

# Channels for Workers' Voice in the Transnational Governance of Labour Rights?

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## Abstract

This article examines the neglected question of workers' voice in the transnational governance of labour rights. While governance studies often neglect worker's agency and labour studies focus on strikes or collective bargaining, this article takes the theoretical lenses of recursivity to explore and compare new channels for worker participation that developed in the context of transnational governance schemes. Taking the example of the Fair Labor Association, a prominent multistakeholder initiative in the garment industry, the article distinguishes between three channels: workers' surveys during audits, complaint procedures, and local grievance mediation. Despite the fact that such opportunities count as key innovations for the participation of labour in transnational governance, statistical and qualitative data from FLA's factory audits and self-conducted interviews show that locally situated actors, especially workers, are only occasionally able to make their voice heard in formally open channels. The article identifies two main sources of constraints: the first is workers' lack of knowledge of these channels and distrust towards these procedures. This is tied, secondly, to the more fundamental problem that business continues to have interpretative power over the nature of the problems and solutions in transnational labour governance.

## Policy implications

- Information and legitimation politics: transnational governance institutions need to develop more effective information politics to raise awareness about possibilities for participation.
- Localizing complaints: including local trade unions and civil society organizations can create trust and makes complaint procedures easier accessible. However, local mediators might also fear repression or get coopted in particular in non-democratic regimes and transnational regulators should think about possibilities of protection.
- Labour strategizing: national and international trade unions and activist groups should think about how to integrate these new channels in their joint strategizing, so that workers can profit from them in collective (not only individual) ways.

## 1. Worker participation through complaint making

Working conditions in global supply chains remain problematic, and many labour rights violations continue to exist at production sites, despite numerous efforts to regulate them. These efforts have led to an increasingly dense web of regulations including international rules, national law, private regulation and local custom practices (Pries and Seeliger, 2013). As part of this web of rules, transnational private forms of regulation, including codes of conduct, international organizations' voluntary initiatives (e.g. UN Global Compact) and standards of multistakeholder initiatives have proliferated over the last few decades. They are intended to address deficits of public regulation in emerging economies by enforcing decent labour standards in factories producing for global brands through auditing and certification. But how can workers, directly or indirectly, bring their voice into those transnational governance schemes?

Research on transnational governance highlights the fact that regulatory institutions are often dominated by

business actors from advanced economies in Europe and the US and that the participation of workers and trade unions is weak or lacking altogether (Dingwerth, 2008; Egels-Zandén and Merk, 2013; Fransen, 2012). In this context, studies address worker participation either from the perspective of the top-down enforcement of rules by auditing and the effects this can have on worker participation at the factory level (Anner, 2012; Locke, 2013); or from an activist perspective which discusses strategies of resistance against exploitative working conditions in global supply chains. The latter focuses on extrainstitutional tactics, in particular on strategies of disruption via strikes or transnational mobilization (Chan, 2014; Selwyn, 2013; Zajak et al. 2017).

So far, little attention has been paid to whether and how workers use opportunities for participation that are linked to transnational regulatory schemes. In particular, complaint procedures have not gained much academic attention. This seems surprising, as the introduction of such transnational grievance channels counts as a key innovation in governance institutions (Ruggie, 2016), which

should help to overcome the flaws in auditing procedures as they allow, in theory, the affected workers or trade union representatives to hold companies accountable for their employment conditions and offer opportunities to challenge ineffective or absent regulation (Marx, 2012). They should 'provide redress and justice to vulnerable communities and workers' and should contribute to 'long-term and sustainable respect' for human rights on the part of businesses (Miller-Dawkins et al., 2016, p. 1). Business and human rights scholars have begun to explore complaint mechanisms in the area of human rights (Lukas et al., 2016; Miller-Dawkins et al., 2016). Still, there is no comprehensive overview of existing grievance channels for workers in the context of the transnational regulation of labour rights. Marx and Wouter (2015) began to address this gap by looking into the presence or absence of grievance channels in private labour governance institutions (Marx, 2012; Marx and Wouters, 2015). However, they compare the institutional designs without considering the practices of their usage. In addition, and similarly to business and human rights scholars, they only focus on a particular kind of grievance channel, what I refer here to as institutionalized third party complaint processes.

The present article extends upon the existing literature by examining the existing variety of feedback channels and how they are used by workers and unions to voice discontent with working and wage conditions. In addition to institutionalized third party complaint procedures, there are at least two other channels through which problems and labour rights abuses can be addressed and that will be considered in this article: mediation procedures set up by transnational companies which involve local NGOs, and participation through worker surveys during audits.

