global South. In recent years, such campaigns against the entrenched opacity of the global fashion system have given rise to a transparency industry built on practices of auditing and supply chain management, including in relation to modern slavery legislation. This article analyses 10 modern slavery statements submitted to the online Modern Slavery Register by fashion brands operating in Australia in the 2019–2020 reporting period to explore how the *Modern Slavery Act 2018* participates in colonial relations of power. It focuses on three aspects of the statements: factory reporting and third-party auditing, corporate grievance mechanisms, and risks associated with COVID-19. Finally, the article argues that while improved transparency can generate positive outcomes for workers, the reporting required by modern slavery legislation is often more concerned with providing assurances about labour standards to consumers and stakeholders in the Global North than with the needs or experiences of workers in the Global South.

Keywords

Colonial power; ethical fashion; global supply chains; modern slavery; responsibility; transparency.

Introduction

In their 2020 report about forced labour in the Xinjiang Uygur Autonomous Region (XUAR) of China, the Australian Strategic Policy Institute alleged that huge numbers of Uyghur and other ethnic minority citizens have been transferred forcefully to labour camps where they are made to work under abusive conditions in factories supplying global brands (Xu et al. 2020).[1] Fashion companies named in the report as potentially benefiting from the use of Uyghur workers include Calvin Klein, Polo Ralph Lauren, Adidas, Fila, Lacoste, Nike, H&M, Uniqlo and Inditex (Zara). Australia sells the products of all these companies. The damning report raised important questions about what global brands really know about the labour conditions of workers in their supply chains. It also renewed demand for increased transparency in the fashion industry, especially in relation to the rights of garment workers. In this article, I am interested in how the Australian *Modern Slavery Act (MSA) 2018* functions as part of an arsenal of reporting mechanisms that aim to improve transparency as a way to prevent the use of forced labour—such as that of Uyghurs in Xinjiang—in global supply chains.[2] In particular, I am concerned with how this legislation participates in an industry that is already deeply implicated within colonial relations of power, whereby low cost fashion items are produced by garment workers in the Global South for Western fashion brands to sell to consumers in the Global North.

The *MSA 2018* aims to improve knowledge about the labour conditions of workers within global fashion supply chains; it requires companies operating in Australia with a consolidated annual revenue of over AUD 100 million to report on both the risks of modern slavery in their operations and their actions to address those risks. It concerns ensuring that reporting entities take responsibility for the human rights of all those in their operational supply chains. However, unlike similar legislation in California, the *MSA 2018* is not designed to provide comprehensive supply chain information for consumers.[3] Rather, it is conceived as a way to protect against 'severe legal and reputational risks' (*MSA 2018*) to business by holding companies to account for their practices. In the past, campaigning for the human rights of workers in global supply chains, including in the fashion industry, has been led by activists, labour unions and consumer movements. Since the 1970s and 1980s, such campaigns have been concerned with improving knowledge about supply chain practices to improve labour conditions, especially for workers in the Global South (Doorey 2011; Mol 2015; Ross 1997). In recent years, this long history of activism has 'given rise to a huge industry of sustainability auditors and consultants' (Stevenson and Cole 2018: 83)—including in response to the legislation of modern slavery reporting in jurisdictions such as Australia. The introduction of these reporting requirements can certainly be viewed as a positive step in the move towards more responsible business practices and human rights due diligence. However, the 'industrialisation' of transparency, built on a regime of 'ethical auditing' (LeBaron, Lister and Dauvergne 2017: 959) and deeply political supply chain management, can also be seen to perpetuate colonial power relations—reiterating asymmetrical lines of human agency and social responsibility between the Global North and the Global South.

Following Bill de Maria's (2008) work on the anti-corruption industry in Africa, which centres on the saviour narrative, I am interested in how the transparency industry—defined in this paper as the processes by which supply chain information is gathered, collated and distributed—and the mechanisms of supply chain risk reporting that support it, is predicated on a 'politics of saving' (Khan 2019: 1036). This is a rhetoric of rescue that, far from disrupting or challenging the existing structures that buttress the global fashion economy, merely works to re-entrench longstanding structures of inequality. For de Maria, the concern is with 'saving' Africa and its people from corrupt governments. Rather than defining or measuring corruption in African terms, 'in the asymmetrical encounters between Africa and the West the latter's international business-centric view of "corruption" prevails' (de Maria 2008: 185). Similarly, in the fashion industry, definitions, measurements and strategies for detecting, assessing and addressing exploitative labour practices (including modern slavery) are based on Western understandings, needs and prerogatives. The transparency industry has been established in response to a critical problem. However, it does little, if anything, to address the root causes of this problem. Thus, modern slavery legislation, as an important new dimension of this industry driven by the urgent need to do *something*, is focused more on

reporting processes than on commitments to improving outcomes. It is informed more by an idea of 'saving' those garment workers 'trapped' in slavery in garment-making nations such as Bangladesh, China and India than by working together to ensure that action on behalf of companies in the Global North really improves the working and living conditions of those who make our clothes.[4]

