

Global Threads: Unravelling the impact of Extended Producer Responsibility on the textile industry in Pakistan

What potential impact will the proposed amendment to the EU's Waste Framework Directive have on the Pakistani textile industry, specifically on labour rights?

By

Ida Nydelius

All rights reserved. No part of the material protected by this copyright notice may be reproduced, utilized in any form or by any means electronic or mechanical, including photocopying, recording or storing in a retrieval system or transmitted in any form or by any means without the prior permission of the Executive Forums Editor of the ELSA IE Law Review. The views expressed by the authors are their own and do not necessarily reflect those of the publishers.

Copyright © The European Law Students' Association IE University Law Review and the authors, 2024

ABSTRACT

This thesis offers an in-depth evaluation of the prospective consequences of the suggested amendments to the EU's Waste Framework Directive (“WFD”) and the adoption of Extended Producer Responsibility (“EPR”) systems for textiles. Specifically, it examines the effects on the Pakistani textile industry, representative of third-country suppliers, with a particular focus on labour rights. As the textile industry is highly globalised and interconnected, the question arises as to how the EU's push for stringent textile legislation for a greener transition will affect non-EU suppliers. This is especially relevant for the substantial workforce of 15 million textile workers, many of whom are based in non-EU countries while subcontracted by European firms. The research thoroughly assesses the concept of EPR and two national case studies of EPR in practice, namely France and Germany. It also critically analyses the suggested modifications of the WFD and EU's Textile Strategy from a broader perspective. After that, the research examines labour abuses in the Pakistani textile sector, including wage theft, inadequate safety measures, and modern slavery, to understand the industry's exploitative practices to better address EU policies and their impact on European business practices. Furthermore, it studies the trade relationship between the EU and Pakistan, concentrating on textile imports and exports and the possible consequences of the revised WFD for the Pakistani textile industry. The thesis concludes with policy recommendations to balance sustainable waste management with fair and safe working conditions for textile workers, highlighting the need for a just transition for the entire supply chain.

Table of Content

ABSTRACT	2
Table of Content	3
Introduction	5
Methodology	8
1. What is EPR?	9
1.1. History and Background	9
1.2. EPR in the EU	10
1.2.1. Case Study: France - EPR System and Duty of Vigilance Law 2017	13
1.3. EPR and Corporate Social Responsibility	15
1.4. EPR and Due Diligence	16
1.4.1. Case Study: German Due Diligence Act - Opening Litigation Routes for Textile Workers	17
2. The Legal Frameworks	19
2.1. European Legislation	19
2.1.1. EU Strategy for Sustainable and Circular Textiles - An Overview	19
2.1.2. The Waste Framework Directive - Proposed Amendments	21
2.1.3. The Corporate Sustainability Due Diligence Directive	24
2.2. International Frameworks	26
2.2.1. The UN Guiding Principles	26
2.2.2. The Universal Declaration of Human Rights & The European Convention on Human Rights	27
3. An Overview of Labour Abuses in the Textile Sector	28
3.1. Wage Theft & Use of Indirect Workers	29
3.2. Poor Safety and Health Standards	31
3.3. Modern Slavery	32
3.4. Case Study: KiK, Rina and Ali Enterprise vs Jabir and others	33

4. The Economic Relationship between Europe and Pakistan	35
4.1. The Pakistani Textile Industry	35
4.2. The Pakistan-EU Trade Relationship	36
4.3. The Potential Impact of the Waste Framework Directive on the Pakistani Textile Industry	39
4.3.1. Two Potential Scenarios	40
4.3.2. What will the role of European companies be?	42
5. Policy Recommendations	43
5.1. Assessing the Impact of the European Textile Directive on Producer Countries to align with European Principles	43
5.2. Preventing Production Shift to EU's 'Safe Suppliers' and Neglecting Producer Countries	44
5.3. Establishing Clear Compliance Requirements for European Businesses and Global Third-Party Suppliers	45
5.4. Bridging the Technology Gap	46
5.5. Establishing Financial Support Channels	47
5.6. Recommendations for Future Research	48

Introduction

The textile industry has been vital to the global economy for centuries. The sector employs over 300 million people across the value chain. In Pakistan, the industry makes up 45% of the country's employment.¹ In addition to causing enormous waste and pollution, the industry is also accountable for numerous labour violations, such as wage theft, modern slavery, and unfavourable working conditions.² The consumption of textiles in the European Union ("EU") significantly impacts third countries, particularly in Asia, where most of the production for EU markets takes place.

The EU exports a considerable amount of textile waste to these countries, much of which is purportedly for reuse. However, a significant fraction of these exports are not reusable; they contribute to environmental degradation in the receiving countries. About 1.83 million tonnes of used and waste textiles are exported annually, primarily to Asia and Africa.³ The prevalent fast-fashion model exacerbates these issues by encouraging over-consumption and rapid disposal of textiles, which need to consider the negative environmental externalities and lead to increased waste and management challenges. This scenario underscores the need for the EU to adopt more sustainable consumption practices and regulations addressing social impacts in the global textile industry beyond the EU.

In 2023, the European Union proposed an amendment to *the Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on waste and repealing specific Directives*⁴ (hereafter referred to as the

¹Global Fashion Industry Statistics, FASHIONUNITED, <https://fashionunited.com/global-fashion-industry-statistics> (last visited April 25, 2024).

²*Fashion and the circular economy – deep dive*, ELLEN MACARTHUR FOUNDATION, <https://www.ellenmacarthurfoundation.org/fashion-and-the-circular-economy-deep-dive> (last visited Apr. 25, 2024).

³Gabriela Rodriguez et al., *Circular Economy and Trade in Textile Sector in Pakistan: Challenges and Opportunities in Complying with the EU Ecodesign Proposed Regulation*, TRADELAB INTERNATIONAL ECONOMIC LAW CLINIC (Jul. 2023) https://tradelab.org/wp-content/uploads/2023/07/Group-1-Circular-Economy-and-trade-in-textiles-sector-in-Pakistan_-Final-draft.pdf.

⁴ European Commission, *Proposal for a Directive Of The European Parliament And Of The Council Amending Directive 2008/98/EC On Waste*, EUROPEAN COMMISSION (Jul. 5, 2023), <https://environment.ec.europa.eu/publications/proposal-targeted-revision-waste-framework-directive>.

“Waste Framework Directive” or “WFD”) that includes Extended Producer Responsibility (“EPR”) systems for textiles, to address the industry's environmental and social challenges. In its final stages, the amendment is expected to be passed and enforced in 2025.⁵ These amendments can potentially impact the textile industry's operations, particularly regarding its social impact on the textile industry. However, the negative consequences of the textile industry, such as labour abuses, often disproportionately affect non-EU countries, which may have few resources and regulatory frameworks to address them. These are exaggerated by the “race-to-the-bottom” and stripping basic rights for low, competitive prices. With the recent trend of increasing waste collection, the demand for cheap manual labour for sorting and recycling will increase.

Pakistan is one of the largest textile-producing countries in the world, and the industry is a significant contributor to the country's economy. But, the industry is also notorious for its labour abuses, including forced labour and poor working conditions. By examining the impact of the proposed amendment on the Pakistani textile industry, this research aims to shed light on the potential benefits and challenges of implementing EPR systems through the WFD for textiles in third countries. Thus, the research question is, “*What potential impact will the proposed amendment to the EU's Waste Framework Directive have on the Pakistani textile industry, specifically on labour rights?*”. The reason for selecting Pakistan as the focus of the study is the country's close connection to industry and intensive trade with the EU. Pakistan also proliferates as a used-clothes trader, importing large quantities of textile waste from Europe. These aspects make the country suitable for examining the potential impact of increasing textile waste collection in the EU.

The thesis is divided into five chapters. Chapter One introduces the concept of EPR, its origin, and variations in national legislation - taking France's progressive implementation and Germany's adaptation of EPR in conjunction

⁵ European Parliament, Procedure File 2023/0234 (COD) Waste Framework Directive: textiles and food waste, EUROPEAN PARLIAMENT LEGISLATIVE OBSERVATORY (Mar. 2024), [https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2023/0234\(COD\)&l](https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2023/0234(COD)&l).

with the Due Diligence Act. Chapter Two analyses specific articles of the WFD and gives an overview of the EU's Textile Strategy to understand the EU's goals with the amendments. Chapter Three explores the labour abuses in the Pakistani textile industry, including wage theft, the use of indirect workers, poor safety and health measures, and modern slavery. This aims to highlight the realities occurring in major European retail companies' production and sourcing stages in Pakistan. Chapter Four examines Pakistani-EU trade relationships, especially textile exports and imports (including textile waste). This chapter delves into the potential impacts on the Pakistani textile industry and the core of this research: *the potential impacts of the proposed amendments of WFD on the Pakistani textile industry regarding labour rights*. The chapter explores two potential impact scenarios: whether the increased EPR requirements will encourage companies to invest in Pakistani suppliers to be compliant or move production back to European "safe suppliers". This research also asks, "How can EPR schemes be designed to encourage recycling and waste reduction while simultaneously incentivising high labour standards in the global textile industry?". Considering the increased textile waste collection due to mandatory EPR schemes in Member States imposed by the new WFD, the exports of textile waste to third countries will most likely be impacted. Therefore, this chapter will also investigate the current developments in Pakistan regarding recycling, reporting, and sustainability tracing and how the country is affected by the textile imports from the EU to provide a basis for holistic policy recommendations, including the third-country's part of the supply chain.

The final chapter presents policy recommendations based on the findings of the previous chapters. The recommendations aim to balance the need for sustainable waste management practices with ensuring fair and safe working conditions for textile workers. The chapter identifies how EPR systems can be designed to promote sustainable and ethical practices within the textile industry, encompassing the integral role of third countries.

Methodology

This study's methodology is based on a qualitative research design that uses a gap analysis framework to assess the upcoming amendments to the WFD, which will integrate EPR systems for the textile industry. The gap analysis will comprehensively evaluate the proposed changes to the WFD and identify gaps within these changes, particularly as they relate to European companies with operational connections to Pakistani suppliers. The analysis begins by systematically collecting and reviewing the proposed changes to the WFD, focusing on integrating EPR. It will then comprehensively examine the available literature, legislative documents, expert interviews, and case studies to construct a detailed understanding of the directive's scope and intentions. Academic papers, news articles, and reports from independent NGOs will complement this.

Following the initial review, the study delves into a thematic analysis to uncover potential gaps in the directive that could impede its effectiveness or create unintended consequences, particularly in supply chain relationships. This includes scrutinising the feasibility, scalability, and enforceability of the EPR amendments and their capacity to interface with the existing infrastructures of the Pakistani suppliers. Moreover, the research will examine the potential ripple effects of the amended directive on the intricate dynamics of the European textile companies' supply chains, such as changes in sourcing strategies or shifts in market share. In particular, it will explore how the requirement for compliance with EPR could compel European companies to reassess their relationships with Pakistani suppliers, potentially necessitating investment in compliance measures or, conversely, leading to the severance of contracts to avoid non-compliance penalties.