Following Hirschman's understanding of voice as a way to agitate and exert influence for change 'from within' (Hirschman, 1970), this article looks into global–local feedback loops in the transnational governance of labour rights from the vantage point of the possibilities, practices and limits for worker voice. First, we examine which opportunities exist for workers to participate in transnational private governance institutions, and second, we examine how they are used. The empirical focus is on mapping and comparing different feedback channels within one multistakeholder initiative – the Fair Labor Association (FLA) – as a case of a prominent and rather typical transnational institution governing labour rights. The article identifies two main sources of constraints for workers to use complaint channels: the first is workers' lack of knowledge of these channels and distrust towards these procedures. This is tied, second, to the more fundamental problem that business continues to have interpretative power over the nature of the problems and solutions in transnational labour governance. More broadly, the analysis suggests that distinguishing between different channels has implications for the outcomes and effectiveness of transnational governance institutions as well as workers' individual and collective agency within these institutions.

## 2. Assessing workers' voice in recursive governance

In contrast to other fields of transnational governance, where research on recursivity is advancing (e.g. Halliday and Carruthers, 2007; Overdevest and Zeitlin, 2014), this concept is not used explicitly in research on transnational labour governance. The concept of recursivity emphasizes the cyclical nature of rule setting, that is, reciprocal links between the making of rules and their implementation (Botzem and Dobusch, 2012). Feedback channels in various forms are the key element in studies of recursivity, as through them information about implementation in specific contexts flows back into transnational institutions and triggers the revision of rules there. Feedback procedures are the channel for global–local interactions (Malets and Quack, in the introduction to this Special Section; Halliday and Carruthers, 2007).

In the field of transnational labour governance, audits are the key feedback mechanism connecting practices inside supplying factories with decision-making in those governance institutions or buyer headquarters. In theory, recursive processes consist of self-reinforcing cycles, which can lead to a 'ratcheting up' of working conditions. If information collected during audits is correct, used for decision-making in transnational governance arrangements and then correctly implemented, this could contribute to the 'continuous improvement' of labour conditions (Sabel et al., 2000). According to Locke (2013), feedback loops can contribute to the continuous improvement of working conditions when business-to-business communication is used in sharing best practices, capacity building and learning.

The idea of continuous improvement through audit information flows has been challenged both theoretically and empirically. For example, Utting (2015, p. 62) argues that it 'makes conflictive interests and confrontation "passé"'. It tends to ignore the fact that capitalist labour relations are fundamentally based on conflicting interests, making confrontations basically unavoidable. Selwyn (2013, p. 75) argues that assumptions about self-reinforcing cycles are a 'top-down elite conceptualization of relations between capital, the state and labour' which 'denies the reality of labour's exploitation' and the active role of workers. Empirically, studies on the effects of transnational regulation also suggest limited factory improvements. To give some examples: Anner (2012) analyses the results of 805 factory audits conducted by the Fair Labor Association, showing that the FLA did not contribute to the identification and remediation of freedom of association violations. He argues that this is because corporations are the key actors in setting and implementing FLA standards, suggesting that more access for workers and trade unions could improve the situation (Anner, 2012). In a recent evaluation of the audit data of the Fair Wear Foundation, Egels-Zanden and Lindholm (2014) argue that the auditing procedure was even more flawed than expected, based on previous literature as auditing is unable to identify crucial problems altogether: for example, factory audits rarely identify freedom of association violations. This literature suggests

worker participation could be a way to make transnational regulation more effective, making it all the more important to investigate whether and how workers use feedback channels.

Yet there are very few studies looking at worker participation through the usage of transnational complaint channels. Ascoly and Zeldenrust (2003) compared the complaint procedures of the Workers Rights Consortium (WRC), the Fair Labor Association (FLA), the Ethical Trading Initiative (ETI), Social Accountability International (SAI), and the Fair Wear Foundation (FWF). However, their study only provides very limited insights as by 2003, complaint procedures were not yet fully established or were kept secret. For example, the FLA has provided detailed information about the institutional design and outcomes of its complaint system only since 2012 although the procedure has existed since 2003. Marx (2012) compared the institutional design of the dispute settlement mechanisms of 426 private governance institutions (Marx, 2012). He investigated whether information on how to file a complaint and the criteria for accepting a complaint were available online, finding that only 50 of them had a complaint system.

These studies present important first steps in mapping and understanding grievance channels for workers. However, they have two main shortcomings. First, they both focus only on the differences in the structuration of complaint channels (e.g. the availability of information online). Looking at complaint channels through the lenses of recursivity pays attention to whether global or local change is produced and how they are interrelated. Second, analysing the institutional design alone does not tell us anything about the usage of these procedures and the relevance they have in practice. Focusing on how workers use these channels allows us to actually evaluate the procedure.