Writing about the colonial relations that undergird much ethical fashion rhetoric, Rimi Khan (2019: 1033) observed that 'designers, retailers and consumers are encouraged to see and "know" those who make their clothes, in ways which reflect a one-way visibility and "geography of responsibility" (Massey 2004) between Western consumers and garment producers in other parts of the world'. Campaigns for transparency in the fashion industry, such as the *#whomademyclothes* movement established by global activist organisation Fashion Revolution (FR), certainly draw attention to the faces behind the sewing machines, but for whose benefit? As Kathleen Horton and Paige Street (2021: 890) have argued, despite the feminist foundations of FR's digital activism, their messaging in this campaign nevertheless depicts 'some women in a language of empowerment, and others in a language of vulnerability'. In this uneasy dichotomy, garment workers (and other members of the fashion supply chain) in the Global South are afforded no agency; they are passive receivers of Western responsibility, dependent on the good deeds of consumers, activists and business entities in the Global North.[5] Bringing the literature on transparency together with that concerned with colonial power relations in the fashion industry allows for an original exploration of how modern slavery reporting functions within the ethical fashion landscape. As an extension of other tactics of the transparency industry, modern slavery legislation can be understood as yet another strategy through which to maintain current growth structures and production outputs without truly grappling with the power imbalances at the root of the fashion system.

In the sections that follow, I explore the rise of transparency measures in the fashion industry that are instigated by corporate entities and legislated by governments. Then, I investigate the background and implementation of the *MSA 2018* in further detail, particularly with regards to colonial relations of power. I also outline the methodology by which I conducted this research, including my data collection and analysis methods. Finally, I examine the 10 modern slavery statements selected for analysis in relation to three criteria: factory reporting and third-party auditing, corporate grievance mechanisms and the impact of COVID-19 on risk assessment and mitigation. Throughout, I explore how reporting on modern slavery in global fashion supply chains participates in perpetuating asymmetrical colonial power relations upheld through a fashionable ideal of transparency.

Transparency in Fashion

In 2019, the Business of Fashion (BoF) and McKinsey & Co *State of Fashion* report listed transparency as one of the 10 key shifts in today's fashion industry, positioned as a communication tool through which to 'regain the trust of disillusioned customers' (61).[6] The principles of contemporary transparent business models—where brands provide a wide range of information, 'from where and how items are made to the design provenience and the item's quality' (BoF and McKinsey & Co 2019: 60)—are far from new. Since the 1970s, with the growth of a fast-paced, globally networked fashion system, fashion brands have increasingly used supply chain disclosure and traceability mechanisms to assure their consumers of the ethical standards by which their clothing items are produced (Doorey 2011; Mol 2015). Transparency in fashion supply chain operations and management (Garcia-Torres et al. 2022; Jestratijevic et al. 2020) and in relation to corporate social responsibility and marketing (Bhaduri and Ha-Brookshire 2017; Joy and Peña 2017) are growing fields of research. As I have written elsewhere (Richards 2021), transparent business models, when employed effectively, have the capacity to help customers identify complex dimensions of garment production and rethink fashion value. However, the concept of transparency is often invoked simply as a tactic of greenwashing—a nominal indicator of ethical production and as ambiguous a term as 'green' or 'eco'. Often, the word is invoked more to promote the sale of garments than to engage with those who made them—more often than not for the benefit of businesses and consumers rather than for workers across the supply chain.

Since 2015, FR has published an annual 'Transparency Index', which ranks the world's largest fashion brands 'according to their level of public disclosure on human rights and environmental policies, practices and impacts in their operations and supply chains' (FR 2021: 3). In the 2021 edition of the Index, which reviewed 250 international companies, the average transparency score was just 23% across 239 indicators in five key areas: Policies and Commitments; Governance; Supply Chain Traceability; Know, Show & Fix; and Spotlight Issues. The Index showed that transparency across the industry is slowly improving. However, it also demonstrated that only 47% of brands disclose their manufacturing facilities, and only 27% disclose wet process and mill facilities deeper in their supply chains. Perhaps most strikingly, especially for the purposes of this paper, just two of the 250 brands reviewed disclosed data about the number of workers in their supply chain who were paid living wages (2021: 9). This *lack* of disclosure has significant implications for the working conditions of those employed in garment-making and processing facilities. Brands are well known for making vague, oblique or what FR (2021: 13) terms 'fluffy' statements about their human rights commitments (Evans and Peirson-Smith 2018; Segran 2019). Yet, despite this, statements about hollow 'commitments' continue to proliferate as part of marketing strategies directly targeting Western consumers increasingly aware of and concerned about the unethical production practices upon which the industry relies.