Recognising the limitations inherent in predicting the impact of legislative changes, the study will mitigate these by consulting diverse sources. To ensure validity, the research question will be clearly defined, and the study will use, as mentioned, data from multiple sources, including academic papers, articles, and case law, to corroborate findings. The study acknowledges potential biases due to the limited number of interviews, which will be balanced by comprehensive desk research. Furthermore, limitations such as the short time frame for the study

and the reliance on secondary sources due to limited direct source accessibility are recognised. Despite these limitations, this study aims to provide valuable insights into the potential impacts of the proposed amendments to the Waste Framework Directive on the textile industry and, more specifically, on labour rights.

1. What is EPR?

1.1. History and Background

The concept was first devised by the Organisation of Economic Co-operation and Development (“OECD”), which defines EPR as “an environmental policy approach in which a producer’s responsibility, physical and/or financial, for a product, is extended to the post-consumer stage of a product’s life-cycle”.⁶ In other words, EPR is a regulatory mechanism used to finance costs associated with the environmental management of products or their packaging once they reach their end-of-life. According to the OECD, there are two critical features of an EPR policy, namely (1) the shift of responsibility away from municipalities and upstream towards the producer, especially in terms of waste management, and (2) incentivise producers to design products with the environment taken into consideration.⁷ This also incentivises producers to incorporate unavoidable costs into the product's price, effectively making the producer and consumer responsible for the incurred social costs of waste produced.

The EPR has the potential to change choices in the production of products, such as the selection of materials, design and treatment in the post-consumer phase. The environmental externalities from the disposal of products need to be addressed and proportionally internalised by their producers and consumers. As defined by the OECD, the ‘polluter’ includes the brand owner, the broader supply chain and the end consumer - which widens the definition and thus targets the wider product value chain.⁸ Furthermore, the two most crucial policy design

⁶OECD, *Extended Producer Responsibility: A Guidance Manual for Governments*, OECD iLIBRARY (March 20 2001) PP. 11-12, <https://doi.org/10.1787/9789264189867-en>.

⁷*Id.*

⁸ *Id.*

issues in terms of EPR are the balance of allocating responsibility and attributing the role of the producer throughout complex supply chains. In the context of their Guidance Manual on EPR, the OECD considered the producer, the brand owner and the importer. Nonetheless, the sharing of responsibility across the product chain plays an essential part in the overall performance of an EPR programme, and the role of retailers, distributors, consumers, municipalities, and other potential actors must be considered.

1.2. EPR in the EU

The OECD primarily inspires the concept of EPR in the EU. It posits that a producer's responsibility for a product should extend beyond its consumer use phase and into its post-consumer lifecycle. In the EU, EPR was first formulated in a Swedish Ministry of the Environment report by Thomas Lindqvist in 1990. During the same year, the German Minister of the Environment adopted a similar EPR approach in developing the Ordinance on the Avoidance of Packaging Waste (*Verpackungsverordnung*), which became effective in 1991. The Ordinance, also commonly called the "German Green Dot Scheme", was the first practical application of an EPR scheme in the EU. After that, the EU developed the concept and incorporated it more widely, for example, in 2000 in the End-of-Life Vehicles Directive and the Waste Framework Directive (WFD) from 2008, as well as in the amendments to the WFD in 2018.⁹

The general status of EPR has evolved significantly with the introduction of the WFD. The current proposal for amending the Directive will introduce a wider adoption of EPR systems and include the textile industry, which has traditionally been outside the scope. Moreover, the planning of national EPR systems for textiles has dramatically increased in the European Union in recent years. This trend is expected to continue, further altering the legislative landscape. The chief cause is the EU Strategy for Sustainable & Circular Textiles, published in March 2022. In accordance with this strategy, a proposal

⁹ Katrien Steenmans, *Extended Producer Responsibility: An Assessment of Recent Amendments to the European Union Waste Framework Directive*, 15 Law, Environment and Development Journal, (2019).

mandating the adoption of textile EPR systems in the WFD was published in July 2023. Looking ahead, all producers will be required to separately collect textiles by January 2025.¹⁰

Thomas Lindhqvist developed four categories of EPR. These can help understand how countries adopt EPR systems and the opportunities for different EPR approaches. The first category is “*physical responsibility*”, which implies that the procedure is held accountable for the physical end-of-life management of their products and/or through the development of technology or provision of services. An example is setting up “take-back programs”. The second category is “*economic responsibility*”, which refers to the producers internalising the cost of managing their products' generated waste. This will be directly funding the collection, processing, and disposal or indirectly by paying special fees. The third category is “*Liability*”, which places the damages due to the company's products being placed upon the producer. Finally, the fourth category is “*Information responsibility*”, which obliges the producer to provide adequate information about the product and its environmental impact throughout its lifecycle.¹¹ The Dutch Packaging Decision (“DPD”) from 2014 illustrates how these EPR types can overlap and be selective. For example, the DPD requires *informative responsibility*, such as reporting obligations, *physical responsibility* for setting up waste collection, and *economic responsibility* regarding funding research. At the same time, *Liability* is excluded from the DPD.¹²

Moreover, EPR is in line with key European environmental law principles, such as the “Polluter-pays” principle, which provides a legal policy basis for the implementation of EPR in the context of the EU. In line with *economic responsibility*, the producer is responsible for paying for the waste management, which will have cost implications as they must finance several additional activities (for example, collection, sorting, and producing information). Some

¹⁰ Veronique Allaire, *Workshop 1: Extended Producer Responsibility (EPR) in Textiles*, YOUTUBE (Nov. 29, 2023), <https://www.youtube.com/watch?v=3iEwl-jX9RA>.

¹¹ Thomas Lindhqvist, *Extended Producer Responsibility in Cleaner Production: Policy Principle to Promote Environmental Improvements of Product Systems*, THE INTERNATIONAL INSTITUTE FOR INDUSTRIAL ENVIRONMENTAL ECONOMICS (May 5 2000), <https://portal.research.lu.se/en/publications/extended-producer-responsibility-in-cleaner-producti-on-policy-pri>.

¹² Steenmans, *supra* note 9.

industry leaders have argued against this by stating that consumers are the real “polluters” when they dispose of the product, while producers only supply useful products. However, Katrien Steenmans, a researcher at Copenhagen University, confronts this by introducing the “Preventative Principle”, which states that the producer's responsibility is “to prevent the creation of pollution or nuisance at source.”¹³ This highlights the producer's role in creating demand and desire for products, influencing higher consumption. Besides, producers have decision-making power over materials and quality production, contributing to textiles' durability, recyclability, and reusability. In addition to the polluter-pay principle, the preventative principle offers an additional basis for EPR systems to establish the producer's responsibility.

Another recognised advantage of the EPR system is shifting economic and physical responsibilities from municipalities to producers. This encourages producers to innovate and specialise in product design for more durability and recyclability as they incorporate overall production strategies to improve waste management schemes. Under these EPR schemes, producers internalise the costs of externalities instead of placing the burden upon municipalities and later waste-receiving countries. However, this presents important considerations to policymakers, as EPR schemes will likely increase production costs, which might be detrimental to SMEs and individual producers. The French model, which is considered to be at the forefront of the implementation of the EPR scheme in the EU, shows how companies organised themselves collectively and created a joint producer responsibility organisation (“PRO”) that was tasked with the primary responsibility to set up and manage the waste management infrastructure on behalf of the collective.¹⁴ In France, the collective compliance scheme, Refashion, has 95% of the market registered members, counting over 4,000.¹⁵ The following section will explore the French model further.

¹³ Katrien Steenmans, *Extended Producer Responsibility: An Assessment of Recent Amendments to the European Union Waste Framework Directive*, 15 *Law, Environment and Development Journal* (2019).

¹⁴ *Id.*

¹⁵ WRAP, *Textiles Extended Producer Responsibility Webinar*, YOUTUBE (Feb. 28, 2024) <https://www.youtube.com/watch?v=lMtFxez7WS0>.

1.2.1. Case Study: France - EPR System and Duty of Vigilance Law 2017

In 2008, France was the first country to adopt EPR for textiles - an essential step as France is known for its fashion and as a historically significant fashion hub. The country placed more than 3.3 billion clothes on the market in 2022 and sold nine million textile items daily during the same year. Regarding EPR, the country's collective compliance scheme, Refashion, is imposed by French law and operates its members' collection and recycling system. France also imposed an EPR fee averaging €0.01 per garment and a maximum of €0.06, with eco-modulated EPR fees imposed on hard-to-recycle textiles and environmentally unfriendly products. There are three levels of eco-modulation: encouraging the design of more durable and resistant products, selecting recyclable materials, and integrating recycled materials. For instance, producers integrating 15% recycled fibres from post-consumer textiles receive a 50% discount on their EPR fees. Producers must also display the Triman Logo and provide specific sorting instructions with their products to inform consumers how the textiles can be collected for recycling.¹⁶

The French EPR system has seen a threefold increase in consumer textiles' collection and recycling rates since 2006.¹⁷ On the other hand, criticism and concerns have been raised about the current implementation of EPR systems in France because not all collected textiles are treated within France. The OR Foundations state in their report that out of 244,448 tonnes of textiles collected by Refashion, France's EPR responsible agency, *only 20% of the textiles were recycled*. The remaining 80% were exported, mainly to the Global South, including former European colonies with limited waste management resources.¹⁸ While some may argue that sorting facilities, recyclers, and exporters in Europe receive inadequate funding from the EPR programme to support genuine

¹⁶ *Id.*

¹⁷ Liz Ricketts and Branson Skinner, *Stop Waste Colonialism: Leveraging Extended Producer Responsibility to Catalyze a Justice-led Circular Textiles Economy*, THE OR FOUNDATION (Feb. 14, 2023), <https://stopwastecolonialism.org/stopwastecolonialism.pdf>.

¹⁸ *Id.*

circularity, no financial aid is provided to the countries in the Global South handling the collected clothing.¹⁹

In addition to their EPR system, France implemented the Duty of Vigilance Law 2017, which compels large French companies to create and publicise vigilance plans to identify and prevent violations of human rights, health and safety, and environmental norms. The legislation applies to companies with over 5,000 domestic or more than 10,000 employees globally, including subsidiaries. The vigilance plan must include risk mapping, evaluation procedures for subsidiaries, suppliers and subcontractors, risk mitigation actions, a whistleblowing mechanism, and a monitoring system to review the plan's effectiveness and provide public reports. While the law's enforcement is primarily civil, courts can mandate compliance under the threat of a fine. Furthermore, the law establishes civil liability, allowing for damages if a company's failure to meet vigilance obligations results in preventable harm.²⁰ On March 23, 2022, two NGOs, in coalition with a Turkish labour union and 34 workers, initiated a lawsuit against the French cosmetic firm Yves Rocher under the French Corporate Duty of Vigilance Law. The plaintiffs allege that the company's Turkish subsidiary, Kosan Kozmetik, unjustly fired over 130 workers, mainly women, for unionising to combat poor conditions. The claimants are seeking compensation and a court order compelling Yves Rocher to implement preventive measures to mitigate the risks to workers' fundamental rights arising from the operations of its Turkish subsidiary.²¹ While the proceedings are currently pending in the pre-trial phase, this legal case will test the Duty of Vigilance Law's reach in making corporations liable for their supply chain's impact on human rights and labour standards.

