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**REGRAS LIMPAS E ROUPAS SUJAS: UMA ABORDAGEM INSTITUCIONAL PARA**  
**ÉTICA NO VAREJO DE MODA E VESTUÁRIO**

**CLEAN RULES AND DIRTY CLOTHES: INSTITUTIONAL APPROACH TO**  
**ETHICS IN FASHION AND APPAREL RETAIL**

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**Dedico esta tese aos meus pais e meu  
marido. Sou tudo o que sou porque  
vocês me amaram.**



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My great grandma was illiterate until adulthood, because she was from a time when a father and husband had a say in this matters of a woman's life. My grandma left home early to become a nursing assistant, also against my great grandpa's wishes at the time, and after a plethora of blood, sweat and tears, she raised 4 children by herself, because "grandpa" abandoned early the family. After years of sleepless hospital nights on duty, juggling jobs to pay the bills alone, her kids left home (one for Italy, one for Japan, and one teacher and one professor both remained in Brazil), she could finally hold her university degree of nursing school at the age of 50. After much struggle, my mom not only graduated in Chemistry from USP/Ribeirão Preto, she also got her master's and PhD from UNESP, researched in Japan, got her pos-doc in the US and presented her researches in 3 continents.

My other great grandma migrated with her family towards Sao Paulo looking for better living conditions. My grandpa didn't go to middle school, but along with my grandma (another nurse) struggled to feed 5 boys. My father, with no money whatsoever (not even for snacks during school) was accepted into USP/Ribeirão Preto med school and graduated.

And on the shoulders of these giants I add another chapter to this story today with my PhD degree, an accomplishment that doesn't stand to the knees of what my family has sacrificed for me to be where I am today.

I Thank God that I have these amazing people in my life, specially my parents, who believed in me and encouraged me to always want more. They taught me to love learning, showed me how university is a great privilege that can have a transformative effect in life, they gave me all the conditions they didn't have, and unconditional love. At last, my husband, who supported me to go for PhD shortly after my master's, he endured long distances, absences and uncertainties, on top of lonely nights while I was pulling all-nighters for the thesis. I'm everything I am because they loved me.

Has not man a hard service on earth,  
and are not his days like the days  
of a hired hand?  
Like a slave who longs for the shadow,  
and like a hired hand who looks  
for his wages,  
so I am allotted months of  
emptiness,  
and nights of misery are  
apportioned to me.

*Job 7:1-3*



## RESUMO

As empresas do varejo de moda e vestuário têm passado por grande pressão e escrutínio nos últimos anos em relação à ocorrência regular de condições precárias de trabalho e trabalho análogo ao escravo em firmas que compõem suas cadeias de suprimentos. Embora esse fenômeno apresente muitas questões que compõem o escopo teórico do campo da economia institucional, foram encontradas apenas contribuições escassas com esta literatura aplicada neste setor. A partir desse ponto inicial, a presente tese combina esforços teóricos e empíricos para desenvolver um arcabouço analítico fundamentado na economia institucional para observar as questões e propor soluções para as preocupações éticas sobre condições precárias de trabalho e escravidão contemporânea no varejo de moda e vestuário, em termos de mudança institucional. A abordagem metodológica geral da tese é exploratória e qualitativa, desenvolvida em quatro trabalhos diferentes, mas interligados, que compõem os capítulos de desenvolvimento da tese. Os dois primeiros artigos são teóricos e combinam contribuições de quatro arcabouços chave de literatura quanto ao nosso tema: ética empresarial, economia institucional, condições de trabalho e varejo de moda e vestuário. Estes temas foram utilizados para compor uma proposição teórica e um quadro analítico preliminar. Os dois últimos artigos são empíricos, ambos usados para esclarecer o entendimento sobre o quadro analítico proposto. Como resultado, esses trabalhos empíricos fornecem evidências novas e contemporâneas sobre as práticas implementadas por agentes públicos e privados para reduzir e erradicar condições precárias de trabalho neste setor e como elas se relacionam entre si, apoiando e fornecendo feedback, em termos de mudança institucional. A contribuição global desta tese é propor uma abordagem inovadora, com um quadro analítico e proposições, às questões relativas às condições de trabalho no varejo da moda e do vestuário, bem como ampliar o escopo da análise da mudança institucional para este fenômeno contemporâneo.

Palavras-chave: Economia institucional; Mudança organizacional; Responsabilidade social; Moda ; Vestuário

## **ABSTRACT**

*Fashion and apparel retail firms have been scrutinized over the past few years regarding the regular occurrence of precarious labor conditions and slave labor in firms composing their supply chains. Even though this phenomenon presents many issues that comprise the theoretical scope of the institutional economics field of literature, scarce contributions have been found using this literature applied in this sector. From this starting point, this thesis combines theoretical and empirical efforts to develop an analytical framework grounded in institutional economics to observe the issues and propose solutions to ethical concerns regarding precarious labor conditions and contemporary slavery in fashion and apparel retail, in terms of institutional change. The overall methodological approach of the thesis is exploratory and qualitative, developed in four different but interconnected papers that comprise the development chapters of the thesis. The first two papers are theoretical, and combine contributions from four key literature backgrounds regarding our theme: business ethics, institutional economics, labor conditions and fashion and apparel retail. These were used to compose a theoretical proposition and a preliminary framework. The last two papers are empirical, both used to clarify the understanding over the proposed analytical framework. As a result, these empirical papers provide novel and contemporary evidence concerning the practices implemented by private and public agents in order to reduce and eradicate precarious labor conditions in this sector, and how they relate between each other, supporting and giving feedback, in terms of institutional change. The overall contribution of this thesis is to propose a novel approach, with analytical framework and propositions, to issues concerning labor conditions in fashion and apparel retail, as well as extending the scope of institutional change analysis to this contemporary phenomenon.*

Keywords: Institutional Economics; Organizational Change; Social Responsibility; Fashion; Apparel

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# 1 INTRODUCTION

## 1.1 Context and research gap

What motivated this thesis is an occurrence regularly seen in fashion and apparel industry: precarious labor. This encompasses a range of characteristics that starts at poor working conditions, low wages and long hours, going to child labor and contemporary forms of slavery (Halem, 1999; Bales & Robbins, 2001; Craig *et. al.*, 2007; Kalleberg, 2009; Standing, 2014; Betti, 2016). Although more common to places with weaker legal institutions (Kretsos & Livanos, 2015; Mosoetsa, Stillerman & Tilly, 2016), because of the development of global supply chains and growth of international sourcing practices, firms from countries with stronger legal institutions also get involved in such cases in this industry (Distelhorst, Hainmueller & Locke, 2016).