Drawing on the recursivity framework presented in the introduction to the Special Section, I propose analysing opportunities offered by and limits of workers' voice in transnational feedback channels along three dimensions.

First, the *degree of formality* of feedback channels indicates the shape and stability of institutionalized access to feedback channels for workers, trade unions and labour rights organizations. Formalized procedures count as a source of institutional power for workers, as the procedure as such cannot be challenged by power struggles. They enable workers to invoke the rules the buyer and supplier have committed themselves to and to restructure employment relationships in ways more favourable to workers (Brookes, 2013). In the recursivity framework, more formalized feedback channels include dispute resolution mechanisms and monitoring systems, while informal feedback channels are informal communication and media or public campaigns. In the introduction to the Special Section, Malets and Quack rightly point out that the degree of formality does not automatically mean that the feedback will be taken into account. This is why we need the other dimensions.

The second dimension is the *degree of the responsiveness*, which refers to the reactions of business and governance institutions to complaints. Simply put, high responsiveness indicates that the workers' grievances have been reviewed

and taken into account, and the problem has been solved. The question of responsiveness to workers' complaints is complicated as responsiveness can take place at multiple locations and levels, that is, at the levels of the governance institutions, the buyer and ultimately the supplier. This is why I use the concept of chains of responsiveness, which indicates that each actor has to respond, first the FLA, followed by the buyer and then the supplier. Only if this chain of responsiveness does not get interrupted have workers successfully made a complaint. Looking into recursive cycles also means paying attention to the stages at which these chains of responsiveness get disrupted: even if the FLA and the buyer agree with the workers' complaints, the supplier can still resist making changes (Malets and Zajak, 2014).

Third, I add the dimension of *barriers to access*. This dimension addresses the barriers and hindrances in the environment of workers which reduce the likelihood of their participation. It builds upon my earlier work in which I specify the degree of sensitivity of governance institutions towards local and global power constellations and therefore the ability of powerful actors to block trade unions or social movement organizations from using a certain influence channel (Zajak, 2017a). Workers are deeply embedded in local power relations. They are part of the systems of capital-labour relations in transnational production systems, which tend to favour worker control regimes over organized labour (Anner, 2015; Coe and Hess, 2013; Selwyn, 2013). For example, workers suffer from the Sword of Damocles of the relocation of production, exploitation as cheap and disciplined labour and multiple facets of state and business repression. This dimension covers how these conditions affect the likelihood of using complaint channels (rather than, e.g. other strategies such as individual acts of sabotage or strikes). This dimension is not fully independent from the institutional design as some procedures are structured in a way that power relations can be more or less relevant.

## 2. Method and case selection

### Case selection

This article focuses on a single transnational governance institution, the multistakeholder organization, Fair Labor Association (FLA). Multistakeholder institutions (MSIs) are characterized by the participation of multiple stakeholders, including business, trade unions, NGOs and in some cases governments and international organizations in the creation and implementation of rules and standards for corporate social and environmental responsibility (Baumann-Pauly et al., 2015). MSIs are by now a very common phenomenon across a range of issue areas including the environment, apparel, food, chemicals, and tourism. The garment industry is regulated by various MSIs. The most prominent ones are the Fair Labor Association (FLA), the Ethical Trading Initiative (ETI), the Business Social Compliance Initiative (BSCI), World Wide Responsible Apparel Production (WRAP), the Fair Wear Foundation (FWF), and the Worker's Rights Consortium (WRC) (Fransen, 2012).

Although all organizations are multistakeholder organizations, they can be differentiated based on the degree of involvement of trade unions and civil society organizations within their governance schemes. According to Fransen (2012), BSCI and WRAP represent business driven initiatives, where business dominates decision-making processes, whereas FWF, ETI and WRC are societally driven organizations, where unions and NGOs play a crucial role. The FLA covers the middle ground, as several human rights NGOs are members of its governing board but no trade unions or other labour rights organizations are. The FLA is a US-based nongovernmental organization founded in 1999 through which high profile companies such as Adidas, Nike and Puma work together with universities (e.g. Princeton University), a range of NGOs (e.g. Human Rights First and Global Fairness Initiative) and (more recently) some suppliers to promote compliance with international labour standards (FLA, 2015b). But what makes the FLA an interesting case is that it is the most contested MSI of all. In the FLA's early years, it was seriously criticized by antisweatshop groups, the media and socially driven MSIs for the dominance of companies in the governance structure and the limited progress in actually improving the working conditions at the companies supplying many FLA members (MacDonald, 2011). The FLA responded to its critics, revising its standards several times and reforming its governance system more broadly (MacDonald, 2011). Major changes include improvements to its independent monitoring process, the establishment of a complaint process and capacity building programmes for workers and management. Thus, the FLA has introduced more possibilities for feedback, including from workers, over time. Taking the FLA as a case helps us to evaluate the possibilities, usages, opportunities and limiting factors for workers' voice in transnational governance schemes where open and transparent grievance mechanisms are in place (in contrast to business driven organizations) and the most important labour actors, for example, trade unions, are absent from the governance structure.