¹⁹ Jordan Girling, *Textiles Extended Producer Responsibility (EPR): Status report summarising the proliferation of Extended Producer Responsibility (EPR) systems for the textiles waste stream*, WRAP (Jan.2024),

<https://asiagarmenthub.net/resources/2024/wrap-textiles-epr-status-report-january-2024-v2.pdf>.

²⁰ *France's Duty of Vigilance Law*, BUSINESS & HUMAN RIGHTS RESOURCE CENTRE, <https://www.business-humanrights.org/en/big-issues/corporate-legal-accountability/frances-duty-of-vigilance-law/> (last visited May 1, 2024).

²¹ *Turkey: Yves Rocher, the French cosmetics company, facing court proceedings for failure to ensure workers' rights and trade union rights*, BUSINESS & HUMAN RIGHTS RESOURCE CENTRE (March 24, 2022), <https://www.business-humanrights.org/en/latest-news/turkey-yves-rocher-the-french-cosmetics-company-facing-court-proceedings-for-failure-to-ensure-workers-rights-and-trade-union-rights/>.

1.3. EPR and Corporate Social Responsibility

Corporate Social Responsibility (“CSR”) is often defined as voluntary-adopted sustainable development principles that companies implement in their strategies to encompass sustainable and social development. They are often non-binding, and penalties seem impossible. At the same time, CSR has become essential for companies to face the increasing consumer demand for ethically produced products and an essential tool for investors to determine the company’s competitiveness, brand image and social impact. While the implementation of CSR has shown positive results in brand positioning for companies, there are no mandatory enforcement or repercussions when companies fail to adhere to their code of conduct.²² As showcased in a recent lawsuit against H&M for “greenwashing”, companies that are not adequately transparent with their CSR practices can still market their products as ethically produced without facing repercussions. The H&M case was dismissed in court despite several reports suggesting labour abuses from H&M’s supply chains.²³ While there were no legal consequences, failing to comply with the CSR measures will likely affect the company’s relationship with investors, stakeholders, and consumers. The latter might boycott the brand and create campaigns against the company. As a result, the failure of CSR compliance can lead to significant revenue losses from sales; however, legal remedies for the victims of labour abuses are more often absent.

Transparency is the backbone of CSR, and if the company is not providing sufficient information to support its “green claims”, then that should be considered Greenwashing. This is currently under revision with the Green Claim

²² Julia García Álvarez, *Corporate Human Rights Abuses committed by European Transnational Companies in Third Countries within the Textile, Oil and Defence Sector. Theory-Practice Inconsistencies in the UNGPs Implementation Process at EU level*, GLOBAL CAMPUS OF HUMAN RIGHTS UNIVERSITÉ LIBRE DE BRUXELLES (2020), <https://repository.gchumanrights.org/server/api/core/bitstreams/dd42ca59-1868-465c-9ae4-7de55418466c/content>.

²³ Léa Jehanno, *The place of CSR in the textile and Fast Fashion Industry* (April 2022), https://www.theseus.fi/bitstream/handle/10024/345634/Jehanno_1%C3%A9a.pdf; USA: *Class-action lawsuit filed against H&M over 'misleading' marketing of 'sustainable' clothing line*, BUSINESS & HUMAN RIGHTS RESOURCE CENTRE (Nov. 11, 2022) <https://www.business-humanrights.org/en/latest-news/usa-class-action-lawsuit-filed-against-hm-over-misleading-marketing-of-sustainable-clothing-line/>.

Directive (GCD) as the EU aims to introduce a legal basis to sue companies marketing themselves as CSR compliance and “ethical” when they are not. With this, the EU seeks to stop the greenwashing practices, enhance the credibility of European Companies on the market, and improve consumer trust in these companies.²⁴ However, for CSR to be efficiently implemented, the companies must have the means and infrastructure to produce and disclose sufficient information to consumers.

The link between EPR and CSR is in their shared goal of encouraging companies to implement better practices. The EPR schemes, however, extend beyond traditional CSR by holding producers accountable for the entire lifecycle of their products. It represents a shift from voluntary measures for the brand image to mandatory requirements that producers must follow to operate in the market. Nonetheless, the EPR systems are built upon CSR and are crucial to understanding companies' current situation and sustainability practices.

1.4. EPR and Due Diligence

Due diligence is the thorough investigation process before business decisions and imposes CSR practices. At the same time, EPR is a policy approach that holds producers accountable for their products' environmental and social impact through the entire lifecycle. Nonetheless, due diligence and EPR concepts are closely interlinked through various EU regulations and directives that promote sustainable practices. In the EU, due diligence is a crucial concept in multiple rules related to corporate reasonability, environmental protection, human rights, and supply chain - for example, the proposal to the Corporate Sustainability Due Diligence Directive²⁵ and the EU Non-Financial Reporting

²⁴ European Commission, *Environment: Green claims*, EUROPEAN COMMISSION, https://environment.ec.europa.eu/topics/circular-economy/green-claims_en (last visited April 18, 2024).

²⁵ The Proposal was agreed upon in March 2024; however, at the time of this paper, it has not yet been decided upon an entry-to-force date, see European Commission, *Proposal for a DIRECTIVE OF THE EUROPEAN PARLIAMENT AND OF THE COUNCIL on Corporate Sustainability Due Diligence and amending Directive (EU) 2019/1937*.

Directive²⁶. Moreover, companies operating in the EU must conduct due diligence assessments to identify, prevent, and mitigate risks related to environmental impact and human rights, among other issues, which is essential for companies to comply with the regulation. Furthermore, companies subject to EPR regulations in the EU will need to integrate due diligence processes into their operations to assess and manage environmental risks associated with their products. Through due diligence, companies can ensure compliance with EPR obligations, track the environmental performance of their products, and engage in transparent reporting on sustainability metrics.²⁷

In conclusion, EPR schemes are recognised by scholars to have significant limitations in establishing and tracking responsibility compared with due diligence obligations and recognise EPR's weaker nature.²⁸ Thus, EPR should not be adopted in a vacuum but supported with complementing due diligence directives and a robust monitoring and enforcement mechanism in cases of non-compliance.

1.4.1. Case Study: German Due Diligence Act - Opening Litigation Routes for Textile Workers

On January 1st, 2023, Germany implemented the law on Corporate Due Diligence Obligations in Supply Chains (hereafter referred to as "LkSG") to address human rights and environmental risks in global supply chains. This legislation governs the accountability of German businesses to uphold human rights in international supply chains, encompassing safeguards against child labour, ensuring fair wages, and promoting environmental conservation.²⁹ This obligation takes various forms - from reporting to putting in place suitable

²⁶ Directive 2014/95/EU of the European Parliament and of the Council of 22 October 2014 amending Directive 2013/34/EU as regards disclosure of non-financial and diversity information by certain large undertakings and groups Text with EEA relevance.

²⁷ Anita Ramasastry, *Corporate Social Responsibility Versus Business and Human Rights: Bridging the Gap Between Responsibility and Accountability*, *Journal of Human Rights* 14(2), at 237-59 (Dec 20, 2015).

²⁸ Steenmans, *supra* note 8.

²⁹ Federal Ministry of Labour and Social Affairs, *Supply Chain Act*, BMAS, <https://www.bmas.de/EN/Europe-and-the-World/International/Supply-Chain-Act/supply-chain-act.html> (last visited April 18, 2024).

measures to protect against violation of vital legal interests, such as injury to life or limb. In non-compliance, companies can face three types of fines depending on the gravity of the violation - ranging from the most severe penalties for failing to take preventative actions or establishing a complaint procedure to lesser violations, such as not preparing or late publishing of the annual due diligence report. The fines can go up to €500,000 for individuals and €5 million for companies for grave violations, and up to €100,000 (for individuals and companies) for less grave violations.³⁰

Despite the LkSG's statement that it does not create civil liability, the due diligence obligations could be considered statutory duties of care within the context of torts to ensure public safety and organisational responsibilities across legal entities. This interpretation could lay the groundwork for corporate liability under § 823 of the German Civil Code. Before the LkSG, establishing corporate liability was challenging due to the absence of a clear basis for attributing misconduct at the top of the supply chain to the company. Traditionally, liability was connected to supplier misconduct without extending to the higher company, given that tort law's organisational duties applied only to the legal entity. However, in response to global human rights and environmental protection standards, the LkSG instituted statutory due diligence obligations, encouraging companies to manage their supply chains sustainably.³¹ This marks a departure from previous legal stances, potentially linking these due diligence duties to tort law's safety and organisational obligations. Furthermore, the LkSG facilitates the enforcement of rights by allowing trade unions or NGOs to file actions, significantly lowering the barriers to legal redress in Germany. Despite an emphasis on administrative enforcement, the possibility remains that these due diligence obligations could indirectly create a safety duty, thus establishing a foundation for liability under the German Civil Code, a matter likely to require judicial determination.

³⁰ Dr. Sonja Hoffmann & Christian M. Theissen, *The New Corporate Due Diligence Act: Potential Liability under Civil Law and Administrative Law*, WHITE & CASE LLP (July 8, 2021), <https://www.whitecase.com/insight-alert/new-corporate-due-diligence-act-potential-liability-under-civil-law-and>.

³¹ *Id.*

Before the LkSG, there was a lawsuit against the German retailer Kik (which will be further explored in a later chapter). The lawsuit aimed to hold Kik accountable for safety lapses at a Pakistan factory after a tragic fire in 2012, arguing that the company had significant control over the factory. Despite compelling arguments on corporate accountability in global supply chains, the lawsuit was dismissed on procedural grounds, leaving questions of multinational corporations' responsibilities unresolved.³² After the enactment of the LkSG, the National Garment Workers Federation filed a complaint in 2023 against corporations like Tom Tailor, Amazon, and IKEA, accusing them of failing to monitor safety in their Bangladeshi factories.³³ Though it is still pending, this case was enabled by the LkSG and highlights the shift towards legally mandated due diligence and proactive human rights safeguarding, representing a significant change in how legal systems can enforce multinational corporate accountability for safe working conditions.

2. The Legal Frameworks

2.1. European Legislation

2.1.1. EU Strategy for Sustainable and Circular Textiles - An Overview

“How can fast fashion go out of fashion?” That is what the EU is asking and the reason behind major legislative initiatives to support a sustainable transition of the textile industry. Among these initiatives is the EU Strategy for Sustainable and Circular Fashion (hereafter “Textile Strategy”), a part of the European Green Deal. The Textile Strategy encompasses the Commission’s 2023 vision for all textiles placed on the EU market to 1) be durable, repairable, and

³² *KiK: Paying the price for clothing production in South Asia*, EUROPEAN CENTER FOR CONSTITUTIONAL AND HUMAN RIGHTS, <https://www.ecchr.eu/en/case/kik-paying-the-price-for-clothing-production-in-south-asia/> (last visited April 18, 2024).