The big picture can be summed up by a complex sector under constant change and increasing pressure to reduce costs and deliver quickly fashion products to consumers, in a system that tends to shift the pressure onto its workers. It is composed of different stages from fiber and textile production until retail and relationship with final customer (Jones, 2002), each stage also approached as an entire sector: fibers, textiles, apparel and retail (Guercini, 2004). Contemporary sourcing practices focused on lean and agile strategies to meet consumer pressure for constant and cost effective purchases have led to an increasing reality of precarious working conditions and unmet labor rights for factory workers in different tiers in the supply chain (Barnes & Lea-Greenwood, 2006; Distelhorst, Hainmueller & Locke, 2016).

Applying an institutional economics point of view, the economic problem here is a complex ensemble of incomplete contracts between confection workers and factories (Brousseau & Fares, 2000), transaction costs throughout the supply chains (Williamson, 1975), opportunistic behavior throughout the supply chains (Williamson, 1979), agency problems between focal firms and outsourcing firms (Jensen & Meckling, 1976), asymmetry of information between the industry and the consumer market (Hölmstrom, 1979) and institutions with weak enforcement characteristics, both formal and informal (Acemoglu, 2005). Nonetheless, even with a fertile ground with empirical issues posing challenging research conundrums, institu-

tional economics has not been a recurrent literature lens applied to investigate the phenomenon of precarious labor conditions in fashion and apparel industry.

The organizational problems related to this phenomenon are both internal and external. Firstly, for the factories in which precarious labor is found, it is an internal human resource management problem (Burgess, & Connell, 2006). Secondly, since precarious labor contracts usually occur in subcontracting firms part of big supply chains, they pose as an external risk to a focal firm's competitive advantages that stem from strategic supply chain management (Barrientos, 2013). Furthermore, they pose as an external risk for brand management and reputation of the focal firm (Locke, 2013).

Due to the complexity of the phenomenon, and the multiple lenses that could be applied to its study, this thesis focuses on one economic problem: enforcement characteristics of institutions in the context of institutional change. The motivation of this study is to develop an understanding from the point of view of institutional economics about the mechanisms through which the process of institutional change occurs in fashion and apparel retail firms seeking to reduce and eradicate precarious work conditions and slave labor in their firms and supply chains. The institutional approach to economic research considers the existence of both weak and strong enforcement for institutions governing economic action, and relates economic development and improved performance to scenarios with stronger (North, 1995).

The overall starting point of this research is epitomized by the question: **how can institutional economics explain and guide the path to reduce and eradicate precarious labour conditions in fashion and apparel retail?** This question follows the contributions from Zylberstajn (2002), in which he puts ethical concerns in the perspective of institutional economics and points to research gaps in explaining the incentive mechanisms that can be designed to mitigate, limit and combat opportunistic actions. We identified this research gap in the context of fashion and apparel retail firms and the process of implementing ethical practices regarding social conditions.

## 1.2 Research goals and structure of the thesis

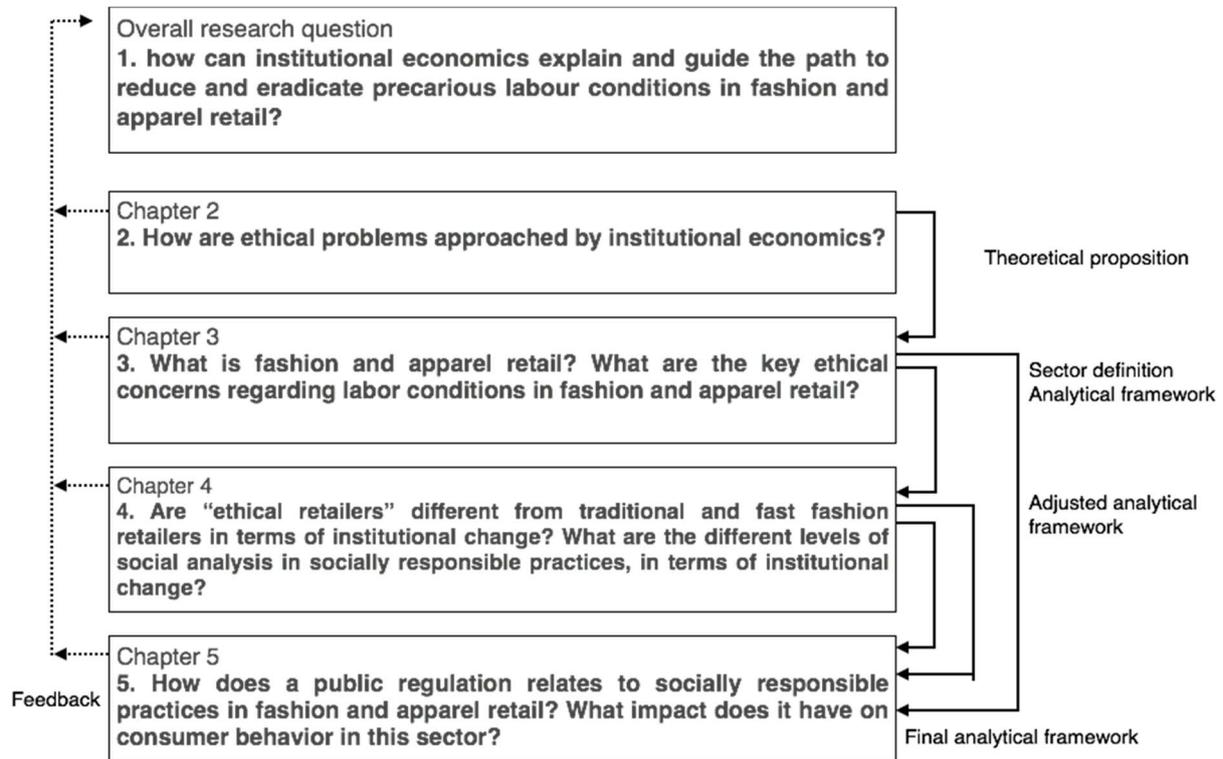
The purpose of this thesis is to raise the understanding of ethical concerns about precarious labor conditions in fashion and apparel retail with the contributions from the perspective of institutional economics. This thesis' goal is to make a contribution from institutional economics to the discourse on ethics in labor conditions on fashion and apparel retail by developing a theoretical proposition, an analytical framework and propositions to orient further research projects interested in continue this line of approaching ethics in fashion and apparel retail.

In order to approach the research question, we developed the thesis in four different and inter-dependent papers. At first, we sought to identify and describe the elements of this question. We presented an integrative literature review to develop a theoretical platform to approach ethics from the point of view of institutional economics. Then we presented a literature review on how ethical concerns regarding precarious working conditions have been developed in the context of fashion and apparel retail.