In general, as other MSIs, the FLA audits factories' compliance with FLA labour standards, which are fixed in the FLA Workplace Code of Conduct, and verifies remediation results. Compliance with labour standards is monitored in the factories by company employees themselves and the FLA, which contracts independent auditors for this purpose (FLA, 2015a). The FLA covers around 5,000 factories in 60 countries and about 3.7 million workers (FLA, 2011). Between 2001 and 2011, the FLA assessed around 1,500 factories. On average, the FLA assesses 5 per cent of all factories each year (FLA, 2014). In this article, the focus is on the three channels for feedback that have been established and improved since 2001 and how they are used by workers.

### Data and methods

The article combines multiple data sources to map the usage of three different types of feedback channels by workers, their representatives and other labour rights

organizations. For each I draw on a specific set of quantitative (secondary) data, complemented by data from semi-standardized expert interviews.

*Worker consultation through surveys:* workers are consulted by auditors during factory audits. Monitoring organizations have to adhere to the FLA's 'Monitoring Guidance & Compliance Benchmarks' (FLA, 2007), which include that auditors consult with local human or labour rights organizations and conduct worker interviews as a part of the monitoring process. However, different studies have stressed that this is not an adequate tool for resolving workers' concerns for multiple reasons. For example, workers may fear negative consequences from management (Sum and Ngai, 2005). The FLA also acknowledges the limits for worker participation during audits and introduced an additional procedure with the establishment of Sustainable Compliance Methodology in 2008/2012 (FLA, 2016a), the so-called SCOPE Workers' Survey. The surveys are a standardized, quantitative questionnaire completed anonymously by randomly selected workers, to measure the effectiveness of the compliance efforts and workplace improvements (FLA, 2008). For the analysis of worker's voice through this channel, I use the results of the FLA's SCOPE Workers' Survey data to evaluate opportunities and barriers for worker participation, the processing of the information and the responses the surveys produced.

*Third party complaint process:* the FLA's third party complaint system, through which workers, trade unions and labour rights organizations can hand in their complaint directly to the FLA, was introduced in 2003. Between 2003 and 2011, the FLA reported 23 closed cases. However, since the organization did not reveal detailed information and did not publish how many cases had been filed altogether, I excluded these 23 cases from the analysis. It was only after the suicides in the Foxconn factories that the FLA increased the transparency and accessibility of the complaint procedure, for example, by providing detailed information about how to file a complaint and create an online complaint form. From 2012 onwards, more detailed information is available on all cases brought to the FLA. To investigate the FLA's Third Party Complaint Process, I analysed all FLA documents available online about the complaints since 2012 in terms of who handed in complaints, from which countries they originate, in which issue areas and with what results.<sup>1</sup>

*Local grievance mediation:* FLA member companies have to establish their own grievance mechanisms according to the FLA's Principles of Fair Labor and Responsible Sourcing. The FLA has revised its principles several times, most recently in 2015. It now states that 'Company Affiliate ensures workers have access to functioning grievance mechanisms, which include multiple reporting channels of which at least one is confidential' (FLA, 2016b). These can be factory internal and take the simple form of suggestion boxes in which workers can anonymously place their complaints, or designated persons, ideally selected by workers, whom workers can go to. Unfortunately, no quantitative data are available on this instrument.<sup>2</sup> This is why I draw on examples from my field work in China. China not only is of



significant interest as it is the major sourcing country of FLA member companies. It is also an interesting case as in the absence of independent trade unions, alternative local grievance mediation could be expected to be of significant importance. While the data was collected between 2008 and 2010, some lessons about local grievance mediation can be learnt. However, more research is needed on this mechanism. For this article, I use 10 interviews I conducted with the FLA, labour rights organizations (such as the Clean Clothes Campaign), trade unions, two member companies and several auditors.

### 3. Comparing feedback channels and workers' voice

In the following section, the three relevant feedback channels will be analysed and compared along the three dimensions outlined above, the degree of formality, chains of responsiveness and barriers to access barriers.