³³ Libby Annat, *First case filed under the German Supply Chain Due Diligence Act against Tom Tailor, Amazon, and IKEA by Bangladeshi workers*, DUE DILLIGENCE DESIGN (April 27, 2023), <https://duediligence.design/first-case-filed-under-the-german-supply-chain-due-diligence-act-against-tom-tailor-amazon-and-ikea-by-bangladeshi-workers/>.

recyclable, 2) be made of recycled fibres without hazardous substances, and 3) “produced in respect of labour and social rights and the environment”.³⁴ To achieve this, the EU targets the entire lifecycle of textiles - from sourcing to post-consumer.

In short, the existing laws in the European Union related to textiles include the EU Ecolabel Criteria for Textile Products and the EU GPP Criteria for Textiles Products and Services. These set out rules about the environmental aspects of textiles. For example, they set standards for the quality of products, and they limit the use of chemicals that could harm the environment. Building on these rules, the European Commission (“EC”) is pushing for more specific rules about the design of sustainable products by replacing the Ecodesign Directive 2009/125/EC with the proposed Ecodesign for Sustainable Products Regulation (“ESPR”). With this Directive, the Textile Strategy will lay out new design requirements for textiles to make them more durable, increase their lifespan, and make them easier to repair and recycle. The ESPR will also introduce the “Digital Product Passport”, requiring companies to provide information about a product's sustainability, helping consumers and businesses make informed choices.³⁵ However, an essential note to the increased information for consumers is that research led by Else Skjold at the Royal Danish Academy in conjunction with the Danish Government shows that consumers rank sustainability lower than other factors like fit and style when choosing garments. Therefore, the industry must ensure that garments are produced sustainably and ethically, making it easier for consumers to make sustainable choices without navigating complex labels or websites.³⁶

³⁴ European Commission, *supra* note 4.

³⁵ *Id.*

³⁶ EPP Group, *Podcast - EU Textile Strategy: A path to sustainability*, YOUTUBE (May 23, 2023), <https://www.youtube.com/watch?v=FtOgAP9Kuf0&t=44s>.

2.1.2. The Waste Framework Directive - Proposed Amendments

The first EU Waste Framework Directive (“WFD”) dates back to 1975 but has been amended substantially in 1991, 2006 and 2008. On the 5th of July 2023, the Commission submitted a proposal to the Parliament and Council to amend Directive 2008/98, focusing on food and textile waste. This research will only focus on textile waste. The proposal is awaiting the first reading from the council, while the Parliament has already adopted the decision after their 1st reading under the ordinary legislative procedure.³⁷ The proposal's main objective is to introduce amendments to the WFD to regulate the environmental sustainability of textile (and food waste) and align the WFD further with the waste hierarchy principles of waste prevention, reuse, and recycling (see Figure 1).



Figure 1. EU's Waste Hierarchy. European Commission (2024). https://environment.ec.europa.eu/topics/waste-and-recycling/waste-framework-directive_en

With this proposal, the Parliament proposed implementing producer responsibility schemes. Article 22a of the proposed amendment to WFD

³⁷ European Parliament, *Procedure File: 2023/0234(COD)*, LEGISLATIVE OBSERVATORY (Mar. 2024), [https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2023/0234\(COD\)&l](https://oeil.secure.europarl.europa.eu/oeil/popups/ficheprocedure.do?reference=2023/0234(COD)&l).

establishes EPR for household textile products, apparel, clothing accessories, and footwear. The change will make producers responsible for the items they introduce to the market within a Member State's territory. Besides that, producers would be obliged to (1) cover the costs of the collection, transportation, treatment, and recycling of used and waste textiles, (2) conduct compositional surveys of collected mixed municipal waste, (3) provide information to consumers about sustainable consumption and waste management, and (4) support research and development to improve sorting and recycling processes (Article 22, Amendment to the Directive 2008/98).³⁸ Moreover, the directive's application extends to corporate strategies, compelling companies to integrate eco-design principles and invest in sustainable practices. The EPR schemes, as mandated by the directive, are designed to cover the costs related to the collection, transport, and sorting of textiles, reinforcing the directive's commitment to reducing the environmental footprint of the textile sector. This shift necessitates a comprehensive approach where companies are not only responsible for the financial aspects of waste management but also for fostering a culture of sustainability and circularity within the industry.

Meanwhile, Member States would be required to clearly define the roles and responsibilities of relevant actors in the scheme's implementation, monitoring, and verification according to Article 22a. This is a crucial aspect of its success as European companies struggle to understand what is expected of them under the WFD.³⁹ Besides that, Article 22b stipulates the creation of a textile, textile-related, and footwear producer registered by Member States. The register tracks producers' compliance with Articles 22a and 22c(1). Producers selling textile products for the first time in the market must register in each Member State where they operate.

Moreover, Article 22c of the WFD mandates textile and footwear producers to designate a PRO to handle their eco-design requirements and manage financial contributions based on product weight. PROs must provide extensive

³⁸ European Commission, *supra* note 4.

³⁹ Interview with Alejandra González Uzcátegui (Mar. 27, 2024). Transcript available at https://otter.ai/u/t9jgyhmOk60PYhKerHGwlpPzVQ4?utm_source=copy_url, (I. Nydelius, interviewer).

information to end-users about sustainable consumption, re-use, and end-of-life management of textile products.⁴⁰ Lastly, the targeted amendments to the WFD will not alter the enforcement and penalties on a legal basis stipulated under Article 36 of the Waste Directive 2008. Thus, it is still up to Member States (“MS”) to prohibit the abandonment, dumping and uncontrolled management of waste and establish penalties for violations of this Directive that are effective, proportionate, and dissuasive.⁴¹

The proposal aims to create a unified approach to textile waste management across the European Union, focusing on standardising collection, sorting, reuse, and recycling procedures. The first step is a separate collection of textiles, preventing contamination and preserving material quality. Following collection, sorting processes need to be standardised due to the diverse material composition of textiles.⁴² For example, the France PRO only identified approximately 48% of the retail samples present in the market - which presents challenges for recycling as each material requires unique techniques to break down the different components into recyclable fibres.⁴³ Moreover, promoting reuse and recycling is integral to this plan, with the proposal aiming to establish common standards across the EU to maximise resource recovery and minimise environmental impact. Financial support is also essential, with EPR schemes proposed to require manufacturers to contribute to end-of-life product management costs. However, this only covers financial support to European companies and organisations. Nonetheless, this could incentivise designs that are easier to reuse or recycle. This harmonisation aims to eliminate inefficiencies and transition towards a circular economy.⁴⁴

Finally, the European textile industry comprises 99% of SMEs, including 88% of all companies being microenterprises (up to 10 employees). Thus, the EU aims to support SMEs in the European textile industry and specifically tailored

⁴⁰ European Commission, *supra* note 4.

⁴¹ Directive 2008/98/EC of the European Parliament and of the Council of 19 November 2008 on Waste and Repealing Certain Directives, 2008 O.J. (L 312) 3 (EC), <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=celex:32008L0098>.

⁴² European Commission, *supra* note 4.

⁴³ Veronique Allaire, *supra* note 10.

⁴⁴ European Commission, *supra* note 4.

the proposal to minimise their financial and administrative burden.⁴⁵ Moreover, SMEs make up most of the textile market and can drive innovation as they are more adaptable than larger corporations. However, the EU has noted that SMEs may struggle with regulatory compliance due to limited resources. To address this, the EU is considering creating knowledge-sharing hubs and providing funding to support European SMEs in navigating regulations and accessing markets. In addition, the proposal excludes microenterprises from EPR obligations and stabilises the status quo for the remaining SMEs, excluding microenterprises, by providing sufficient funding.⁴⁶

2.1.3. The Corporate Sustainability Due Diligence Directive

The WFD aligns with the current development of the Corporate Sustainability Due Diligence Directive (“CSDDD”); therefore, this section aims to provide an overview of its potential impact on Pakistan. This directive was first proposed by the European Commission in February 2022 and is expected to be passed in the spring of 2024. The final draft was released on January 30th, 2024, and the EU member states subsequently voted in favour of a modified version on March 15, 2024. This modification removed civil liability provisions that allowed trade unions to sue non-compliant firms and significantly increased the revenue eligibility threshold.⁴⁷ The directive sets obligations for large companies to address adverse environmental and human rights impacts throughout their business chain. It includes a transition plan for climate change mitigation and rules on stringent penalties for non-compliance, including administrative fines of up to 5% of global turnover and the possibility of civil litigation in EU courts for domestic and international damages.⁴⁸ The CSDDD represents a significant shift from voluntary to mandatory due diligence practices by mandating companies to

⁴⁵ *Id.*

⁴⁶ European Commission, *supra* note 4.

⁴⁷ Initially set at a net turnover of over €150 million in December, this threshold was subsequently increased to €300 million in February, then adjusted to €450 million.

⁴⁸ Nazrin Huseinzade, *Corporate Sustainability Due Diligence Directive*, KPMG (Mar. 8, 2024), <https://kpmg.com/se/sv/home/nyheter-rapporter/2024/03/se-news-corporate-sustainability-due-diligence-directive.html>; *The EU Corporate Sustainability Due Diligence Directive (CS3D) - Timeline, Overview & What You Need to Know*, BRIGHTEST (Mar. 15, 2024), <https://www.brightest.io/eu-csddd-sustainability-due-diligence-directive>.

proactively identify and mitigate adverse impacts on human rights and the environment within their operations and extended supply chains.

On the other hand, critic from several member states - including Germany withdrawing their support, the abstained voting from 12 EU MS and a few MS voting against the directive, such as Sweden - have raised concerns about the directive's potential to impose undue administrative burdens on companies, particularly regarding the liability for extraterritorial impacts.⁴⁹ This resistance underscores a fundamental tension between corporate accountability and operational feasibility within the framework of the global supply chain. The forthcoming weeks will reveal the success or failure of adopting the CSDDD, its future viability, and the broader trajectory of EU corporate sustainability legislation.

In the context of Pakistan, the CSDDD impacts the country's textile sector by mandating due diligence on human rights and environmental risks for large and mid-sized companies operating in the EU. While Pakistani textile and garment companies might not be directly covered under this directive initially, the indirect implications are significant because EU companies sourcing from Pakistan are targeted.⁵⁰ This necessitates Pakistani companies to adopt comprehensive due diligence policies that cover the entire value chain, conduct risk assessments, develop preventative action plans for complex risks, and ensure strong stakeholder engagement. According to APTMA's latest report, critical strategic considerations for Pakistani companies to prepare for CSDDD compliance include improving traceability upstream, focusing on sectoral solutions with worker backing, engaging with independent intergovernmental bodies such as ILO and UN, setting grievance mechanisms for workers at the sectoral level, and focusing on critical labour and environmental risks. Recycling hub development and collaboration with an EU Helpdesk planned to be established in Pakistan are crucial steps towards fully integrating this directive

⁴⁹ Nazrin Huseinzade, *supra* note 47.

⁵⁰ Noreen Akhtar, *European Union Green Deal | Implications For Pakistan's Textile Sector*: ALL PAKISTAN TEXTILE MILLS ASSOCIATION (Nov. 2023) <https://aptma.org.pk/wp-content/uploads/2023/11/EU-GREEN-DEAL-IMPLICATIONS-FOR-PAKISTANI-TEXTILE-EXPORTERS.pdf>.

into the supply chain.⁵¹ CSDDD presents both a challenge and an opportunity for Pakistan's textile sector to enhance its sustainability practices, improve compliance with international environmental regulations, and maintain a competitive edge in the global market by aligning with EU standards.