To offer a complete organizational answer to our starting point question, two lines of research were developed. To investigate the internal incentive mechanisms, we took a closer look to firms in an opposite reality of precarious labor conditions, for these are firms that stand up for fair and ethical practices concerning labor in fashion and apparel retail. To investigate the external incentive mechanisms, we examined a governmental introduction of public regulation and the enforcement characteristics that emerged from inside and outside the government, namely NGOs, private organizations, the press and consumer behavior.

This thesis is structured with the present introduction, four chapters and the conclusion. Each of the four chapters is a paper providing a piece of the response for the initial question that triggered this thesis. The first two papers are strictly theoretical and together they build a theoretical proposition to analyzing our theme, combining theoretical contributions from the fields of business ethics, institutional economics, precarious labor conditions and fashion and apparel retail. The last two chapters are empirical efforts to fine tune the theoretical proposition into a novel and integrative analytical framework to study the path to reduce and eradicate precarious labor conditions in fashion and apparel retail. Figure 1 below presents an image of the relationship between each of the papers composing this thesis.

**Figure 1: Structure of the thesis.**



The underlying idea of this Figure 1 is that every paper is an input to the other, demonstrating the evolution of our thought process as we progress through the chapters. The following sections clarify these relationships and each paper's contribution to the overall result of the thesis.

### 1.2.1 Paper 1

With the title “Clean rules: ethics and institutional change in precarious labor conditions”, this is a theoretical paper with the purpose of developing a theoretical proposal to analyze ethical issues concerning precarious labor conditions grounded in institutional economics theory. The research question of this paper is: **How are ethical problems approached by institutional economics?** At first, key concepts were obtained from literature to characterize precarious labor conditions. Thereafter, a brief literature review is presented with bibliometric evidence, revealing scarce contributions from institutional economics to approaching the theme of ethics in labor contracts. With the research gap presented, a recollection is made of the institutional reasoning that can be applied to the discussion of precarious labor conditions, and on the last section a first attempt is presented to merge these contributions and propose a theo-

retical platform to analyze the ethical issue of precarious labor conditions from the point of view of institutional economics.

### 1.2.2 Paper 2

With the title “ Dirty clothes: precarious labor conditions and contemporary slavery in fashion and apparel retail”, this is a theoretical paper with key contributions of defining fashion and apparel retail and the main ethical concerns in this sector regarding precarious labor conditions, as well as merging the theoretical contributions from institutional economics to develop an analytical framework. The research questions guiding this chapter are: **What is fashion and apparel retail? What are the key ethical concerns regarding labor conditions in fashion and apparel retail?** In order to answer these questions, this paper is separated in four steps. The first step is to define of the sector, which is studied under many different names. The second step is to provide an industry overview worldwide, characterizing the recent changes the sector has been through, addressing in particular the growth of the fast fashion paradigm and consequently the rise of unethical practices of precarious employment in this sector. The third step is to present a review of the literature identifying the ethical solutions proposed to fashion and apparel retail concerns. At last, the fourth step is to propose an integrative analytical framework applied and tested in the subsequent papers.

### 1.2.3 Paper 3

With the title “Institutional change and the emergence of ethical retailers in fashion and apparel industry”, this is an empirical paper with the purpose of assessing a big part of the analytical framework with evidence collected from firms who are self-proclaimed ethical retailers, which we assume have already been through the institutional change process, or are advanced in the process. The research questions addressed in this chapter consist in: **Are “ethical retailers” different from traditional and fast fashion retailers in terms of institutional change? What are the different levels of social analysis in socially responsible practices, in terms of institutional change?** This paper presents an analysis of new practices and innovations in fashion and apparel retail firms, in terms of institutional change, through a multi-case study. Initially, the analytical framework and the main contributions from the previous paper are presented, identifying the key characteristics from traditional and fast fashion

retail paradigm. Then, the firms composing the case study are presented and their key characteristics are summed up into a group of suggested themes defying the traditional and fast fashion paradigm, despite needing further confirmation from other methodological approaches. The next step is to apply the analytical framework proposed in chapter 3, to analyze the components of institutional change. Finally, based on the empirical evidence and the observations regarding the comparison between emerging ethical retailers and ruling paradigms on the industry, an empirical definition of ethical fashion and apparel retailers is proposed, and feedbacks are presented regarding the relationship between internal components of the theoretical proposition.

#### 1.2.4 Paper 4

With the title “Governmental and societal enforcement of labor regulations on fashion and apparel retailers”, this is an empirical paper with the purpose of presenting final adjustments on the analytical framework developed and enhanced in the previous three chapters. The research questions in this paper are: **How do public regulations relate to socially responsible practices in fashion and apparel retail? What impact does it have on consumer behavior in this sector?** From these questions, the aim of this study encompasses shedding some light on the relationship between public regulations and its enforcement practices in the context of fashion and apparel retail. The method used is a case study, to present a pioneer governmental enforcement practice promoted by the Brazilian Ministry of Labor and Employment. At first, the public regulation is presented, along with the public enforcement activities and private efforts of firms and association as well as Non-Governmental initiatives focused on reducing information asymmetry for the public organs, firms operating with fashion and apparel retailers, consumers and society in general. Secondly, an analysis is presented of spontaneous manifestations from consumers, used as a proxy for relating between disclosure on labor regulation law enforcement on consumer's economic behavior towards fashion and apparel products. As a result of this paper, a final adjustment is made to the analytical framework, as well as three propositions that stem from the empirical evidence here presented.

## 2 CLEAN RULES: ETHICS AND INSTITUTIONAL CHANGE IN PRECARIOUS LABOR CONDITIONS

### 2.1 Introduction

To employ a person and manage her as a resource for the firm is an action that can be seen strictly from the economic point of view: how the use of this resource can maximize value or reduce costs, contributing to the firm's production output. However, when a person is put in a similar category to other resources in a firm, such as inanimate objects like office equipment and furniture, some ethical inquiries may arise inevitably, and that fact appears to have been disregarded for some time by academics (Winstanley and Woodall, 2000).

According to Kroon and Paauwe (2014, p. 20), the major considerations regarding ethics in human resource management deal with the terms of “good employership’, decent work and socially responsible human resource management” (considering the view of the employee as a stakeholder). In contrast, the absence of ethical regards in the employment relationship is known as precarious labor conditions.

Putting both the economics and ethics view of precarious employment may seem like adding oil and water: can these two visions come together to analyze this issue and propose organizational solutions? The research question addressed in this chapter is: **How are ethical problems approached by institutional economics?** Thus, the aim of this paper is to gather insights regarding how do economists treat this ethical problem of precarious labor conditions, in particular by the stream of research of institutional economics. Specifically, we seek to establish connections that allow us to propose a theoretical framework to analyze institutional change in the context of unethical organizational practices.