#### Worker consultation through survey participation

The FLA introduced workers' surveys (SCOPE) to be able to evaluate compliance with its standards in factories from the workers' perspective. The first rounds of survey were conducted in 11 factories in China and Thailand in 2007 (FLA, 2008). Worker surveys then became integrated into the FLA's standards monitoring programme in 2011 (with 27 surveys that year).<sup>3</sup> Worker surveys are a feedback channel with specific formal characteristics. They are intended to get a worker centred view of working conditions. The questionnaire includes questions on the availability of a grievance procedure in the factory and questions related to workers' satisfaction with working hours, income, working environment and communication with management (FLA, 2012a).

Surveys should also represent a way to gain unbiased information from workers as they are conducted anonymously. This should protect workers from retaliation from management. After data analyses, the FLA sends survey results to the factories, which should then be integrated into capacity training programmes (FLA, 2012a). This feedback procedure should guarantee responsiveness at the factory level.

To illustrate how this feedback channel works in practice, I take the prominent case of Foxconn, where the FLA conducted its largest survey so far. The FLA collected 35,166 answers from workers in surveys in three factories over three weeks in early 2012 (FLA, 2012b). The first interesting result is that worker surveys indeed showed differing interpretations of the situation compared to the audit reports. For example, the audit report stated that 'wages are paid on time and are above the applicable legal rates' (FLA, 2012a). In contrast, the worker survey revealed that 64.3 per cent of workers thought that their salary was not sufficient to cover their basic needs (FLA, 2012a). This is interesting as this indicates that the worker surveys indeed present a different view than audits. For workers, the wage issue continues to be a pressing problem, while the audits do not reflect this

problem. The FLA responds to these results by entering them into the investigation report together with the audit results (FLA, 2012a). The factory should then implement the suggestions made. In terms of responsiveness, Foxconn made some concessions. It agreed that workers would be paid for overtime in units of 15 minutes and for work related meetings outside regular hours (FLA, 2012a), but they did not consider raising wages. This responsiveness was again fed back to the FLA, who stated in its last report on Foxconn (December 2013) that almost all corrective actions proposed by FLA have been successfully implemented.

While this sounds like a successful recursive process, this perspective was challenged by transnational labour rights organizations and networks, including China Labour Watch, SACOM, 'good electronics' and 'makeitfair'. Activists challenged the conclusions reached by the FLA. According to these organizations, although some issues had been addressed, fundamental problems, in particular with regard to wages, remained unsolved (e.g. Germanwatch, 2013). They criticized Foxconn and Apple for not pushing the issue of raising wages, reducing overtime work and allowing independent trade unions. This suggests that although the channel is rather open for workers to participate, once the survey is conducted, its consequences and effects are rather limited. Workers' voice contributes to recommendations, but the factory management chooses what to implement and what practices it considers as compliant with the recommendations.

In sum, the following conclusions can be drawn along the three analytical dimensions outlined above: First, by institutional design, surveys are a robust but soft way to integrate a workers' perspective into feedback channels as they give some voice to workers without them having to fear managerial repression. Still, barriers for workers' participation exist: when surveys are conducted and what issues are included in the survey are decided by the FLA or member companies, not by workers themselves. Second, the responsiveness at the factory level is affected by the interpretative dominance of business. While the results of the surveys enter the remediation process, workers do not actually take part or codetermine what happens in that process. The decision of what problems are to be addressed and how it lies with the FLA, the buyer and the supplier. In sum, the opportunities for workers' agency in shaping surveys remain limited as they cannot proactively access this channel and they are not included in the remediation process. The chain of responsiveness can break easily.

#### The FLA's third party complaint procedure

The FLA complaint procedure works in the following way: any person, group or organization can report to the FLA allegations of instances of serious noncompliance with the FLA code of conduct in a production facility used by an FLA-affiliated company or supplier. Whether the FLA accepts the complaint depends on whether the factory in question produces for any participating companies and whether the

complaint contains specific and verifiable allegations of non-compliance. If accepted, the FLA contacts participating companies sourcing from the factory in question. The company then has 45 days to conduct an assessment and develop a remediation plan. The FLA might also engage auditing organizations or local civil society organizations to investigate and make recommendations (FLA, 2015d).

In order to assess the FLA complaint procedure, I analysed 38 complaints filed between 2012 and 2016 (see Table 1, for a complete overview on all closed cases see Table S1. Analysis of closed FLA complaints in the online supporting information). Twenty seven of them were submitted in 2015 alone, three in 2014 and seven in 2013. Eighteen cases were not accepted (FLA, 2015d). This seems to be a surprisingly small number of complaints, given that labour rights violations are widespread in the textile industry. This limited usage seems puzzling. In interviews I conducted with labour rights organizations and auditors, it was mentioned that most workers do not know about the FLA complaint procedure, although the FLA website provides information in several languages on how to use the procedure. A company compliance staff member explained that workers and even factory management tend not to distinguish the activities of the FLA from the activities of the buyer (interview with company compliance staff member, 27 April 2009, Guangzhou). This was also confirmed by a labour rights organization: 'Typically workers have no clue what the brand is, what the responsibilities of the brand are to them or where they would file the complaint' (Interview with Hong Kong labour rights organization, 23 April 2009, Hong Kong). In more recent field work in Bangladesh, I found that workers represented by trade unions are much more aware of different transnational complaint procedures if they have stronger ties to the international labour community (Zajak, 2017). This suggests that the usage of complaint channels depends not only on the availability and transparency of the information, but also on the presence of actors and networks helping workers to make use of them.