2.2. International Frameworks

The following section will explore the UN Guiding Principles, the Universal Declaration of Human Rights and the European Convention on Human Rights to highlight the shortcomings of these international legal frameworks in protecting textile workers.

2.2.1. The UN Guiding Principles

From 2005-2011, Dr. John Ruggie served as the UN Secretary-General's Special Representative for Business and Human Rights. During this time, he developed the "Protect, Respect, and Remedy" Framework, which evolved into the UN Guiding Principles ("UNGPs") in 2011. The UNGPs consist of three pillars: (1) the state's duty to protect against human rights abuses by third parties, (2) corporate social responsibility to respect human rights, and (3) access to remedies for victims. Rather than isolating corporate responsibilities, Ruggie's comprehensive framework emphasises these elements' interconnectedness in preventive and remedial measures. The EU has adopted several strategies and policies to implement the UNGPs. However, discrepancies exist in their application across member states, as reflected in varied National Action Plans.⁵² While the EU has made strides in enhancing workplace human rights protection, issues persist, notably in sectors such as the textile industry. The lack of preventive measures and legal accountability contribute to this, as does the voluntary nature of CSR and non-binding codes of conduct.

⁵¹ *Id.*

⁵² *Guiding Principles on Business and Human Rights Implementing the United Nations "Protect, Respect and Remedy" Framework*, OECD (Jun. 16, 2011), https://www.ohchr.org/sites/default/files/documents/publications/guidingprinciplesbusinessshr_en.pdf; Anita Ramasastry, *supra* note 27.

Critics express concern over the UNGPs' effectiveness, primarily due to their non-binding nature. This voluntary status does not guarantee all corporations or states' universal observance of high human rights standards. The UNGPs do not establish legal liability for non-compliance, leading to inconsistent enforcement across jurisdictions.⁵³ Although the UNGPs provide a framework for understanding and addressing business-related human rights issues, the absence of enforceable obligations means compliance heavily relies on individual states' and businesses' commitment to human rights norms. Without robust regulatory oversight or clear accountability mechanisms, the overall impact of the UNGPs in preventing human rights abuses by businesses worldwide could be limited.

2.2.2. The Universal Declaration of Human Rights & The European Convention on Human Rights

To begin, the Universal Declaration of Human Rights (“UDHR”), adopted by the United Nations General Assembly in 1948, lays down the rights and freedoms of all human beings.⁵⁴ The European Convention for the Protection of Human Rights and Fundamental Freedoms (“ECHR”) was heavily influenced in its drafting by the UDHR, and the Declaration also guides many EU legislation, external policies, and bilateral agreements. According to the EU, its commitment to the UDHR's vision of universal rights manifests in its efforts to promote human rights universality through its external policies and funding instruments.⁵⁵

However, it's essential to note that while the UDHR is not legally binding, its principles have been incorporated into many national constitutions and domestic legal frameworks. On the notion of labour rights in the textile industry, articles Article 23(2) and Article 25 of the UDHR stipulate the “right to just and

⁵³ *Id.*

⁵⁴ *Universal Declaration of Human Rights*, UNITED NATIONS (Dec. 10, 1948), <https://www.un.org/en/about-us/universal-declaration-of-human-rights>.

⁵⁵ Rosamund Shreeves, *The Universal Declaration of Human Rights and the European Union*, EUROPEAN PARLIAMENT (Dec. 10, 2023), [https://www.europarl.europa.eu/RegData/etudes/ATAG/2023/757559/EPRS_ATA\(2023\)757559_EN.pdf](https://www.europarl.europa.eu/RegData/etudes/ATAG/2023/757559/EPRS_ATA(2023)757559_EN.pdf).

favourable remuneration” that ensures “an existence worthy of human dignity” and the “right to a standard of living adequate for the health and well-being of his and his family” respectively (United Nations, 1948).⁵⁶ The failure to pay wages, putting workers and their families on the verge of survival, can thus potentially be seen as a direct infringement of human rights. Moreover, reports of growing landfills in Asia are another example of how the global north is arguably shipping away their waste and problems to the global south, which jeopardises the local’s rights to, for example, a “Standard of Living Adequate for Health and Well-being”.⁵⁷ With the industry pushing for higher consumption, the likelihood of more garments ending up in landfills is also increasing. Essentially, the question remains what role the EU will take on to ensure that the EU’s consumption and improving waste collection align with the principles the EU has pledged their commitment - especially regarding the negative impact this has on third world countries.

3. An Overview of Labour Abuses in the Textile Sector

Labour abuses in the textile industry rarely attribute liability to the major retail companies. Instead, these corporate abuses are seen as incidental effects of business operations. Numerous instances of European transnational corporations violating human rights overseas have been discovered in recent years. The Rana Plaza collapse is a well-known example of serious human rights breaches by European multinational corporations, which resulted in the deaths of 1134 textile workers in 2013⁵⁸ and for which justice is still pending - with numerous cases filed against the owners of Sohel Rana factory and five other factory owners for their alleged negligence and violation of safety regulations.⁵⁹

⁵⁶ United Nations, *supra* note 54.

⁵⁷ Article 25 of the UN Declaration of Human Rights, *see* United Nations, *supra* note 54.

⁵⁸ *Money Heist: COVID-19 Wage Theft in Global Garment Supply Chains – Asia Floor Wage Alliance*, ASIA FLOOR WAGE ALLIANCE (Jan. 6, 2022), <https://asia.floorwage.org/covid/money-heist-covid-19-wage-theft-in-global-garment-supply-chains/>.

⁵⁹ *Justice still outstanding: an update of legal cases related to Rana Plaza eight years on*, CLEAN CLOTHES CAMPAIGN (Apr. 28, 2021), <https://cleanclothes.org/news/2021/justice-still-outstanding-an-update-of-legal-cases-related-to-rana-plaza-eight-years-on>.

This example also highlights how European retail corporations escaped liability for the lack of safety measures.

The following section aims to provide an overview of how global retail companies abuse human labour, focusing on Pakistan. This analysis will focus on the use of indirect workers, wage theft, and poor safety and health standards in textile factories. It is important to note that this is not an exhaustive list of violations and that the industry, unfortunately, hosts a variety of more abuses and violations, such as the use of child labour and exposure to harmful substances. After reviewing breaches of human rights practices, the case of *KiK, Rina and Ali Enterprise vs Jabir and others* will be examined to highlight the judicial hindrances for Pakistani workers in accessing justice and the lack of human rights protection from the EU.

3.1. Wage Theft & Use of Indirect Workers

The global apparel supply chain is characterised by a concentration of power among a few transnational corporations that exert control over numerous suppliers in developing countries, particularly in Asia. These brands dictate production terms and pricing models, leading to the exploitation of workers through practices like wage theft, which is further enabled by indirect workers - also referred to as “casual workers” - in global supply chains. Wage theft refers to workers not being paid legally or contractually promised wages. This can include non-payment or underpayment of wages, unpaid overtime, withholding final paychecks, illegal deductions, forced work off the clock, and more. Wage theft is a significant issue that particularly affects low-wage and vulnerable workers.⁶⁰

The current global supply chain system allows fashion companies to exploit a hidden workforce of indirect workers. These workers do not enjoy the same rights and benefits as direct employees; instead, they are often subject to various forms of exploitation due to informal work arrangements. To demonstrate, H&M disclosed in its 2021 report that it has 3,878 manufacturing

⁶⁰ Asia Floor Wage Alliance, *supra* note 58.

and processing factories globally as partners and suppliers.⁶¹ This shows that brands' supply chains are extensive, necessitated by the high demand and fast production.

The basis for wage theft in the garment industry is rooted in asymmetrical power relations among global apparel brands, suppliers, and workers. Brands often pressure suppliers to reduce production costs, leading suppliers to pass these reductions on to workers through wage theft. This power imbalance enables brands to distance themselves from accountability for labour rights violations by shifting responsibility to supplier factories despite their significant influence over workers' wages and employment conditions. A recent report by the Asia Floor Wage Alliance⁶² ("AFWA") called "Money Heist" discusses the impact of the 2020 global recession on garment workers across Asia and highlights how brands passed on the economic burden of the recession on producers and, ultimately, workers. The report suggests that *Pakistani garment workers suffered some of the highest levels of wage theft among Asian equivalents*. Pakistani workers were also some of the worst paid in the world and faced a widespread lack of social security coverage and unionisation protection.⁶³ The report further highlights Pakistan's textile industry's struggles with wage theft, layoffs, and terminations of contracts during and after the pandemic. Part of the reason for the crisis during this time was that many global brands cancelled orders during the recession. Taking into account that approximately 8.5% of the country's GDP and 19% of its exports are attributable to the textile industry, this had a significant impact on Pakistan and the 45% of the total labour force that is employed by the sector.⁶⁴

Moreover, the AFWA report included a survey conducted across 50 garment factories in Pakistan that revealed that many workers experienced

⁶¹*Transparency - Supply chain*, H&M GROUP (Dec. 2023), <https://hmgroupp.com/sustainability/leading-the-change/transparency/supply-chain/>.

⁶²AFWA is an Asian labour-led global labour and social alliance operating across garment-producing countries including Pakistan, Bangladesh and India.

⁶³Asia Floor Wage Alliance, *supra* note 58.

⁶⁴Raza Ali Khan et al, *Sustainable Practices in Supply Chain: A Case Study of Yunus Textile Mills*, Journal of Social Sciences and Humanities, University of Karachi, Vol. 62 (No. 2), (Dec. 31, 2023), <https://www.jsshuok.com/oj/index.php/jssh/article/view/696>; Asia Floor Wage Alliance, *supra* note 58.

employment shocks in layoffs (86%) or terminations (14%). The report highlighted the systematic exploitation of workers resulting from poor governance, ineffective regulations and low labour protection.⁶⁵ Strengthening labour laws, ensuring equal employment opportunities, and providing greater access to social protections can serve as pivotal steps towards mitigating the injustice faced by the workforce, particularly in times of crisis.

3.2. Poor Safety and Health Standards

The Pakistani garment industry is characterised by exploitative working conditions, poor safety and health protection, and labour violations.⁶⁶ Several incidents exemplify this. Most recently, a garment factory in Karachi, Pakistan, collapsed and caught fire in April 2023, resulting in dozens of injuries and the deaths of four firefighters. The incident was attributed to a lack of emergency exits and fire extinguishing equipment.⁶⁷ However, the deadliest accident happened in 2012 when the Ali Enterprise fire and collapse killed 264 garment workers (which led to the *KiK, RINA and Ali Enterprise vs Jabir and others* case, which will be examined further in a later section). As illustrated, the health and safety situation for garment workers in Pakistan is quite precarious. The Clean Clothes Campaign survey indicates that an overwhelming majority of workers—85%—lack access to proper exit stairwells in case of a fire. Moreover, about 20% of workers are not privy to fire drills and are uninformed about emergency escape routes and exits. The absence of independent factory inspections further exacerbates the risk, leaving safety equipment such as fire alarms unchecked for functionality.⁶⁸

One international effort to tackle this lack of health and safety measurements is the Pakistan Accord on Health and Safety in the Textile and

⁶⁵ Asia Floor Wage Alliance, *supra* note 58.