Legislation such as the *MSA 2018* is designed to both counter vague sustainability marketing and mitigate the use of unethical production and labour practices in global fashion supply chains. Reporting in line with this legislation relies on a system of auditing through which factories and suppliers are assessed. Audits have long been used to monitor production practices, forming a key dimension of what I here call the 'transparency industry.' Fashion brands in the Global North rely on the labour of third-party companies in the Global South to conduct audits of their suppliers on their behalf. While this auditing system has been able to provide important insights into unethical labour practices (including in relation to working hours, wages, union membership or child labour), uncritical reliance on such tactics has contributed to the increased industrialisation of transparency. Further, when it comes to modern slavery, these techniques are ill equipped to identify criminal activities. As Mark Stevenson and Rosanna Cole (2018) have observed in their analysis of supply chain reporting in response to the UK *Modern Slavery Act*, because modern slavery 'operates invisibly and involves active deceit' it is far more difficult to detect than other 'softer' social issues such as wage theft or lack of union representation. The problems with auditing include, among other issues, 'corrupt inspectors, misleading documents (e.g. altered timesheets) and mock compliance whereby suppliers appear to be doing the right things but for audit day only' (Stevenson and Cole 2018: 83). For these reasons, Stevenson and Cole argued, modern slavery constitutes a far larger and more diffuse challenge to supply chain practitioners than other labour rights issues; thus, it should be studied in its own right and approached with mechanisms of detection more sophisticated than mere auditing.

In their article on the governing of global supply chain sustainability, Genevieve LeBaron, Jane Lister and Peter Dauvergne (2017: 958) suggested that the 'adoption of auditing as a governance tool is a puzzling trend, given two decades of evidence that audit programs generally fail to detect or correct labour and environmental problems in global supply chains'. While so-called 'ethical auditing' has been seized upon 'as an opportunity to upgrade and improve factory conditions worldwide', there are well-documented 'structural flaws inherent in the use of private audit firms to monitor and improve standards in supply chains' (LeBaron, Lister and Dauvergne 2017: 959–960). These flaws mean that audit data frequently presents misleading pictures of factory compliance and conduct. Therefore, auditing mechanisms are not only ill equipped to detect instances of modern slavery but also ineffective strategies for inducing change. Why, then, as LeBaron, Lister and Dauvergne have asked (2017: 960), has the audit regime gained such legitimacy as a global regulatory mechanism? Like transparency, which is often promoted as objective and apolitical, audits are assumed to be neutral and passive. However, 'the business of representing information is never neutral' (Birchall 2014: 82). Audits, then, 'are a productive form of power led by industry in the context of the privatization of global governance' (LeBaron, Lister and Dauvergne 2017: 961). In the case of the fashion industry, auditing not only becomes a means of corporate governance but also further dislocates responsibility away from the brands themselves, more deeply entrenching ideas of plausible deniability and undermining the very ideals upon which transparency is built.

Modern Slavery Legislation and Colonial Power Relations

Australian modern slavery legislation seeks to overcome the issue of labour exploitation in global supply chains (not only in the fashion industry) by requiring companies to report on the risks of modern slavery in their operations. In name, the *MSA 2018* is about 'combating' modern slavery in global supply chains. However, in practice, the legislation focuses more on protecting the reputations and profits of businesses operating in Australia. As the Australian Government Department of Home Affairs website clearly states:

> Taking action to combat modern slavery makes good business sense. Entities that act to combat modern slavery in their operations and supply chains can protect against possible business harm and improve the integrity and quality of their supply chains. They can also increase profitability, investor confidence and access to financing opportunities.

Reporting on the risks of modern slavery in supply chains is advocated not to improve global human rights but rather to promote *profitability*. That reporting is 'mandatory' but requires no action further demonstrates how the *MSA 2018* functions as process-driven rather than outcome-driven regulation, prioritising the interests of big business over those of workers in the supply chains with which it is nominally concerned. While companies are likely to report to avoid being publicly 'named and shamed,' as Justine Nolan and Nana Frishling (2019) rightly pointed out, there is no obligation for companies to undertake human rights due diligence.[7] In other words, while it might be mandatory for companies to report, it is not mandatory for companies to *improve* their practices.