The most relevant issues raised in complaints relate to freedom of association violations and payment problems. Almost all complaints have been submitted by workers (17 times) or trade unions (18 times) (see Table 2). By the end of 2015, 15 cases were closed, and six other cases were pending. The main reason why the other 18 cases were rejected was that the factory in question was not an affiliated company and thus was 'out of scope' for the FLA. For example, all Chinese cases were rejected either because they were not under FLA jurisdiction or because the workers did not provide sufficient information about their complaints and did not provide their contact information. This suggests that the local context can affect the submission of complaints.

To evaluate responsiveness, I analysed all FLA reports on closed cases (through March 2016). Detailed information on the responses by the FLA, the buyer and the factory to all closed cases is available in the online supplement. The data shows that there is a significant variation in how complaints are investigated. In most cases, the FLA sends their auditors to confirm the violation by talking to management, workers

**Table 1.** FLA Complaints by country, 2012–2015

Country	Complaints (N)
Honduras	1
Turkey	3
Kenya	1
India	2
Costa Rica	1
Guatemala	3
Nicaragua	3
Peru	3
El Salvador	5
Dominican Republic	3
China	4
USA	9
N	38

Source: Own compilation based on FLA's Third Party Complaint Tracking Chart as of March 2016 (FLA 2016c).

**Table 2.** Types of complainants

Complainant	Number
Costumer	1
NGO	1
Uncertain	1
Trade Union	18
Worker	17
N	38

Source: Own compilation based on FLA's Third Party Complaint Tracking Chart as of March 2016 (FLA 2016c).

and, if possible, trade unions. Their findings may also diverge from the original complaint. In one case, the investigator could not confirm the violation, and the cases were terminated with no consequences. In three other cases, allegations were only partially confirmed and limited concessions were made (cases No 9, 12 and 13 in the online supplement). For example, there were allegations against a factory in the Dominican Republic of harassment and intimidation of trade unions, but the FLA investigator did not find any evidence of those accusations during his field visit, although he did observe an environment very hostile to trade unions. This example indicates that the handling of complaints is sensitive to the particular context and the interpretative power of the actors involved.

In most cases, when the problem was confirmed, and suggestions were made by the FLA and/or the buyer, the final solution was defined by management without the involvement of workers or trade unions. Dismissed workers for example did get reinstated, but at the same time, employee handbooks were introduced and workers were trained to behave according to specified rules of behaviour for workers. Management tended to interpret the problem as a matter of 'misinformation' or 'misunderstandings' on the part of workers rather than a fundamental violation of

labour rights. In two cases, the chain of responsiveness was broken by factory management altogether when it refused to cooperate (No. 6 and refused dialogue with a trade union, case 13). This, nevertheless, led to the case being closed. These cases exemplify the difficulties in evaluating the degree of actual improvement in closed cases because a closed case does not mean that the demands of workers have been met.

In three cases, the buyer took action and worked together with trade unionists and workers in the remediation process. For example, Adidas confirmed allegations made about the dismissal of trade unionists at a factory in Nicaragua in 2015. The workers were reinstated, and Adidas and the factory agreed to change the factory's retrenchment policy. Another example involves the Karacabey factory in Turkey, in which the dialogue between Nestlé, two factory unions and the International Union of Food, Agricultural, Hotel, Restaurant, Catering, Tobacco (IUF) led to the reinstatement of 23 dismissed workers (FLA, 2015c). This suggests that workers and trade unions are able to impact workplace regulation by using the complaint procedure, which in the two mentioned cases also had a long-term effect on worker participation in the workplace.

In sum, these data suggest that formally, the transnational complaint channel of the FLA is an open and transparent procedure. But despite its openness, the complaint channels are rarely used by workers. This is linked to the lack of knowledge, but also to low acceptance of this channel by workers. Furthermore, this high formal level of openness is only partially reflected in the responsiveness to complaints. The interpretative power to define problems and solutions largely (though not exclusively) lies in the hands of the FLA, auditors, and buyers, in many cases without dialogue with labour representatives. There are multiple points where the chain of responsibility can break. First, interruptions in the chain of responsiveness can occur if the existence of the problem is not confirmed in the first place. Second, workers or trade unions might not be included in solving the problem, leaving management to decide how to implement the suggestions made by the FLA or the buyer. Third, management might refuse to cooperate with the FLA or the buyer altogether. Thus, while providing opportunities for workers to complain, whether a complaint leads to workplace improvements depends very much on the specific case and actors involved. This suggests that recursivity takes place on occasion.