⁶⁶ *Id.*

⁶⁷ *A decade since Rana Plaza factory safety has improved in Bangladesh but recent fire in Pakistan shows that it has not improved elsewhere*, CLEAN CLOTHES CAMPAIGN (Apr. 13, 2023), <https://cleanclothes.org/news/2023/a-decade-since-rana-plaza>.

⁶⁸ *A decade after deadly Ali Enterprises fire, Pakistan's garment workers report shocking lack of fire exits*, CLEAN CLOTHES CAMPAIGN (Jul. 1, 2022), <https://cleanclothes.org/news/2022/report-a-decade-after-deadly-ali-enterprises-fire-pakistans-garment-workers-report-shocking-lack-of-fire-exits>.

Garment Industry (hereafter referred to as the "Pakistan Accord"). The Pakistan Accord is a legally binding agreement under the broader International Accord on Health and Safety in the Textile and Garment Industry (referred to as the "International Accord") established as a response to the Rana Plaza incident 2013. The establishment of the Pakistan Accord aims to expand the scope of the International Accord beyond Bangladesh, focusing on improving worker safety conditions in Pakistan's textile and garment industries. Some of the critical elements of the agreement include independent inspections and the remediation of safety hazards, increasing transparency, financial feasibility of remediation, safety committee training, and worker safety awareness programmes. Moreover, the agreement emphasises the respect for freedom of association to protect worker safety, an independent complaints mechanism, and joint capacity building with the government of Pakistan.⁶⁹ Nonetheless, the applicability of the Pakistan Accord for European companies has yet to be tested in court. Despite being legally binding to signatories, including H&M, it is uncertain whether this will be sufficient to establish the company's liability and as a connecting factor between its responsibility and the harm caused to textile workers due to lacking safety standards.⁷⁰

3.3. Modern Slavery

The issue of modern slavery is complex and diverse. It involves different forms of exploitation where an individual is forced to stay or cannot refuse due to threats, violence, coercion, deception, or abuse of power. The concept includes a "set of specific legal concepts including forced labour, debt bondage, forced

⁶⁹ *Pakistan Accord on Health and Safety in the Textile and Garment Industry - 2023_public version*, INTERNATIONAL ACCORD (Jan. 1, 2023), https://internationalaccord.org/wp-content/uploads/2023/02/Pakistan-Accord-on-Health-and-Safety-in-the-Textile-and-Garment-Industry-2023_public-version.pdf; Ezreen Benissan, *What the Pakistan Accord means for fashion's supply chain*, VOGUE BUSINESS (Jan. 5, 2023), <https://www.voguebusiness.com/sustainability/what-the-pakistan-accord-means-for-fashion-supply-chain>.

⁷⁰ Rachel Deeley, *Major Brands Sign Pakistan Accord for Garment Worker Safety*, THE BUSINESS OF FASHION (Jan. 24, 2023), <https://www.businessoffashion.com/news/sustainability/major-brands-sign-pakistan-accord-for-garment-worker-safety/>.

marriage, slavery and slavery-like practices, and human trafficking”.⁷¹ This definition offered by the international human rights organisation “Walk Free” emphasises the involuntary nature of such cases, differentiating modern slavery from other work or labour conditions where consent is freely given. The connection between modern slavery and the textile industry is the most notable. Modern slavery is often associated with practices of the textile industry, whose supply chains are complicated and sometimes even obscure. This link is not fortuitous but results from the worldwide need for inexpensive clothing, forcing manufacturers to cut costs. This demand encourages the abuse of poor workers by means of practices that amount to slavery in the modern world. However, the textile industry’s dependence on such practices is evidence of the necessity to ensure comprehensive approaches, which will deal not only with the symptoms but also with systemic problems that enable modern slavery. The report by the Walk Free Foundation published in 2023 raises Pakistan’s high vulnerability to modern slavery while condemning the government for its inadequate response towards the national problem. According to this report, roughly 2,349,000 Pakistanis are currently in forced labour or forced marriage, making Pakistan the 18th country in the world when it comes to the prevalence of modern slavery.⁷² In addition, several recent events have exacerbated the problems and weaknesses of Pakistani workers, such as catastrophic floods, soaring energy costs and unstable political arena.⁷³

3.4. Case Study: KiK, Rina and Ali Enterprise vs Jabir and others

This section will analyse judicial barriers for Pakistani textile workers under the current legal frameworks by examining how an EU company - KiK

⁷¹ Walk Free, *Global Slavery Index 2023*, MINDEROO FOUNDATION, <https://cdn.walkfree.org/content/uploads/2023/09/27164917/GSI-Snapshot-Pakistan.pdf> (last visited Apr. 15, 2024).

⁷² *Id.*

⁷³ Noah Berman, *What's at Stake in Pakistan's Power Crisis*, COUNCIL ON FOREIGN RELATIONS (Feb. 6, 2023), <https://www.cfr.org/in-brief/whats-stake-pakistans-power-crisis>; Center for Preventive Action, *Instability in Pakistan*, COUNCIL ON FOREIGN RELATIONS (Feb. 9, 2024) <https://www.cfr.org/global-conflict-tracker/conflict/islamist-militancy-pakistan>.

Textilien und Non-Food GmbH (“KiK”) - could escape liability for the harm caused to Pakistani textile workers. The case is about the September 11th, 2012, tragedy that claimed 258 lives and left 32 injured. This catalysed a compensation claim against KiK, the factory's principal client. A federal investigation showed that the fire started on a wooden mezzanine, which quickly ignited, blocking the stairway and allowing the fire to spread to the second floor.⁷⁴ The same report identified the building's absence of fire alarms and emergency exits. This occurred despite the retailer hiring RINA, an Italian audit company, two weeks before the incident to ensure the supplier's compliance with the retailer's code of conduct. The audit company outsourced the audit to a Pakistani company and issued a certification confirming that the supplier met the health and safety requirements despite never visiting the factory.⁷⁵

The case has commenced three separate, parallel proceedings in front of German (against the retailer, KiK), Pakistani (against the factory, Ali Enterprises) and Italian (against the audit company, RINA) courts. The lawsuit in Germany in March 2015 was predicated on the notion that transnational corporations should bear responsibility for the labour conditions at their suppliers and subsidiaries overseas.⁷⁶ The plaintiffs' arguments challenged the status quo wherein corporations could profit from exploitative labour practices without bearing the consequences of inadequate safety measures. It was contended that KiK had a duty of care that extended to the workers in Pakistan due to its significant influence over the factory operations, evidenced by imposing a code of conduct, regular inspections, and the fact that the factory produced almost exclusively for KiK (given that KiK purchased about 75% of the factory's annual production). This relationship, they argued, should render KiK liable for the safety lapses that led to the tragedy.⁷⁷ As a response, KiK defended itself by stating that its code was not legally binding or based on enforceable principles

⁷⁴ Julia García Álvarez, *Corporate human rights abuses committed by European transnational companies in Third Countries within the textile, oil and defence sector. Theory-practice inconsistencies in the UNGPs implementation process at EU level*, Global Campus Europe (2020), <http://dx.doi.org/10.25330/680>.

⁷⁵ *Id.*

⁷⁶ European Center for Constitutional and Human Rights, *supra* note 32.

⁷⁷ Julia García Álvarez, *supra* note 74.

but on voluntary measures. Besides that, KiK claimed that Ali Enterprises was an independent entity, arguing that the relationship was not close enough to establish a duty of care.⁷⁸

In the end, the case was dismissed on technicalities as it was determined that the statute of limitations barred the claim. Such dismissal on grounds of technicalities instead of merits had left questions on corporate liability in global supply chains unresolved. Not only did the decision halt a need for immediate justice from the affected people, but it also left a void in legal precedent concerning the accountability of multinational corporations for their overseas operations. As such, the Ali Enterprises case is proof of the inherent ability and, at the same time, the powerlessness of legal systems when they encounter the challenges of globalisation. It highlights the pressing need for legal systems to make transnational corporations responsible for ensuring safe working conditions through their supply chains and allowing victims to seek remedies.⁷⁹

4. The Economic Relationship between Europe and Pakistan

The following sections will provide an overview of the Pakistani textile industry and the current economic situation. They will then follow a deeper analysis of the relationship between Pakistan and Europe regarding textile trade. Finally, the last section will examine the potential impact of the textile directive on the Pakistani textile industry.

4.1. The Pakistani Textile Industry

The textile industry in Pakistan holds a significant place in the country's economic structure. It is one of the largest manufacturing industries, contributing about 19% to the nation's exports and approximately 8.5% to the Gross Domestic Product. Furthermore, the textile sector is a substantial

⁷⁸ *Id.*

⁷⁹ European Center for Constitutional and Human Rights, *supra* note 32.

employment provider, absorbing around 45% of the total labour force.⁸⁰ Pakistan ranks eighth in Asia for textile manufacturing and is the third-largest cotton consumer globally. The textile industry exports a range of raw materials, including cotton, yarn, fabric, synthetic fabric, dyes, and chemicals. Finished goods such as bags, sheets, towels, blankets, draperies, and woven and knitted clothes are exported mainly to Europe, the USA, and Saudi Arabia. The country is home to roughly 500 textile industries, with the majority (70%) in Punjab, followed by 25% in Sindh.⁸¹

The Pakistani textile industry faces numerous challenges regarding labour rights abuses and transitioning to sustainable and ethical practices. The current political, social, and economic hurdles further impede progress, and the industry faces challenges such as energy supply, old machinery, limited resources, and political instability.⁸² A pressing example is the rising electricity costs that have led to widespread closures of mills and a decrease in export production throughout 2023. Additionally, regulatory measures aimed at stabilising the currency have unintentionally discouraged overseas Pakistanis from using official remittance channels, affecting the overall finances of the industry. These internal economic difficulties have hindered efforts to boost exports and investments in 2024. These economic challenges are partly due to another hurdle: political instability. This has, in turn, contributed to short-term and inconsistent policy-making and a reliance on foreign loans.⁸³ The country's political instability creates a high-risk, low-investment environment and hinders economic and social progress.

4.2. The Pakistan-EU Trade Relationship

The EU has long been one of Pakistan's top export destinations. Specifically, the EU was Pakistan's second most important trading partner in

⁸⁰ Khan et al., *supra* note 64.

⁸¹ Pakistan Textile Council, *Pakistan's Textile Exports*, PAKISTAN TEXTILE COUNCIL (Jun. 2, 2023), <https://ptc.org.pk/pakistans-textile-exports/>.

⁸² *Id.*

⁸³ Shahid Sattar and Amna Urooj, *Sustainable Business Practices in Textile Sector of Pakistan*, ALL PAKISTAN MILLS ASSOCIATION (Oct. 28, 2022), <https://aptma.org.pk/sustainable-business-practices-in-textile-sector-of-pakistan/>.