The *MSA 2018* has introduced an important accountability measure to corporate operations in Australia. However, the legislation does not include any independent oversight to guarantee accuracy in the reporting or penalties for businesses that fail to report. Responsibility for ensuring the validity of a company's claims, as with other amorphous declarations of ethics or sustainability in fashion, remains in the hands of the consumer. Thus, while the legislation *appears* to ensure that big businesses take responsibility for their production practices, the mechanisms by which the reports are assessed are negligible. Indeed, there are no penalties for poor or inadequate reporting; so long as businesses follow the process and submit a report, they have met the requirements of the legislation, however sparse, limited, or imperfect the information in their statement may be. Further, if modern slavery legislation is implemented to either provide information to consumers or to support big business, it remains unclear how the rights, needs and experiences of the very people these laws are designed to support are met. This asymmetry in what the *MSA 2018* provides for different stakeholders across the global fashion supply chain mirrors the uneven relations of power by which the contemporary global fashion system is characterised. As Minh-Ha T. Pham (2022: 4) has noted, sweatshops and other exploitative working conditions in the fashion industry are:

> Not 'bugs' in the global supply chain or the results of some individual brands misbehaving. They're built into the racialized, gendered, and colonial structure of international trade and labour arrangements that are designed precisely to extract from, neglect, and forget an array of human and environmental resources (e.g., skill, knowledge, time, health, wages, clean water, clean air) from the people and places of the Global South.

Despite the rise of transparency and 'ethical auditing', the reliance on cheap labour has merely accelerated in recent years, especially with the advancement of hyper-fast fashion by companies such as Chinese ecommerce giant Shein (Kennedy 2022; Lieber 2021). Modern slavery legislation attempts to prevent the exploitative practices on which this system relies. Yet, by focusing more on the needs of corporations and consumers than those of workers, this legislation is designed structurally to reiterate colonial systems of labour extraction.

Methodology

To demonstrate how modern slavery reporting under the *MSA 2018* utilises the mechanisms of the transparency industry to maintain uneven colonial power relations, I analysed 10 of the 41 modern slavery statements that responded to the search term 'fashion' and were submitted under the 'Fashion, textiles, apparel and luxury goods' industry sector to the Australian Modern Slavery Register for the first year of reporting, 2019–2020 (see Table 1).[8]

Table 1. Modern slavery reports analysed

	Company Name	Key Brands	Annual Revenue (AUD; as per Register)	Annual Revenue (International)	Country (as per Register)
1	COGI Pty Ltd (The Cotton On Group)	Cotton On Cotton On Kids Cotton On Body Factorie Rubi Supré	1 BN+		Australia
2	CRG (Country Road Group) (Woolworth Holdings Ltd, South Africa)	Country Road Witchery Trenery Politix Mimco	1 BN+		Australia
3	The ICONIC (Internet Services Australia 1 Pty Ltd)	THE ICONIC	1 BN+		Australia
4	Mosaic Brands	Millers Rockmans NoniB Rivers Katies Autograph W. Lane Crossroads BeMe	700–800 M		Australia
5	ADT and Forever New	Forever New Forever New Curve Ever New	350–400 M		Australia
6	H&M Group	H&M COS	300–350 M	USD 24 BN +	Sweden
7	Uniqlo (Fast Retailing, Japan)	UNIQLO	250–300 M	USD 18 BN +	Australia
8	Factory X	Gorman Dangerfield Alannah Hill Princess Highway L'urv Jack London	100–150 M		Australia
9	Zimmerman	Zimmerman	Undisclosed		Australia
10	Zara (Inditex, Spain)	Zara	Undisclosed	USD 22 BN +	Australia

I narrowed the scope to exclude those brands that had submitted a voluntary statement (e.g., Cue Clothing Co., Australian Wool Innovation and Chanel) and those brands that produce accessories rather than fashion garments (e.g., eyewear conglomerate Luxxotica, Munro Footwear and Caprice), which brought the number to 35.[9] In line with the BoF 'Sustainability Index' (2021), I divided the reports into three industry categories—Luxury, Highstreet and Sportswear—and focused only on Luxury and Highstreet (excluding Sportswear brands Adidas, Rip Curl, Universal Store, Globe, Lorna Jane, Sea to Summit, Spotlight [Mountain Designs and Anaconda] and Next Athleisure), which brought the number to 27. The representative sample of 10 brands span the 'Entity Revenue' spectrum, which categorises reports according to annual revenue, from AUD 0–99 million to AUD 1 billion and over. It is important to note that the companies reported their Australian incomes in the statements, not necessarily their total annual incomes. It is for this reason that the three companies with the largest reported incomes are Australian brands The Cotton On Group (COGI), Country Road Group (CRG) and The ICONIC, rather than the multinational companies H&M, Uniqlo and Zara, which have far greater international revenues.