In order to carry out this goal, firstly we present the key concepts obtained from literature to characterize precarious labor conditions. From that on, we present a brief literature review with bibliometric evidence, that led to scarce intersections between studies in institutional economics and ethics in labor contracts. After this, we develop the institutional reasoning that can be applied to the discussion of precarious labor conditions, and on the last section we at-

tempt to merge these contributions and propose a theoretical platform to analyze the ethical issue of precarious labor conditions from the point of view of institutional economics.

## **2.2 Precarious labor conditions**

Precarious labor is mostly studied as the type of employment relationship in which the “work that produces earnings or profits (...) is uncertain, unpredictable, and risky from the point of view of the worker” (Kalleberg, 2009, p. 2). It is a type of job that is fragile and unstable by nature, to which we can relate temporary, casual and informal jobs, low wages, marginal workers, subcontracting and even modern representations such as crowdsourcing (Standing, 2014; Betti, 2016).

Regarding this theme, social scientists are divided into those who believe this is a recent postindustrial phenomenon, particularly seen after the 1980s, and those who argue this is a historical phenomenon, recurring since the beginning of industrial capitalism (Betti, 2016). Nevertheless, it is an empirical occurrence that has been studied by different fields in social sciences and still can be seen in numerous industries nowadays. Interestingly, we still can see today what since the 1970s researchers have separated as a “special category of workers as being precarious, the so-called marginal workers: immigrants, women and youths working in small factories and experiencing worse working conditions and fewer rights” (Betti, 2016, p. 67).

Precarious labor conditions find their nemesis in socially responsible conditions, and Rowan (2000) broke down their key differences into three characteristics: the right to freedom, well-being and equality. The first one encompasses the nature of the relationship between employer and employee, whether the former has control over the latter (physically or by means of coercion, persuasion or manipulation) and whether it provides job security and sufficient income to meet his basic needs, which relates to the current concept of a living wage (Edin & Len, 1997).

The right to well-being encompasses whether employers allow employees to pursue their own goals and interests, even when outside the organizational environment. The right to equality encompasses both rights above, along with equal opportunities and fairness of treatment. In

Figure 2 below these key differences are further explained, along with examples of frequent practices of both types of working conditions, according to Kroon & Paauwe (2014, p. 21).

On the extreme side of precarious conditions is contemporary slavery, which is defined as a temporary “state marked by the loss of free will where a person is forced through violence or the threat of violence to give up the ability to sell freely his or her own labor power” (Bales & Robbins, 2001, p. 32). Craig *et. al.* (2007, p. 12) proposes three key elements present in this exploitive condition: “1) they involve severe economic exploitation; 2) the absence of any framework of human rights; 3) the maintenance of control of one person over another by the prospect or reality of violence”. The definition of contemporary slavery is not a consensus, with many different international organizations adopting diverging concepts, but most scholars agree that its characteristics are fundamentally different from historical forms of slavery (Bales & Robbins, 2001).

**Figure 2: Typical practices of precarious and socially responsible employment systems**

Ethical employee rights	Precarious	Socially responsible
<i>Right to freedom</i>	Limited duration of contract (fixed-term, short-term, temporary, seasonal, day-labour, casual labour); Dependent nature of the employment relationship (triangular and disguised employment relationships, bogus self-employment, subcontracting, agency contracts); Low wage ( <i>e.g.</i> piece rate).	Full-time contract  Year round, permanent contract  Legal minimum wage, legal overtime payment Incentives, above-market wages
<i>Right to well-being</i>	Lack of or limited access of workers to exercise their rights at work.  Poor protection from termination of employment. Physically unsafe work environment.	Works council; Employee work meetings Job autonomy, team work Performance interviews Training, career development support Physically and socially safe work environment
<i>Right to equality</i>	Lack of access to social protection and benefits usually associated with full-time standard employment.	Written down employment policies Employment benefits scheme

Source: Kroon & Paauwe, 2014, p. 21.

Precarious conditions can be found in the context of lower enforcement and weaker institutional frameworks, and the choice of organizations for these practices can be explained by a

preference for cost reductions (Kroon & Paauwe, 2014). However, not all firms opt for the practices that violate labor rights, specifically from an ethical point of view, and some, although a minority, even choose to invest in their employees, while firms in the same sector opt for precarious labor (Kroon & Paauwe, 2014).

Recent development in social sciences focus on the growth of precarious labor conditions from the context of postindustrial developed economies, in which workers have seen an increasing “loss of a former stability, marked as a period of state welfare provisioning and labor rights” (Kenny, 2016, p. 20). This growing group of people who fit in this category are considered a new class structure, down at the bottom of social classes, below elite, salariat, proficians and proletariat (Standing, 2014).

Nevertheless, this explanation does not fit the context of developing economies, in which “insecurity for many has always been a core feature of labor markets and economies” (Kenny, 2016, p. 20). In the Global South, countries have different laws and cultures concerning labor in comparison of countries with an older industrialization history, and this new forms of precarious employment emerge in complex frameworks of regulations (Kenny, 2016). This is not simply the case of workers who had an account of rights and lost them, moving from the social classes above (e.g. salariat or proletariat) after unemployment, but is the case of workers who never experienced these socially responsible conditions in their country, or in a particular sector of the economy.

Furthermore, with globalization and constant relocations of brand companies from developed countries towards developing economies, the challenges that workers in precarious conditions face are somehow similar to those faced by early industrialization workers, but they are not essentially the same, for now they coexist with workers in better conditions, even in similar positions in the industry. Increasingly, workers are part of global supply chains with firms facing different institutional frameworks, compliance pressures and enforcement characteristics in their practices, which brings the discussion of precariousness not only to the business ethics sphere but also for economic and organizational spheres.

### 2.2.1 Ethics and social responsibility

Ethics mainly deals with what is the good and right thing to do. As Drucker (1981) first argued, business ethics is a tricky concept that leads to the understanding that a different treatment apply to firms concerning their actions. And he strongly criticized that the literature ramifications of business ethics stemmed primarily from the political aspect of social responsibility, as in the responsibilities a powerful firm had towards its stakeholders. Later, however, he went on to embrace the concept of Corporate Social Responsibility (CSR), highlighting that profitability and business opportunities can be met simultaneously as a firm addresses its social responsibilities (Drucker, 1984).

Contrary to Drucker's beliefs, that was not a new concept, as previously addressed by Carrol (1983, p. 604): “In my view, CSR involves the conduct of a business so that it is economically profitable, law abiding, ethical and socially supportive”. Thus, ethics, in the context of business, is a concept strictly linked to social responsibility. With a brief overlook at the literature, using the academic database on the ISI Web of Science platform, we can paint a picture of the number of publications in each of the themes we have seen so far, namely precarious labor, business ethics and social responsibility (WOS, 2017). Table 1 presents the search results of related topics them below.