2020, accounting for 14.3% of Pakistan's total trade and absorbing 28% of Pakistan's total exports. Among that, textiles and clothing dominate Pakistani exports to the EU, accounting for 75.2% of total exports to the EU in 2020. In 2022, Pakistan's total exports to the EU accounted for \$9.3 billion, where the most exported products were first "Men's and boys' ensembles of cotton"⁸⁴ and second, bed linen of cotton.⁸⁵

In the early 2000s, Pakistan benefited from preferential trade arrangements through the European Union's Generalised System of Preferences (GSP) as the two parties agreed on the Cooperation Agreement. In a significant advancement in 2014, Pakistan achieved the Generalised Scheme of Preferences Plus (GSP+) status, significantly improving trade prospects for Pakistani exporters. In short, the GSP+ is a component of the EU's GSP that provides special incentives for sustainable development and good governance by requiring Pakistan to implement 27 core international human rights, labour rights, environmental protection, and good governance conventions to maintain the GSP+ status. In return, it reduces tariffs to 0% for vulnerable, lower-middle-income countries like Pakistan. This arrangement aids Pakistan in its trade with the EU by making its exports more competitive. Notably, imports from Pakistan almost doubled from €3,072 to €5,537 million between 2010 and 2020, a significant growth due to the award of GSP+ in 2014.⁸⁶

A recent trend in textile trade between the two countries is the significant increase in used textiles. Firstly, the EU's exports of used textiles have tripled in the last two decades, going from slightly over 550,000 tonnes in 2000 to almost 1.7 million tonnes in 2019. Among these, 41% of the exports of used textiles in 2019 were sent to Asia. Above that, *Pakistan has been the largest recipient of*

⁸⁴ "Men's and boys' ensembles of cotton" in textile trade refers to coordinated sets of cotton clothing intended for male wearers.

⁸⁵ *Pakistan's Trade with the EU & its Member States*, THE PAKISTAN BUSINESS COUNCIL (Oct. 2023),

<https://www.pbc.org.pk/research/pakistans-trade-with-the-eu-and-its-member-states-october-2023/>.

⁸⁶ European Commission, *EU trade relations with Pakistan*, EUROPEAN COMMISSION, https://policy.trade.ec.europa.eu/eu-trade-relationships-country-and-region/countries-and-regions/pakistan_en (last visited Apr. 20, 2024).

EU-used textiles since 2010 and still held that position in 2019.⁸⁷ In 2021, Pakistan received used clothing worth \$46 million from the EU. On the other hand, Pakistan exported \$267M worth of used clothes in 2022 - making it the sixth-largest exporter of used clothing globally. The primary destinations for these textiles were Mozambique (\$36.2M), Tanzania (\$35.3M), Thailand (\$29M), Kenya (\$19.1M), and Zambia (\$15.8M). The country has seen a significant increase in its share of imported and exported textiles, indicating a growing role in the global used textile trade.⁸⁸

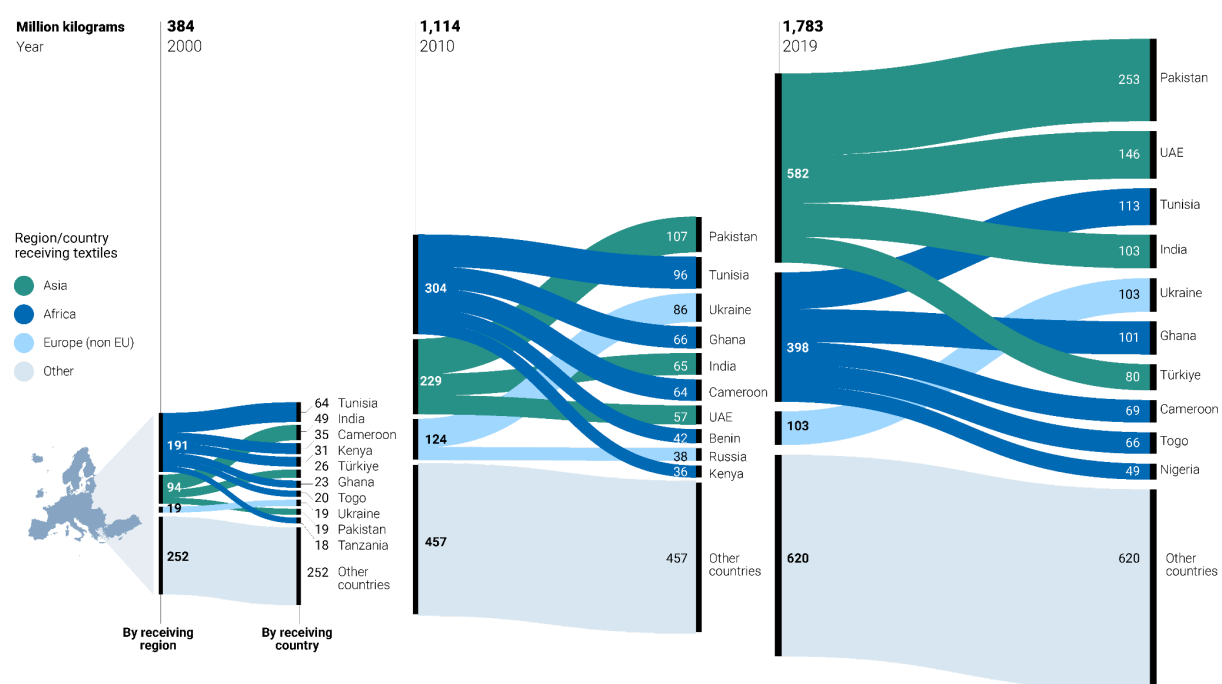


Figure 2. Textile waste Streams from the EU to receiving countries. The classification of countries into groups is derived from the United Nations Statistical Office, as per the information provided by the UN Statistics Division in 2022. Mortensen, L. (2023). <https://www.eea.europa.eu/publications/eu-exports-of-used-textiles>

While some textile mills recycle these textiles, a significant portion ends up in resale markets, exported or at dumping sites.⁸⁹ By channelling industries into the recycled fashion market, Pakistan could greatly benefit from recycling, redesigning, and repurposing textile waste. In other words, the EU's Strategy for Sustainable and Circular Textiles could significantly transform textile

⁸⁷ *EU exports of used textiles in Europe's circular economy*, EUROPEAN ENVIRONMENT AGENCY (Feb. 27, 2023), <https://www.eea.europa.eu/publications/eu-exports-of-used-textiles>.

⁸⁸ OEC, *Used Clothing in Pakistan* | *The Observatory of Economic Complexity*, OEC WORLD, <https://oec.world/en/profile/bilateral-product/used-clothing/reporter/pak> (last visited May 2, 2024).

⁸⁹ European Environment Agency, *supra* note 87.

production in Pakistan by increasing the demand for recycled textiles and textile waste collection. The demand for recycled textiles will entail a shift from sourcing new material to recycled material, which requires implementing new technology and know-how of recycling methods for the wide variety of textiles.

According to APTMA, the Pakistani textile industry is showing signs of adoption of Sustainable Business practices, such as Net Zero Pakistani - a national partnership aimed at achieving net zero carbon by 2050 - and active participation in international conventions to improve their sustainability practices.⁹⁰ Moreover, to transform the landscape of textile-to-textile (“T2T”) recycling in Pakistan, a joint initiative has been launched by Reverse Resources - a specialist in textile waste management - and the National Textile University in Pakistan. The initiative primarily targets the country's underperforming waste-handling sector, intending to enhance the quality and commercial viability of T2T recycled products and to increase transparency and traceability within the recycling process. Pakistan's textile industry has grown and is progressively adopting sustainable business practices. These practices incorporate profit-making, societal impact, and environmental considerations, including energy sustainability, waste management, ethical sourcing, and sustainability reporting. Regulatory pressures, international conventions, and competitive pressures have positively influenced these practices.⁹¹ Nevertheless, the country is still facing momentous challenges and hurdles to transform the textile industry and adoption of such practices is often hindered by managerial, technological, and economic barriers.

4.3. The Potential Impact of the Waste Framework Directive on the Pakistani Textile Industry

The regulatory landscape is shifting from voluntary measures for a good business brand to mandatory compliance regarding transparency, sustainability

⁹⁰ Sattar & Urooj, *supra* note 83.

⁹¹ Haydn Davis, *Reverse Resources targets Pakistan recycling sector*, ECOTEXTILE NEWS (Mar. 6, 2024), <https://www.ecotextile.com/2024030631782/materials-production-news/reverse-resources-targets-pakistan-recycling-sector.html>.

practices and social responsibility. Implementing EPR schemes in the amended WFD, along with stricter due diligence and reporting requirements, is rapidly changing the circumstances for European corporations. The question remains whether the fundamental human rights principles enshrined in the European Convention on Human Rights and the EU's commitment to a circular and sustainable economy go beyond the European borders. In other words, how will the WFD impact third countries, such as Pakistan, when textiles' collection, recycling and reusing targets will increase in the European textile markets? As seen in the example of the implementation of EPR in France, the country's effort and imposing EPR obligations through French law have significantly improved textile waste infrastructure and increased textile waste collection. The country is seen as an example for other EU MS to follow, as the WFD will require them to put up similar infrastructure for PRO to meet the demands of textile waste collection, sorting and recycling. At the same time, Refashion - the French producer responsibility organisation - reports that 80% of all the French textiles collected are exported to countries outside of the EU.⁹² This indicates that the European sorting, recycling, and second-hand market cannot handle the current amounts. The fact that 41% of the exports of used textiles were sent to Asia, with Pakistan being the prominent importer, raises the question: What potential effect will the increased collection of textiles due to the WFD entail for Pakistan? Not only is Pakistan a significant importer of textile waste, but it is also dependent on the EU as an importer of textile products.

4.3.1. Two Potential Scenarios

The WFD will impose reporting obligations on producers, including registering products and collecting data about the product's social and environmental impact. This poses a significant challenge for European companies. Collecting data about products often entails requesting this data from suppliers—considering the textile industry's complex, global supply chains—who are not always willing or have the resources to provide the

⁹² WRAP, *supra* note 15.

necessary information. Due to this, Alejandra González Uzcátegui - a Sustainability and Corporate Responsibility Expert at Business Sweden - predicts two potential scenarios: companies could either choose safer suppliers in a controlled environment or invest in new technologies to trace value chains more efficiently.⁹³

The first scenario is that companies will choose “safe suppliers”, including European suppliers who will already be under the WFD, among other EU requirements like the CSDDD. There is already investment in reporting schemes and compliance with EU laws. As companies will be compelled to produce data and information about their products - the ability and traceability of products will be essential for companies’ compliance. If companies cannot meet these requirements, they will face heavy fines. Moreover, collecting data will increase financial costs for companies. Data collection from third-country suppliers is predicted to be higher as it requires more investments, further incentivising moving production to the EU, where companies can leverage more control over suppliers, ensuring adherence to sustainability standards.⁹⁴ However, the potential drawback of this scenario is that EU producers will drop suppliers in third countries, which would lead to an initial reduction in jobs and economic activity. The trading void left by EU companies that, in this scenario, left Pakistan will most likely be filled by other non-EU partners, such as Chinese companies. Without the incentives to meet EU standards, Pakistani suppliers could face worse conditions as they would have less motivation to adhere to rigorous labour and environmental standards and lower requirements from these new non-EU partners.⁹⁵

In the second scenario, European companies invest in third-country suppliers to support their transition to compliance under the WFD. This entails company investment in new technologies to make tracing the value chain more efficient and possible - allowing European companies to keep their supply chains in producing countries with cheaper labour. Above that, investing in such

⁹³ Alejandra González Uzcátegui, *supra* note 39.