The 10 brands in the sample are Australian brands COGI, CRG, THE ICONIC, Mosaic Brands, ADT and Forever New, Factory X and Zimmerman and international brands H&M Group, Uniqlo and Zara. This study was designed to avoid duplication of the work of other scholars and analysts who have comprehensively analysed the statements of all companies required to report (International Justice Mission Australia 2022; Sinclair and Dinshaw 2022). These 10 statements provide ample data to explore how the *MSA 2018* functions in relation to colonial power relations and the transparency industry. Rather than offering a quantitative survey of the statements submitted to the register, I engaged in a qualitative textual analysis of this sample, focusing specifically on three points that elucidate how colonial power relations are reproduced through the reporting mechanisms: factory reporting and third-party auditing, corporate grievance mechanisms, and risk assessment in response to the COVID-19 pandemic.

Factory Reporting and Third-Party Auditing

Despite stylistic differences and great variation in length and detail, there are important correlations across the 10 statements, largely reflective of the mandatory reporting criteria.[10] All include a section that broadly addresses the actions taken to identify modern slavery risks in supply chains as well as the processes to assess and address these risks. While only some of the statements go into detail about mapping supply chains, selecting ethical suppliers and building relationships with non-governmental organisations, all 10 statements mention auditing suppliers, prioritising especially the use of factory and third-party auditing to support their claims regarding risks of modern slavery in their operations.

For the three international brand statements, auditing and factory reporting mechanisms were highlighted as key to their modern slavery risk assessment processes. H&M stated that 100% of their Tier 1 manufacturing and approximately 70% of their Tier 2 fabric and yarn supply are covered by an audit and monitoring program. For Zara, audits are one of the 'main tools' (16) through which compliance with the Code of Conduct for Manufacturers and Suppliers (to which all producer facilities must comply) is ensured. Similarly, the statement submitted by Uniqlo states:

> Fast Retailing [the umbrella company] has a workplace monitoring system in place under which it conducts regular workplace audits and grades Partner Factories on their results. Third party firms undertake the audits to assess whether Partner Factories comply with the Code of Conduct for Production Partners ... Once an audit is complete, Fast Retailing will require factories to adopt any necessary improvement measures and take corrective action for any non-compliant issues as determined by an audit. (4)

Uniqlo claimed that in the fiscal year 2020, the 'ratio of factories evaluated as more compliant in the audit process slightly increased' (5). While the statement does not provide details of what compliance looks like, how many audits were completed or what these audit processes entailed, the report does include a link to the Fast Retailing website, where all the results of workplace monitoring are published. The results note

that of the 613 factory audits completed in 2020, 52 received an 'A' grade (meaning zero notable violations), 257 a 'B' grade, 237 a 'C' grade, 66 a 'D' grade and one an 'E' grade (indicating 'major violations including child labour, forced labour, or other human rights violations; significant violations of occupational health and safety'). While the modern slavery statement noted that the sole factory graded 'E' has been given 'a strict warning that we will reduce or terminate business if violations remain unresolved,' it is unclear how or when the issues will be resolved or, indeed, how Uniqlo addresses factories graded 'C' and 'D', all of which also indicate potential or major violations of human rights.

The modern slavery statements submitted by Australian brands were similarly committed to the use of supplier audits. COGI outlined their system of 'periodic audit assessments' (2), CRG discussed their use of both human rights and social compliance auditing, especially in the XUAR (15), and The ICONIC provided details of their 'mutual-recognition audit programme' and third-party auditing regime (13). Mosaic stated that they 'require all vendors to have an active factory assessment audit from a recognised independent third-party provider' (9), ADT delegated much of its responsibility for risk management and compliance to their Audit and Risk Committee, and Factory X used 'professional auditors and trained certified audit staff' to oversee supplier compliance (10). The report submitted by Zimmerman stated that they arrange:

> To have independent audits conducted of our Primary Suppliers every 12 months by a leading, qualified auditing firm, which specialises in the textile industry … These audits are semi-announced in that the supplier will be given a window of 4-6 weeks during which the audit will take place … For all non-primary Tier 1 suppliers, we required that our suppliers have an active audit from an internationally recognized audit firm. (8)

As the smallest company in this sample, Zimmerman has far more direct control over site visits (especially compared to COGI or multinational brands such as Uniqlo or Zara). The Zimmerman statement noted that staff—including the Chief Operations Officer, Global Sourcing Manager, Head of Production, Production Managers and Production Coordinators—conduct extensive site visits of primary Tier 1 suppliers, with whom the company has worked closely for over 10 years. The statement also claimed that supplier Code of Conduct contracts have been executed by 100% of Tier 1 garment suppliers (31 suppliers comprising 39 factories), 85% of Tier 1 accessories suppliers (18 suppliers using 21 facilities) and 100% of Major Tier 2 suppliers (31 suppliers with 57 mills). While this is encouraging, there is no indication of what it means for those 15% of suppliers of Tier 1 accessories who have *not* completed Code of Conduct contracts. Zimmerman stated that, as with most audits, there were 'some instances of non-compliance which required Corrective Action Plans and remediation' (9). They cited one instance of a factory worker not being paid in full the day he resigned. However, they also noted that upon re-auditing, this issue of noncompliance was no longer flagged. The statement did not explain how the issue was resolved.