**Table 1: Number of publications according to term in academic database.**

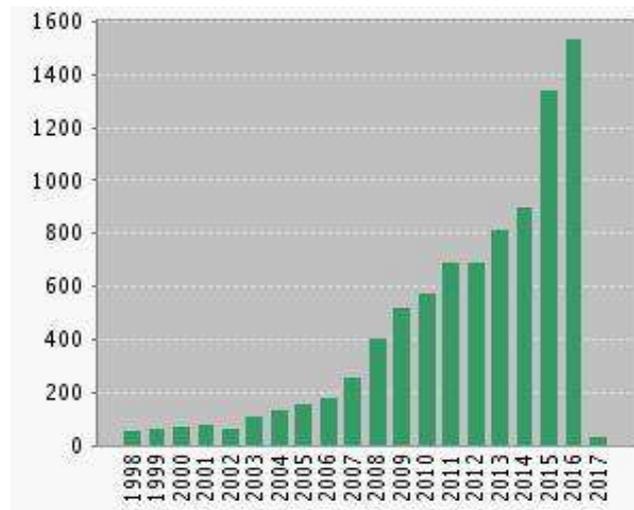
Area	Term researched	N. of publications
Work conditions	Precarious labor	674
	Precarious employment	639
	Total	925
Business ethics	“Business ethics”	2.766
	“Organizational ethics”	202
	Total	2.921
Social responsibility	“Social Responsibility”	8.744
	“Socially responsible”	1.351
	Total	9.488

Source: WOS (2017)

When researching a term composed of two words, you can either search the two words separately (without commas) or together, as an expression (e.g. “social responsibility”). So, in the first query for social responsibility as two separate words, refining by type of document (article) the search found 20.940 articles.

After refining by the expression between commas, by type of document, and after adding to the results of the term “socially responsible”, we ended up with 9.488 articles, published between 1900 and 2017. Figure 3 below presents the historical evolution of papers published on this theme, showing two big leaps, one in 2008 and other in 2015. These results indicate how popular is the theme of social responsibility, and how it can still produce interest over the past few years.

**Figure 3: Articles published per year in the theme of social responsibility.**



Source: WOS, 2017.

Out of these 9.488 articles, only 11 had applied bibliometric techniques to analyze the literature: 2 articles in marketing, 2 in accounting, 5 in miscellaneous themes and 2 that caught our attention. The first one consists in a thorough analysis of the history and development of research in business ethics, through bibliometric techniques, focusing on the main publication in the area: *Journal of Business Ethics* (Calabretta et. al., 2011). The second one consists in a quantitative analysis of definitions for corporate social responsibility (Sarkar & Searcy, 2016).

Over the period analyzed in the first one, between 1982 and 2008, research in business ethics has predominantly been on three topics: “ethical sensitivities, CSR and moral theory” (Calabretta et. al., 2011, p. 504). The latter was a prevailing topic until the beginning of the 1990's, and after 1997 CSR related articles became prevailing. Unfortunately, this article didn't analyze the great leap of publications we saw in Figure 3, in which we identified a gap occurring after 2008.

The second article affirms that CSR has been described as a “chameleon concept”, due to the multiple changing definitions attributed to it over the years (Sarkar & Searcy, 2016, p.1424). And this is the idea presented through bibliometric analysis in the paper, which shows that the key terms in the definition grew from 5 in the first period of 1953 – 1982 (economic, voluntary, legal, obligations and community) to 9 in the last period of 2003 – 2014 (economic, environmental, community, stakeholders, social objectives, employees, voluntary, stockholders and ethical). Notwithstanding the ample and changing variety of definitions observed over the years, the consolidated analysis for the whole period (1953 – 2014) reveals some recurrent and enduring descriptions for the definitions of CSR, related to six core dimensions, as shown in Figure 4 below.

One key distinction that this state of the art literature review indicates is the ethical concern as a strong recommendation for future definitions of CSR, supported by both practitioners and academics. The second recommendation is the increasing importance of sustainability, revealing the connection with environmental issues. We will adopt here the CSR definition recommended by the article:

CSR implies that firms must foremost assume their core economic responsibility and voluntarily go beyond legal minimums so that they are ethical in all of their activities and that they take into account the impact of their actions on stakeholders in society, while simultaneously contributing to global sustainability. (Sarkar & Searcy, 2016, p.1433).

This definition makes a great contribution to our topic of interest: precarious labor conditions. If the main standard of practice in a particular country or sector is precarious employment, to be socially responsible means going beyond legal minimums (in case of countries with low or no living wages, weak institutional framework and so on) and also acting ethically, minding the impact, actively seeking to do good, not just do the minimum, do what's legal, do what everybody else does.

**Figure 4: Core dimensions and key terms related to the dimensions.**

Core dimensions	Key terms
Economic	economic interests; profits and profitability; financial goals, wealth and returns; core (responsibility, function, goals); legal abidance; business strategy; stockholders, owners, investors and shareholders.
Ethical	ethical; moral; fairness; openness and transparency; accountability; reputation.
Social	social wellbeing; interest; justice; social needs; health; well-being; equality; quality of life; gender equality; obligations to society; social norms.
Stakeholders	stakeholders; employees and their families; local community; suppliers, customers; government; competitors; constituent groups.
Sustainability	environmental value and protection, ecological; sustainable; long run; triple bottom line; future generations.
Discretionary	voluntary; (going) beyond and in addition (to); discretionary; philanthropy.

Source: (Sarkar & Searcy, 2016, p.1432).

Thereat we move on to the other theoretical platform in which we will ground our proposition to study precarious labor conditions: the field of institutional economics.

### 2.3 Institutional economics

Institutional Economics comprises the streams of research in economic theory that study institutions, their role in the action of individuals and in the performance of the economy. This theoretical body is not cohesive, and can be initially divided into two main branches: the Old Institutional Economics (OIE), and the New Institutional Economics (NIE). Both schools of thought primarily agree that institutions are of great importance in understanding the formation of economic behavior and performance (Rutherford, 1995).

Even though NIE's kick off can be traced back to when Oliver Williamson particularly studied contractual relations in internal labor markets, precarious labor conditions aren't a big topic amongst institutionalist scholars. We use as an example the sector of fashion and apparel industry, a sector that has been attracting a lot of attention by researchers in other areas re-

garding the precarious labor conditions and scandals observed over the last few years (Freise & Seuring, 2015; Berliner *et. al.*, 2015).

Consulting briefly the academic database on the ISI Web of Science Platform, we found 250.932 entries for the term “institution”, which is expected, since this is a broad term with multiple definitions and interpretations. Refining by related categories, such as economics, political science and management<sup>1</sup>, and by article as a type of document, we ended up with a much more realistic number of 50.319 papers, which possibly comprised the extant literature of institutional economics and a surplus of papers in the field of organizational studies which used “institution” as a title for organizations.