### Local grievance mediation

Transnational companies can also establish their own local grievance mediation, involving local labour rights or CSR organizations handling complaints. Until now there is no overview on the number and the design of this type of local complaint channels. This is why I refer to interviews with two organizations mediating complaints in Southern China (labelled labour support organization A and B in this article). China is a particularly interesting case as there are no independent trade unions and labour rights organizations face

severe constraints (Chan, 2014). The mediation procedure works in the following way: workers can make complaints anonymously via the telephone hotline. Workers receive the number in worker training or from fellow workers. After having received a complaint via the hotline, the labour NGO first tries to solve the issue by calling the management of the company by phone. If this does not lead to a positive outcome, a representative of the local organization visits the factory and mediates between workers and management. Depending on the circumstances, the negotiation can also include the buying company (Zajak, 2013). According to both interviewees, the hotline is used hundreds of times a year, with most complaints focusing on issues of wages and payment (Interview with labour support organizations Shenzhen, Beijing 2009). When asked why workers use the hotline rather frequently, one organization explained that face-to-face interactions inside factories were important in explaining how the hotline works and winning workers' trust: 'During the worker training, workers should realize that I want to help them' (Interview with labour support organizations Shenzhen 2009)

In contrast to the other procedures, local grievance mediation does not necessarily involve responses from the FLA or the buyer. Instead, the threat of involving the buyer can be used to get factory management to make some concessions, and the buyer is only involved when no agreement can be reached. The workers are kept anonymous and are not present in the negotiations. The organization later follows up with workers to ensure that salaries have been paid. Nonetheless, complaints get solved rather successfully, although the second organization mentioned cases in which their representatives were simply 'kicked out' of the factory.

In this case, the feedback about problematic working conditions remains local. It is not as transparent as the third party grievance procedure as no information is available online and the nature of mediation process is impacted by local circumstances and the local organizations involved. But despite the informality of the process and the precarious positions of labour rights organizations, it is used rather frequently. This seems to depend on the particular relationship workers have with the labour rights organizations. The responsiveness of the factory management appears high, at least to certain kinds of problems which clearly violate the labour law. But similarly to other channels, workers do not take part in the negotiations or the remediation of the problems, which are done only by management and labour NGOs.

### Comparing the different feedback channels

All three types of feedback channels have some commonalities. They all allow for 'recursivity on occasion', meaning that only under certain circumstances do recursive interactions between workers and the FLA, buyers and suppliers actually take place and lead to actual improvements on the shop floor. They all offer workers opportunities to voice their concerns, formulate complaints and provide information on the actual situation inside factories. But they also differ on

**Table 3.** Comparison of feedback channels for workers in the FLA system

Dimension	Worker surveys	FLA complaint procedure	Local grievance mediation
Degree of formalization	Medium-high; Standardized questionnaire but conducted only occasionally	High; transparency of the procedure	Medium; variance between companies and local organizations
Responsiveness of the -FLA -buyer -factory	FLA/buyer: rather high input enters remediation recommendations factory: high variance; low to high	FLA/buyer: medium-high Factory: medium-low	FLA/buyer: little involvement Factory: rather high, depending on issue
Barriers to access	Little effect of context factors	Lack of knowledge; environments hostile to trade unions	Position of mediating organization in domestic industrial relations system

Source: own compilation

several dimensions. Table 3 summarizes the characteristics of the three feedback channels in relation to the analytical dimensions outlined earlier: degree of formalization; responsiveness of the FLA, the company, and the factory; and barriers of access barriers. Looking at the formal structuration of the feedback channels, the three channels are rather open to worker participation. In all three feedback channels, information provided by workers is central. What differs is how the information is processed, assessed and acted upon.

While worker surveys provide interesting insights about workplace practices and problems, there is a high degree of discretion for buyer and supplier to interpret and respond to the information. In the FLA complaint procedure, workers and trade unions at first glance seem to have a greater interpretative power as they formulate their grievances. Yet it is others who verify the problem and determine remediation. The involvement of trade unions and workers in remediation depends on the willingness of the buyer to engage. In contexts hostile to worker participation, it is easier for management to manipulate the diagnosis of the problem and its solution. The exchange of information and feedback between workers and labour rights organizations is the highest in the case of local interventions. Yet this channel is also the one most affected by the domestic context and the role labour rights organizations can play in labour disputes. Still, all channels share the dilemma that workers can raise their concerns but to a large extent remain passive objects of regulation. Overall, the comparison suggests that one should pay a significant amount of attention to the role of the interpretative power of the actors involved, including the so-called third parties (e.g. auditors and labour rights organizations). How recursive feedback loops contribute to global or local changes very much depends on whose interpretation of the information becomes prevalent in subsequent negotiations.