The use of audits is an accepted practice in supply chain management. However, as Stevenson and Cole (2018) have made clear, audits are insufficient to identify modern slavery. This is reiterated in the 'Paper Promises' report published by the Human Rights Law Centre, which notes that, in relation to reports of modern slavery in XUAR, 'international auditors have declined to assess Xinjiang-based supply chains, citing government interference' (Sinclair and Dinshaw 2022: 20). Even when auditors are given access, the report continues, 'the threat of punishment deters workers from speaking freely' (20). None of the statements analysed here refer to the limitations inherent in audit practices or systems of audit management. It seems justified then that, as the International Justice Mission suggested in their report on Australian modern slavery statements, corporations should 'regularly assess the effectiveness of their modern slavery due diligence measures [including] reviewing whether ethical supplier agreements, modern slavery policies, audits and staff training are in fact helping to protect workers in their supply chains from modern slavery' (2022: 12). If audit procedures are not held to standards based on the protection of the workers in the Global South, they function only in the service of corporations in the Global North and as assurances that allow for the continuation of business as usual. For these practices to have a real and lasting impact on minimising the risks of modern slavery in fashion industry supply chains, the limitations of auditing regimes must be acknowledged and accounted for. Although auditing is a useful

tool, it must be accompanied by compliance practices that challenge and improve labour standards rather than simply reporting factory working conditions.

Corporate Grievance Mechanisms

One of the ways corporations attempt to counter concerns related to workers feeling able to express themselves freely in the auditing process is the establishment of anonymous grievance mechanisms. The provision of anonymous (rather than non-anonymous) reporting processes allows workers to share their experiences, complaints or issues concerning their working conditions without fear of reprisal. While all 10 statements made some mention of corporate grievance mechanisms, only six discussed the provision of anonymous reporting processes. The statements submitted by Zara and Uniqlo both mentioned the establishment of anonymous hotlines. The Zara report stated:

> The Ethics Line (formerly, the Whistle Blowing Channel), managed by the Committee of Ethics, is the main grievance mechanism of the Company. Any group employee, manufacturer, supplier or third party with a direct relation and a lawful business or professional interest at all levels and in all geographies (the 'Parties Concerned') may use the Ethics Line, even in an anonymous manner. (21)

Similarly, the Uniqlo report included details about the Factory Hotline, which 'provides a direct and anonymous channel for employees and organisations representing a group of individuals at key Partner Factories and key fabric mills to make contact without fear of reprisal from their employer' (5).

Of the Australian brands, four of seven mentioned anonymous grievance mechanisms. The CRG statement claimed: 'we are in the process of developing a digital grievance mechanism pilot project through which workers in our supply chain have the ability to directly raise any concerns with CRG. This digital mechanism aims to enable workers to use local language to communicate directly with our team to raise concerns anonymously' (18). The ICONIC provided access to the Speak Up referral line, run by third-party provider EthicsPoint, as a 'mechanism by which anonymous grievances can be made' (12) by phone or via the company intranet. ADT have established the Forever New Whistleblowing Policy and anonymous helpline to ensure staff have access to an 'effective grievance channel' (6), and Zimmerman utilises anonymous Worker Sentiment Surveys in partnership with international auditor Elevate.

The statements in this sample that did *not* include the word 'anonymous' are those submitted by H&M Group, COGI, Mosaic and Factory X. While H&M does note a 'focus on strengthening worker voice, including the establishment of grievance mechanisms at various levels' (4) and links to the 'Our Approach to Respecting Human Rights' page of the H&M website, there is no clear sense of what these grievance mechanisms entail. Similarly, the COGI statement noted: 'we operate a whistleblower policy so that all team members know that they can raise concerns about how colleagues are being treated, or practices within our business or supply chain, without fear of reprisals' (4). Both Mosaic and Factory X noted that they are working towards strengthening their grievance mechanisms. Mosaic includes the 're-emphasis of vendor and factory grievance mechanisms with the use of a hotmail email address' (10), and Factory X is working on a framework to 'track and review any grievances identified or made, including any remediation activity undertaken as a result' (11). They have also made commitments to provide a 'bilingual point of contact for grievances' (14) and 'continue to investigate and develop independent overseas workers grievance channel(s)' (15).