Out of this total number of papers, we experimented with terms comprised by them, as seen in Table 2 below. What is interesting is that, even though 50.319 papers contained the term “institution”, only 282 papers contained the name of the stream of research, “institutional economics”. However, a much larger number of 880 papers contained the full term “institutional change”, a topic that clearly belongs to this stream, indicating that most papers don't specify the name of the field. If we take 880 as a base of comparison, a larger number of 1.177 papers contained “enforcement” but only 323 had the concept of “institutional framework”, both of which are key parts of the definition of institutions for institutional economics research, as shown in the next section.

**Table 2: Number of publications according to term in academic database.**

Area	Term researched	N. of publications
Institutional Economics	Institutional change (any of the two terms separately)	3.276
	Enforcement	1.177
	“Institutional change” (full expression)	880
	“Institutional framework” (full expression)	323

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<sup>1</sup> The complete list of categories used to refine the query are (in order of number of publications): economics, political science, management, sociology, history, business, international relations, social sciences interdisciplinary, environmental studies, planning development, law, business finance, public administration, social issues, ethics, history of social sciences, communication, industrial relations labor and industrial engineering.

	“institutional economics” (full expression)	282
Ethics	Ethics	955
	Slave labor	21
	Precarious labor	24
	Contemporary slavery	13
Sector	Apparel	22
	Fashion retail	5

Source: WOS (2017).

Ethics has produced more papers containing the term “institution” (955) than “institutional change” (880), in the total group of 50.932. This may be in part explained by the other uses of the term “institution”, such as to reference organizations, foundations and so on. However, out of the 1.177 aforementioned with the word enforcement, only 19 contain the word ethics, 1 had the term apparel, and none had the terms “slave labor”, “precarious labor”, “contemporary slavery” and “fashion retail”. Based on these scarce results, we present on the next sections a succinct recollection of institutional concepts useful for studying precarious labor conditions.

### 2.3.1 What are institutions?

Old Institutional Economics began with the works of Thorstein Veblen and John Commons in the end of the 19<sup>th</sup> century and the first half of the 20<sup>th</sup> century. They were the first economists who emphasized the fundamental role of institutions in the study of the functioning of the economy. They did so by defending an evolutionary and dynamic perspective while studying capitalism, through a holism and historical approach of empirical data and valuing the contributions from other fellow social sciences (Guedes, 2013, p. 281).

Commons identified institutions with the concept of collective action: something that constrains individual and group action through physical, moral or economic sanctions, but at the same time can be altered and used by individuals and groups as instruments (Rutherford, 1983). His focus did not reside in institutions' limitation power, but he argued that “liberation

for some individuals may be achieved by constraining the acts of others. In particular, institutions may “liberate individuals from coercion, duress or discrimination at the hands of others” (Rutherford, 1983, p. 723). By controlling action at the individual level, institutions were more than structures guiding human actions, but also “problem solving instruments” employed by the people (Rutherford, 1983, p. 723).

Veblen (1919, p. 239) claimed institutions are the “settled habits of thought common to the generality of men”. It was clear for him that humans, apart from what was taught in textbooks, did not have the actual ability of processing information and calculating their decisions ubiquitously and effortlessly in order to maximize their utility functions (Hodgson, 1998). So they depended upon previous schemes of thought which acted as filters, directing their actions according to previous actions in similar conditions.

He identified these habits of thought with many concepts that influenced and guided human and economic activity. They were the agent's “desires” guiding his actions; his ultimate and definitive “circumstances of temperament”; his “elements of existing frame of mind”; the “products of his hereditary traits and his past experience” (Veblen, 1898, p. 390). These concepts had a cumulative regularity: what you have thought and done before, along with your traditions, conventions and circumstances influenced your frame of mind and how you would approach similar situation in the future.

Veblen established his contributions to economics literature since the beginning from a critical point of view of mainstream schools of thought. He even coined the term “neoclassical economics”, and positioned his ideas apart from conventional approach of humans as rational and maximizing agents (Hodgson, 1998, p. 169). His view is clear in this depiction of a human agent: “He is not simply a bundle of desires that are to be saturated by being placed in the path of the forces of the environment, but rather a coherent structure of propensities and habits which seeks realization and expression in an unfolding activity” (Veblen, 1898, p.390).

What is ordinarily criticized about OIE is its lack of a robust and general theoretical background to analyze common themes in economics, such as a general theory of price. A loyal defendant of OIE's profound contributions, Hodgson (1998, p. 169) argues that old institutionalists in fact stemmed away from “standard theoretical models of given rational individu-

als”, in pure contrast with mainstream neoclassical research that was growing with increasing contributions of mathematical modeling methods. He asserts that OIE was rather built upon “psychological, anthropological, sociological, and other research into how people behave”, focusing on growing contributions on specific phenomena.

NIE came to light from a deliberate move toward a more consolidated theoretical body, mostly inspired by the work of Ronald Coase, along with key representatives Oliver Williamson and Douglass North. According to Klein (1999, p. 457) other inspirations for NIE are Friedrich Hayek's contributions on knowledge, Alfred Chandler's works on industrial history and Herbert Simon's seminal work on bounded rationality; and other key representatives are Kenneth Arrow, Armen Alchian, Harold Demsetz, Ian Macneil and Bengt Holmström.

The term New Institutional Economics was coined by Oliver Williamson, during a time when he was teaching a course on vertical market structures and after a year he spent working at the US Department of Justice Antitrust Division. With his practical knowledge of vertical integration and market failures, he screened extant economic literature and found it insufficient to explain the regularities he saw working with the theme. Particularly, he studied contractual relations and investigated his research problem in the field of internal labor markets. Therefore, notably influenced by Ronald Coase 1937's paper on the nature of the firm, between the years of 1968 and 1971 he developed his transaction cost analysis and later published them on his 1975's book “Markets and hierarchies: Analysis and Antitrust Implications”. (Swedberg, 1990, p. 119).

Douglass North (1990, p.3) later elaborated the NIE modern widely accepted interpretation of institutions, defining them as the “rules of the game in a society” or “the humanly conceived constraints that structure human interaction”. This definition is well accepted mostly because of its ample character and lack of specificity, also present in this NIE definition of institutions as “general regularities in social behavior” (Schotter 1981, *apud* Hodgson, 1998, p. 179).

According to North, these restrictions could be formal, such as legal regulations and laws; informal, like conventions and voluntary codes of conduct; and also the enforcement characteristics of both. The incentive structure supporting economic decision making in societies is therefore defined by this institutional framework (North, 1994). The author is also widely

known for his distinction between institutions and organizations. In his conception, institutions are the rules of the game, and organizations are the players. From this point of view, the latter consists in agents who take advantage of the opportunities offered within their institutional arrangement.