## Conclusions

Research on worker and trade union participation in transnational governance stresses the lack of involvement of

labour in calling for addressing institutional constraints and strengthening worker voice; without it, the limited effectiveness of private regulation cannot be overcome (Anner, 2012; Donaghey and Reinecke, 2017; Egels-Zanden and Merk, 2013). In the business and human rights debate, grievance mechanisms are seen as the key mechanism for making transnational labour governance more effective and democratic (Lukas et al., 2016; Ruggie, 2016). Yet there is little systematic knowledge of how feedback channels are structured, who is making use of them and whether this really leads to regulatory change and the improved application of labour rights in practice. Taking the theoretical lenses of recursivity, this article has begun to explore opportunities for, constraints on and practices of raising workers' voice through different feedback channels. The article advances research on grievance mechanisms, worker participation and activism in transnational governance as well as recent debates about the role of information and knowledge in the governance of global value chains in several ways.

First, it contributes to the research on complaint channels (Marx and Wouters, 2015; Miller-Dawkins et al., 2016) by providing a framework for comparing them in terms of their degree of formality, the chains of responsiveness they construct and the barriers to access barriers, which prevent workers from participating in structurally open procedures. The article proposes that such procedures should not only be analysed in terms of their institutional design. We also need to explore the factors that affect the functioning and outcomes of these feedback channels to understand, first, why workers, trade unions and civil society organizations continue to make little use of this channel, and second, to what extent they actually contribute to changes in local rules and procedures. The article found multiple potential breaking points where the chain of responsibility can be disrupted. Breaks can take place at every step from the collection of the information, to the processing of the complaint and to its remediation, which allows recursivity to happen only on occasion. What is more, information is no objective truth, but rather gets transformed as it travels through recursive feedback flows. During this process, the



interpretative power of the actors involved ultimately shapes the outcome on the shop floor. While some labour scholars have started to look into the discursive power of labour in public discourse (McGuire, 2013), we still need to explore under which conditions workers' interpretation of a situation is accepted as truth throughout the whole grievance procedure. Workers are structurally disadvantaged, as after they submit their complaint, nonlabour actors interpret and validate their claims, determine the responses and assess the outcomes. Companies can decide whether or not they want to take part in the complaint procedure; if the recommendations are not implemented, companies are not sanctioned. Despite increasing transparency, it remains difficult to verify the degree to which a problem has actually been solved or simply redefined by corporate communication strategists.

Under these conditions, workers need to mobilize their interpretation, and they need support from influential allies (this can be trade unions or labour rights NGOs, but also MSIs or buyers) to activate the chain of responsiveness. The results of this article also contribute to debates on the role of knowledge as a form of power in global value chains, which is usually in the hands of business, which turns 'politically-sensitive global labour questions into profitable managerial-ethical knowledge' (Sum and Ngai, 2005, p. 198; also Scheper, 2015). We found that complaint channels can present a way of inserting workers' knowledge into business dominated governance schemes but it then needs to be backed up by collective mobilizing work.

Future research should pay more attention to the conditions under which nonlabour actors accept the interpretations of and claims made by workers and forge alliances with them. Furthermore, future studies are needed to shed light on the relationship between transnational complaint channels and other forms of worker participation on the shop floor. Currently, we still do not know whether transnational recursive labour governance pre-empts or strengthens other participatory models prominent in industrial relations, such as codetermination, social dialogue and collective bargaining. Finally, future research should also explore the conditions under which transnational business supports workers' claims and forges cross class alliances in labour disputes.

## Notes

I thank Sigrid Quack and Olga Malets and two anonymous reviewers for their helpful feedback and suggestions.

1. An overview of the analysis of all cases is provided in the supplement online material.
2. A company representative explains their reluctance towards revealing information about such grievance mechanisms by noting that workers' complaints are a double-edged sword for companies: on the one hand, they signal that the company is open and responsive to workers' concerns; on the other hand, the existence of complaints could be interpreted as the failure of the compliance approach (Interview G7 stakeholder meeting, Berlin 12 October 2015).
3. There is no overview of all surveys conducted by the FLA available so far.

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## Supporting Information

Additional Supporting Information may be found online in the supporting information tab for this article:

**Table S1.** Analysis of closed FLA complaints.

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