Anonymous systems of worker reporting are essential as they indicate a commitment to the needs of workers and to allowing workers a legitimate voice, otherwise denied through corporate auditing systems. Indeed, the fact that these mechanisms are in place appears positive. However, it is unclear whether they have any significant effect, especially in relation to instances of modern slavery (Taylor and Shih 2019). None of the statements in this sample included any mention of whether these grievance mechanisms are used, whether workers know about them or whether workers feel comfortable or able to utilise them

should grievances occur. Some of the statements noted how these mechanisms are promoted in the workplace, such as through posters in working hubs, as in the case of The ICONIC. However, none provided details regarding whether the grievance mechanisms have been used or the systems through which concerns or allegations might be reviewed and resolved. In other words, it is unclear just how *effective* these mechanisms are for the workers themselves.[11] As with the use of audits, for these mechanisms to have a significant impact on the mitigation of modern slavery, they must focus on the needs and experiences of workers in the Global South rather than merely offering reassurance to corporations or consumers in the Global North. Without meaningful support structures in place to enable these mechanisms, they are merely a 'tick box' approach to compliance that offers very little assistance for workers at risk.

COVID-19, Risk and Irresponsibility

The colonial relations of power on which the fashion economy—and its transparency industry—rests were drawn into ever starker relief during the COVID-19 pandemic, which exposed ongoing and entrenched systems of inequality across the supply chain. As H&M wrote in their modern slavery statement: 'already vulnerable groups are often hardest hit by a crisis and this pandemic is no different' (6). In the early months of the pandemic, reports abounded concerning multinational fashion brands cancelling in-production or completed orders; further into the pandemic, news emerged about workers being forced to work despite COVID-19 infections (Bland and Campbell 2020; Miller 2020; Politzer 2020). The international *#PayUp* petition was launched by Remake in an effort to ensure that brands would commit to paying for their orders and, in Australia, the *#WeWearAustralian* movement encouraged shoppers to support the hard-hit Australian fashion economy. Activist and ethical consumption campaigns such as these called upon brands to take responsibility for their production practices and the workers whose labour they rely on and upon consumers to take responsibility for their consumption practices, either through boycotting brands who had not committed to *#PayUp* or through buying with *#WeWearAustralian* branded businesses (Khan and Richards 2021). The pandemic also heightened demands for transparency as consumers and activists called for brands to be open about how they were responding to supply chain complications and retail closures. This demand for reporting and disclosure is reflected in the modern slavery statements, all of which included sections on how companies responded to the challenges wrought by the pandemic.

All 10 statements acknowledged the financial and social impact of the pandemic and its effects on supply chain management. Border closures and national lockdowns had significant impacts on the companies' capacity to visit manufacturing facilities or for usual audits to be completed. In keeping with the tone and content of the other sections of the statements, the sections discussing the implications of COVID-19 discussed the challenges posed as a result of the pandemic as well as commitments to 'protecting' workers, particularly the 'most marginalised and vulnerable' (CRG: 20). Once again, asymmetrical power differentials were invoked—companies based in the Global North discussed protecting (if not 'saving') those in the Global South. Uniqlo's statement noted how they are working to 'ensure migrant workers receive adequate support from their employer factory,' including conducting a survey of how the pandemic affects these workers (8). Zara outlined the various measures they undertook to support the health and safety of their staff, including prioritising the 'protection of vulnerable workers' (21).

This language of *protection*, so familiar within ethical fashion rhetoric (Khan 2019; Pham 2017), was also common in the statements submitted by Australian brands. CRG stated that the pandemic reiterated that 'businesses must do more to protect all people, including the most marginalised and vulnerable' (20), and Factory X noted that they endorsed the call to action issued by the International Labour Organization and the International Organisation of Employers to 'protect garment workers' income, health and employment' (10). As a tool of protection for those vulnerable workers in the Global South, three of the 10 brands in the sample—Uniqlo, CRG and Zimmerman—adopted self-assessment mechanisms. Uniqlo stated that due to site visit restrictions, the company 'provided the factories with remote guidance using webcams and encouraged the factories' self-check and improvement activities, which have contributed to improving the

overall evaluation' (5). CRG noted that they used 'self-assessment questionnaires (SAQs) to increase our awareness of factory risks from the pandemic' (20), and Zimmerman asked Chinese suppliers to complete self-assessments prior to the recommencement of auditing in line with health and safety guidelines (9). None of these three companies reported modern slavery risks being identified through these questionnaires. Once again, this appears to be a positive outcome. Yet, it is questionable how effective a self-assessment questionnaire would be in detecting modern slavery, especially considering the limitations of independent and third-party auditing. While these statements all mentioned the need to protect and care for the most vulnerable workers in the supply chain, who were also those most affected by COVID-19, it is unclear precisely what actions they took—beyond platitudes, questionnaires and surveys—to prevent or counter the 'organized abandonment' of garment workers that proliferated across the industry throughout the pandemic (Pham 2022: 13).