Institutions, organizations and institutional framework are the key concepts in NIE, but other concepts have been developed with the growth of this stream of research, such as transaction, transaction costs, property rights, governance structures and opportunism, among others. Table 3 below lists the main characteristics usually used to distinguish the two branches of institutionalism.

**Table 3: Comparison between Institutional Economics Streams of Research.**

<b>Characteristics</b>	<b>Old Institutional Economics</b>	<b>New Institutional Economics</b>
<b>Main Authors</b>	Thorstein Veblen, John Commons.	Ronald Coase, Oliver Williamson, Douglass North.
<b>Object of Study</b>	Habit.	Transaction.
<b>Focus</b>	Collective action.	Individual action.
<b>Method</b>	Holism.	Individualism.
<b>Critics</b>	Descriptive, but non-theoretical*.	Theoretical, but incomplete.
<b>Origin of Thought</b>	Critics to orthodox economics.	Analysis of the firm, knowledge, industrial history.

Source: Own elaboration, based on Langlois (1989) and Rutherford (1995).

\* Hodgson (1998) does not support this presumption.

The view of institutions acting as structures that constrain or limit human action, as found mostly in NIE studies, is considered partial. Analyzing the contributions of the first authors of the Old Institutional Economy, it is possible to identify a dilemma that involves a definition omitted from North in his partial vision (Hodgson, 2006). The dilemma is explained by the following metaphor: an institution sometimes resembles a building, a structure of laws and regulations within which individuals act as prisoners, but may also signify the behavior of prisoners themselves (Commons, 1934, p. 69). In addition, Veblen's "habits of thought" are an illustration of institutions much deeper and more dynamic than constraining structures.

Thus, the OIE view of institutions showed previously by Commons and Veblen is larger than just the structures, but regards the behavior in itself.

Dequech (2002, p. 567) approaches this dilemma as a difference in focus, between OIE and NIE, on what is the impact institutions have on economic behavior. He argues that NIE early contributors focused on the restrictive function, assuming institutions constrain economic behavior. On the other hand, OIE offered a bigger picture, considering the restrictive as well as the informational-cognitive function, referring to the information contained in institutions, either to indicate or to motivate and "influence on the ends that people pursue" a likely action to be taken (Dequech, 2002, p. 566). He used Elias Khalil and Geoffrey Hodgson as examples of this line of thought, but later in his paper presented recent studies as evidence that this once clear division has become a blurred line, with NIE authors, including North, signaling to the cognitive function of institutions.

One thing remains as a main feature of institutionalism for both sides: the assumption about the fundamental role of institutions, when analyzing economic behavior and economic performance. When he elaborated on 'cumulative causation', Veblen (1898), with clear references to Darwin's theory of biology, endorsed a theory that considers economic development as a process resulting from a 'cumulative sequence' of institutions influencing economic behavior. Biological terms have been extrapolated to economic theory: "habits or routines may adapt slowly or 'mutate' as agents attempt purposeful improvements" (Hodgson, 1998, p.175).

Considering these rich contributions, we will adopt in this study a compromise between both streams of research, as proposed by Hodgson (2006, p. 18): "Institutions are systems of established and embedded social rules that structure social interactions". This definition comprises the idea of institutions as the tissue in which social life is sewn, an idea that pleases both OIE and NIE. Embeddedness follows Veblen's reasoning, that once the habits of thought are shared between people as the common ground of the rules, they are embedded, which provides workability for the institutions.

When Hodgson (2006, p. 2) presents institutions as the structure "in terms of overt or implicit rules" that make up human activity and interaction, he carefully calls attention to the ambiguity problem of calling institutions as formal and informal rules. Firstly, he argues that these

terms lack precision and may lead to confusion, and defends terms such as legal, nonlegal, social conventions, norms of behavior or even explicit and implicit rules.

Secondly, he reasons that formal or legal rules “always depend on nonlegal rules and inexplicit norms in order to operate”, so to view them as structure or a connected tissue is a much more faithful depiction of reality (Hodgson, 2006, p. 18). Thus, we follow Hodgson's understanding that the enforcement characteristics of institutions are influenced by the relationship between formal and informal rules as well.

### 2.3.2 Institutional change

Veblen's big contribution to economic theory certainly encompasses his evolutionary approach to institutions, and he understood development in relation to “a theory of the process of consecutive change, realized to be self-continuing or self-propagating and to have no final term” (Veblen, 1919, p. 37). In a similar manner, North developed an institutionalist vision for economic development based on institutional change, with emphasis on the influence institutions have coordinating and regulating transactions and production costs, this way affecting economic performance. In a comparative article between the old and the new school of institutionalists, while characterizing theories of the first school, Rutherford establishes Thorstein Veblen's evolutionary approach to economic development as follows:

Veblen's analytical scheme is one of “cumulative causation” in which each step in institutional evolution is shaped by what went before. Existing institutions and social norms mold behavior, and the goals and incentives set up may lead either to “predatory” or productive types of activity [Veblen, 1914]. The prevailing habits of thought and the incentive system also affect the pace and direction of learning, and it is new knowledge, in Veblen's case particularly technological knowledge, that brings about shifts in the basic pattern of life and, ultimately, alterations in institutions and cultural norms. (Rutherford, 1995, p.447).

So Veblen's reasoning consists of institutions molding behavior, which differs in pace and direction depending on the incentive system, ergo, the institutional framework. North complements this line of thought by adding the cost perspective, in the context of business institutions, and he argues that “deliberate institutional change will come about therefore as a result of the demands of entrepreneurs in the context of the perceived costs of altering the institutional framework at various margins” (North, 1993, p.5). This is an interesting addition, in a

way that provides micro foundations for the old institutional economics view. North also sets an example that applies to the context of precarious labor conditions:

The kinds of skills and knowledge that will pay off will be a function of the incentive structure inherent in the institutional matrix. If the highest rates of return in a society are to be made from piracy, then organizations will invest in knowledge and skills that will make them better pirates; if organizations realize the highest payoffs by increasing productivity then they will invest in skills and knowledge to achieve that objective. (North, 1993, p.3).

Interestingly, this is a faithful depiction of the reality of precarious employment: given the institutional framework, it pays off to keep unethical employment practices. This sums up the contribution of institutional framework to identifying the problem of precarious labor condition. Once that is established, how can the picture change? By means of institutional change.