⁹⁴ Steenmans, *supra* note 9.

⁹⁵ Interview with Alejandra González Uzcátegui (Mar. 27, 2024). Transcript available at https://otter.ai/u/t9jgyhmOk60PYhKerHGwlpPzVQ4?utm_source=copy_url, (I. Nydelius, interviewer).

technologies and infrastructure could have multiple benefits. Firstly, it could result in lower production costs - this is because moving production back to Europe would be significant, considering the need for infrastructure development and the complexities of setting up new supply chains. In contrast, investing in technology to enhance traceability and efficiency in existing supply chains could be more cost-effective. Secondly, it could provide much-needed transparency and accountability in the supply chain.⁹⁶ For the Pakistani textile industry, this could mean continued partnerships with EU companies and maintaining jobs and income. Moreover, adopting new technologies could improve local industry practices, enhancing sustainability and labour conditions. However, the success of this approach would depend on whether the technology is accessible and affordable for Pakistani suppliers and the decision of EU companies to invest and support this transition.

4.3.2. What will the role of European companies be?

European companies will likely become pioneers in integrating sustainable practices throughout their supply chains. They may play a dual role: first, as enforcers of the aforementioned new standards, pushing for greater transparency and ethical practices, and second as innovators who adopt and invest in technologies like AI for more sustainable operations. These roles could lead to a transformation within the industry, setting new benchmarks for global sustainability practices. Other companies must adopt similar practices to remain competitive and meet consumer demand for sustainable and ethically made products. This could lead to a global transformation of the textile industry, where sustainability and respect for labour rights become the new norm.

Furthermore, businesses have considerable influence that can be leveraged to uphold labour rights, especially in contexts where state mechanisms fail. They can ensure suppliers' compliance with labour standards, conduct regular audits to verify compliance and apply pressure in circumstances of non-compliance. Such measures can address regulatory gaps and fortify labour

⁹⁶ *Id.*

rights within supply chains. Additionally, businesses can initiate capacity-building for their suppliers in third countries, encompassing workforce training programmes, which can empower the workforce and ameliorate labour conditions, and re-training to address the need for sustainable transition in manufacturing and sourcing practices. By embodying best practices in labour rights within their operations, businesses can set industry benchmarks, enhancing labour rights while transforming the industry towards a transparent and ethical sector.

5. Policy Recommendations

The apparel supply chain is highly globalised and interconnected. All parts of the textile supply chain must be considered to address environmental and social challenges in the textile industry. This thesis has explored the potential impacts of WFD on production countries, specifically Pakistan, which are often overlooked when developing EU policies. As illustrated in the previous chapter, the EU is Pakistan's second most important export destination. Thus, new EU regulations on EPR and textile waste management requirements imposed on European companies will indirectly impact the Pakistani textile industry. The subsequent section will present policy recommendations for the EU that address these identified challenges and potential impacts on the textile industry, particularly considering the role of third countries. These recommendations aim to ensure that the proposed amendments to the WFD lead to a more sustainable and ethical global textile industry. Specifically, the recommendations will propose policies to enhance compliance flexibility for Pakistani suppliers, improve labour standards and promote more sustainable practices. Finally, this chapter will present suggestions for future research.

5.1. Assessing the Impact of the European Textile Directive on Producer Countries to align with European Principles

The first policy recommendation is to regularly assess the impact of the WFD on not only European companies but also on producing countries to ensure that the EU's commitment to human and labour rights is globally upheld. This recommendation stems from the EU's core principles, as highlighted in the ECHR, the UN Human Rights Convention's ratification and Ruggie Principles. The EU's regulations, notably the WFD, significantly influence businesses operating in third-country supplier countries beyond the EU's jurisdiction due to the textile industry's complex and global supply chain. As this thesis underscores, the EU's commitment to human rights extends beyond its geographical boundaries. Given European businesses' global reach in the textile industry, the EPR should encompass operations in third countries. This includes providing appropriate redress channels for non-EU victims and shielding them from unintended economic instability or worsening labour conditions due to WFD compliance. Major European brands outsource most of their production to third countries, such as Pakistan, Bangladesh, and India. By continuously assessing its regulations' global impact, the EU can maintain its commitment to human and labour rights worldwide. This policy recommendation is essential for a more ethical global textile industry that impacts millions of lives.

5.2. Preventing Production Shift to EU's 'Safe Suppliers' and Neglecting Producer Countries

This research has identified a significant risk for non-EU-producing countries in implementing the EU's amended WFD. Namely, this directive could motivate European companies to shift their production to 'safe suppliers' within the EU, potentially leading to job losses and decreased economic activity in third-country supplier countries. This could mean a worse situation for the 15 million textile workers worldwide subcontracted by European brands through

national suppliers.⁹⁷ To prevent this, the recommendation outlines the importance of the EU's role in ensuring that the companies that source processes from third countries must first support and invest - through knowledge or monetary support - instead of sidestepping them. This investment could enhance the efficiency and traceability of existing supply chains, making them more sustainable. This approach could also provide transparency and accountability in the supply chain, crucial for promoting fair labour rights. If the company's support does not produce compliant results from suppliers, only then can the company decide to move to an alternative supplier. The EU is responsible for its member states and companies operating within the EU to ensure that new regulations do not inadvertently lead to economic instability or worsen labour conditions in these countries.

Moreover, by actively supporting third-country suppliers' compliance, the EU can indirectly influence these countries' promotion and adherence to not only labour rights but also provide liberation for workers treated as slaves, further empowering workers in developing nations. Through thoughtful policy implementation and dedicated support to third-country suppliers, the EU can contribute significantly to the sustainability of the global textile industry, promoting economic stability and just labour rights in producer countries.

5.3. Establishing Clear Compliance Requirements for European Businesses and Global Third-Party Suppliers

A critical policy recommendation is establishing clear compliance requirements for European businesses and global third-party suppliers. The existing regulatory landscape, punctuated by the European Union's changing regulations, exerts mounting pressure on the textile industry in countries like Pakistan to adopt more sustainable practices. However, the complexities inherent in global supply chains and the substantial compliance and reporting costs can disproportionately disadvantage smaller suppliers, particularly those

⁹⁷ *Pakistan*. ASIA GARMENT HUB, <https://asiagarmenthub.net/agh-countries/pakistan> (last visited May 1, 2024).

in developing countries. In this context, the importance of clear, standardised compliance requirements cannot be overstated. Alejandra González Uzcátegui, a Sustainability and Corporate Responsibility Expert at Business Sweden, points out the ambiguity many companies face regarding their role and how to achieve compliance. Clear compliance requirements can dispel this uncertainty, allowing both European companies and third-country suppliers to better grasp what is expected of them and how to meet these expectations.

Moreover, these recommendations underscore the imperative for greater transparency in the supply chain. By mandating that businesses disclose information about their suppliers and their adherence to sustainability standards, European businesses can be held accountable for their supplier choices. This could act as a catalyst, motivating them to collaborate with suppliers committed to sustainable and fair labour practices. The EU can create or enforce a mandate requiring companies to establish a program identifying non-compliant suppliers. This program would allow workers from suppliers in third-countries to report any breaches of regulatory practices. After a certain number of reports, the EU can either blacklist or impose sanctions on that supplier, with the stipulation that the EU company will move their business to the competitor rather than exiting the country. The incentive for workers stems from the regulations protecting them and their interests.

5.4. Bridging the Technology Gap

Technology is crucial for complying with the emerging EU requirements, such as the amended WFD, CSDDD and ESR. The 2004 Cooperation Agreement recognised the importance of technology transfer for developing a competitive economic environment in Pakistan, particularly in the textile and apparel industry. Technology has become even more critical with the introduction of the Digital Product Passport in the EU's Environmental and Social Policy and Risk Procedure ("ESPR"). However, due to high investment requirements, technology upgrades are a significant challenge for Pakistan, especially for smaller players. To facilitate technology transfer, Pakistan could include specific provisions for this industry in cooperation agreements. Also, the EU could

provide funds specifically for technology upgrades and market access for Pakistani SMEs. A cooperation or technology transfer centre similar to the EU's Centre on Technology Transfer could be established, offering policy-related expertise and services and making technology transfer faster and more effective.

The DeveloPPP initiative created by the German Federal Ministry for Economic Cooperation and Development (BMZ) works to promote sector engagement. Through this, they offer technical support to companies looking to invest or are already active in developing countries. As an example of their impact, the BMZ helped connect Ukrainian suppliers with German brands that helped to stabilise the supply chain and contribute to Ukraine's reestablishment.⁹⁸ This approach could benefit SMEs in Pakistan by supporting the restructuring of the textile industry, which suffered a decline post-COVID due to surging energy costs and political instability.

5.5. Establishing Financial Support Channels

Financial assistance is crucial for Pakistan's sustainable transition. It is impossible to bridge the gap in Pakistan's textile industry in isolation - it must go hand-in-hand with access to finance and technology transfer. These measures are interrelated, as companies need financial resources and the right skills to adopt sustainable practices. The Pakistani industry is currently grappling with a shortage of skilled labour and outdated technology, which indicates significant hurdles in the transition to sustainability practices and sustainability reporting. Creating these channels could involve setting up dedicated funds, grants, low-interest loan schemes or collaborations with the National Bank of Pakistan to support the industry's transition. These financial mechanisms could also support skills development initiatives, addressing the industry's current shortage of skilled labour.

Moreover, European companies should be encouraged, or even required, to create support structures for their Pakistani suppliers. This could involve setting aside a budget specifically to aid the transition of their suppliers to comply with

⁹⁸ German Federal Ministry for Economic Cooperation and Development, *Textiles*, LEVRIST.DE, <https://www.leverist.de/en/app/industries/textile-industry> (last visited May 1, 2024).

new EU regulations. This budget could provide technical assistance, fund technology upgrades, or support skills development initiatives. Additionally, the EU could set aside a budget or establish a fund to assist Pakistani suppliers in their transition. This financial support could significantly aid Pakistani textile companies in adhering to the new EU regulations and enhancing their competitiveness on the global stage. The potential impact of these channels would be multi-faceted, contributing to the economic stability of the industry, improving Pakistan's compliance with international sustainability standards, and the lives of thousands of textile workers.

5.6. Recommendations for Future Research

Finally, this research has room for improvement and extension to cover more economies and countries, providing a broader perspective on the impact of the amended directive. Post-implementation studies could also be beneficial in continuing the assessment of the WFD in and beyond the EU. Additionally, the research could be expanded to focus on other regulations, such as further assessing the impact of eco-design regulations and the Sustainability Due Diligence Directive. Comparing and contrasting these with the amended directive could provide a more comprehensive understanding of the regulatory landscape. Lastly, a critical area of study is ensuring a just transition and limiting the adverse effects of the EU's green transition on producing countries. This would involve investigating strategies and policies that balance environmental goals with fair trade practices in complex textile economies.