Conclusion

Legislation such as the Australian *MSA 2018* is an important first step in recognising and minimising the risks of modern slavery in fashion supply chains. However, it also contributes to the 'transparency industry', which relies on an ethical auditing regime in the service of political ends that prioritise the needs and experiences of consumers and stakeholders in the Global North over those of workers in the Global South. In this article, I have analysed 10 of the 41 modern slavery statements submitted under the 'Fashion, textiles, apparel and luxury goods' industry sector to the Australian Modern Slavery Register for the 2019–2020 reporting period. Looking specifically at the reliance on third-party auditing, the framing of corporate grievance mechanisms and how the impacts of COVID-19 are discussed in these statements, I have argued that reporting in line with modern slavery legislation reiterates colonial relations of power within the asymmetrically divided global fashion industry. Framing modern slavery risk upon a rhetoric of rescue or protection leaves the unequal power relations that plague the fashion industry unchallenged. Transparency has been presented as an alternative to this dynamic, providing insight into complex fashion production practices. However, modern slavery reporting, which often provides supply chain information more for the benefit of corporates and consumers than garment workers, indicates the limits of transparency as an 'industry'. By drawing attention to these limitations—not only in transparency as a fashionable ideal but also, and more significantly, in the mechanisms by which modern slavery risks are currently monitored, reported and remediated—my hope is that this research can contribute to establishing more meaningful ways of grappling with the risks and challenges of modern slavery in global fashion supply chains. This would entail moving beyond a reliance on corporate auditing or even the legislation of regulatory due diligence and towards more meaningful engagement with the needs, experiences and lives of garment workers.

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1 Other reports on the issue include those published by *The Washington Post* (Fifield 2020) and *Four Corners* (Australian Broadcasting Corporation 2019).

2 Modern slavery is defined by the Australian Government Department of Home Affairs as those instances where 'offenders use coercion, threats or deception to exploit victims and undermine their freedom.' Practices that constitute modern slavery include human trafficking, slavery, servitude, forced labour, debt bondage, forced marriage and the worst forms of child labour. It does not include practices such as substandard working conditions or underpayment of workers (although these practices may be present in some situations of modern slavery). https://www.homeaffairs.gov.au/criminal-justice/Pages/modern-slavery.aspx According to the Walk Free Foundation's 2018 Global Slavery Index, 40.3 million people were living in modern slavery conditions in 2016, with 24.9 million of those people in forced labour.

3 The *Transparency in Supply Chains Act 2012* was implemented in California in 2012. This legislation focuses on consumer demands for information about where and by whom clothes are made. By passing the law, the Legislature works to ensure that 'large retailers and manufacturers *provide consumers with information* regarding their efforts to eradicate slavery and human trafficking from their supply chains, *educate consumers* on how to purchase goods produced by companies that responsibly manage their supply chains, and, thereby, improve the lives of victims of slavery and human trafficking' (*Transparency in Supply Chains Act 2012* (California); emphasis added).

4 It is worth noting that despite evidence of modern slavery in places such as Australia and the UK, these examples are most often sidelined in favour of more sensationalist and removed instances of modern slavery or human rights abuses occurring 'elsewhere', overseas.

5 Also see Horton, O'Brien and Street, this issue.

6 The demand for corporate transparency grew throughout the 2010s, particularly following the 2013 collapse of the Rana Plaza garment factory building in Dhaka, Bangladesh, after which many brands denied knowing that their garments had been manufactured there (Khan and Richards 2021; Richards 2021; LeBaron, Lister and Dauvergne 2017).

7 Companies are only required to report if they have an annual income of a certain amount (in Australia the law applies to all companies with an income of over AUD 100 million, in the US the legislation applies to companies with an annual income of USD 100 million and in the UK, as of 2018, companies with an income of over GBP 36 million).

8 The search term 'fashion' under the 'Fashion, textiles, apparel and luxury goods' industry sector brought up 26 results for the 2019–2020 Australian financial year, 15 for the 2020 calendar year and 1 for the 2019–2020 April–March financial year (Zara was included in all three categories but only counted once). I also included Uniqlo, which submitted a report for this reporting period but was not categorised in this search term.

9 Zimmerman did not disclose their annual revenue to the register, so while it may fall under the AUD 100 million threshold, they are included in the sample as they did not categorise their statement as voluntary.

10 The mandatory criteria for modern slavery statements, as outlined in the documentation for the *MSA 2018*, includes to identify the reporting entity; describe the structure, operations and supply chains for the reporting entity; describe the risks of modern slavery practices in the operations and supply chain; describe actions taken to assess and address those risks, including due diligence and remediation processes; describe how the reporting entity assesses the effectiveness of such actions; describe consultation processes; and include any other information deemed relevant.

11 The 'Paper Promises' report noted that while many companies have grievance mechanisms, few disclose data on its usage or outcomes: 'less than a third of companies providing any details. A mere 2% have responded to modern slavery risks raised through these mechanisms' (Sinclair and Dinshaw 2022: 63).

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