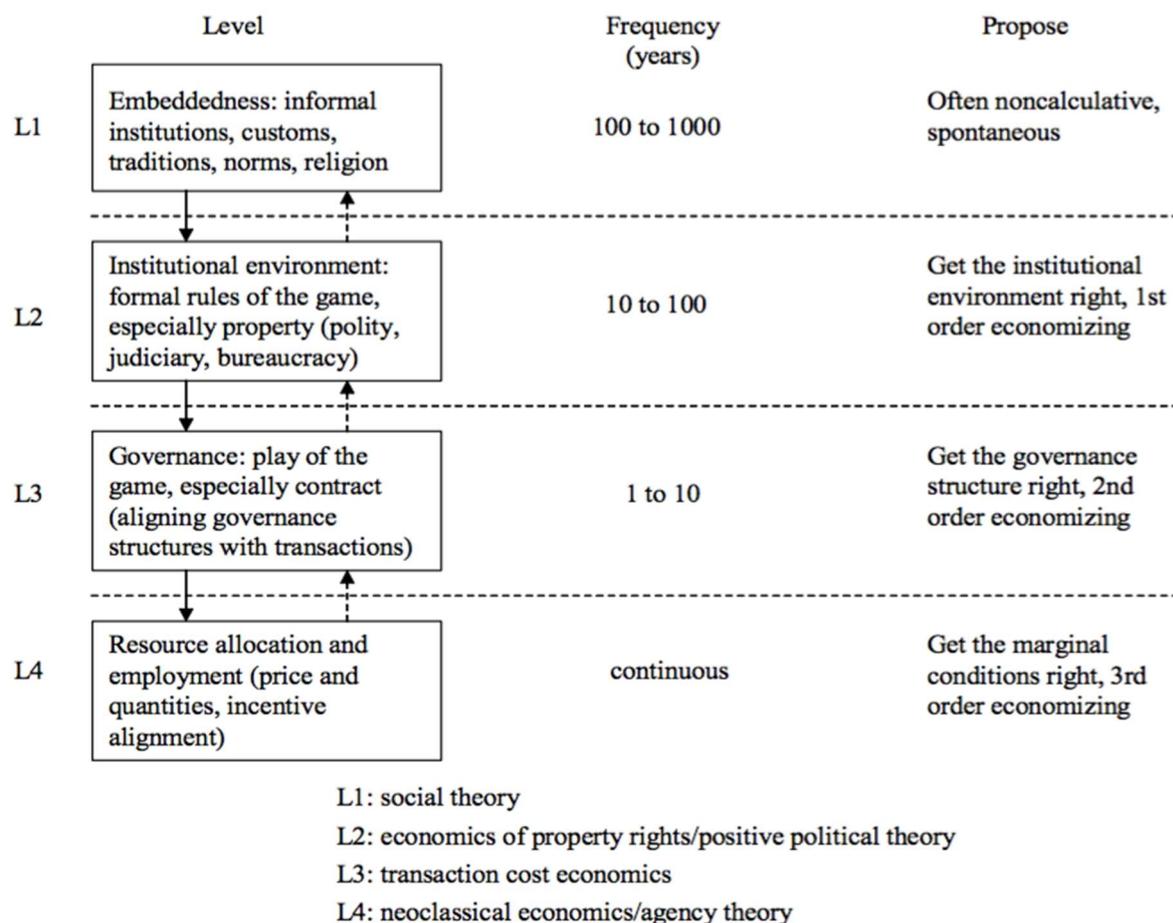
North defends that the process of institutional change is complex due to the several layers of embeddedness characterizing institutions. He argues that “the changes at the margin can be a consequence of changes in rules, in informal constraints, and in kinds and effectiveness of enforcement” (North, 1993, p. 6). Hidayat (2005) comments that, while conducting an analysis regarding institutional change, dividing institutions in formal and informal rules is not sufficient, and she proposes, among others applied to her research gap, the use of Oliver Williamson's approach which we will take in this article.

Williamson distinguishes four levels of social analysis, as shown in Figure 5 below. Constraints and feedbacks are represented by solid and dashed arrows, respectively. Level 1 is the social embeddedness level, composed of norms, conventions, implicit rules that are slow changing. They may take from 100 to 1000 years, one of the reasons it is sometimes taken as a given for economists. Due to this slow speed, and to the different and intricate levels of embeddedness, namely “cognitive, cultural, structural, and political”, Williamson (2000, p. 597) points out that this level is mostly studied by social theory, by economic sociologists, economic historians, and other social sciences. Although he recognizes scarce developments over the sources of changes at this level, he proposes an idea of spontaneous, noncalculative changes that may have evolutionary origins.

Level 2 and 3 have been the main focus of institutional economics. Level 2 consists in the institutional environment, which is partly the result of evolutionary processes of implicit

rules, but also comprises explicit and deliberate formal rules. Definition and enforcement of property rights, which entails transaction costs, as well as distribution of powers across the public institutions are featured in this analysis, which changes in a faster speed compared to level 1, of something between 10 and 100 years.

**Figure 5: Four levels of Social Analysis.**



Source: Williamson, 2000, p. 597.

Level 3 comprises the governance structure, a much faster changing level that analyzes the changes in institutional arrangements that are mediated by contract law creation and enforcement characteristics. He posits that the governance structure “reshapes incentives”, and he proposes a transaction cost analysis that considers “*ex ante* incentive alignment” but focuses “additionally and predominantly to the *ex post* stage of contract” (Williamson, 2000, p. 599). He vows for his theoretical contribution by affirming that “any issue that arises as or can be

reformulated as a contracting issue can be examined to advantage in transaction cost economizing terms” (Williamson, 2000, p. 599). Changes at this level occur at the fast pace of 10 to 1 years.

Level 4 features the changes in resource allocation and employment that are influenced by economic factors such as price and quantity adjustments. Neoclassical and agency theory are typically employed, since the firm is usually described as a production function and changes are studied by means of marginal analysis. As seen in Figure 5 above, changes occur in such a fast pace that they are considered continuous changes.

Explicit laws aren't necessarily always adopted. For a law to be accepted and adopted, thus acquiring the status of rule, there must be a supporting custom (Wittgenstein, 1958). In other words, it must be adopted to the extent that the evasion or fulfillment of the conduct in question becomes customary and acquires a normative status (Hodgson, 2006). And as we have seen above with Williamson's four levels of social analysis, it is not only a matter of analyzing incentives for the adoption of law, or even the absence of them, but it involves the interpretation and valuation of the law by individuals during social interaction (Hodgson, 2006).

Institutional economics theory provides a foundation for the analysis of the changes caused by the option that companies are taking towards Corporate Social Responsibility and Sustainability. Institutions change over time, they are not uniformly recognized, they have unique effects, and are strongly challenged (Dacin, Goodstein, Scott, 2002). Therefore, how does change takes shape, if the process of institutional change seems to be so uncertain, voluble, and dynamic? North (1994) argues that this happens through the creation of executable rules, increasing environmental governance and considering learning as a key aspect, occurring in the individuals or entrepreneurs inside organizations.

## **2.4 Theoretical proposition**

Precarious labor conditions, as we have seen in academic literature, are a common practice seen as a deviation in business ethics, but reinforced by business environment, depending on the reality of the country, sector, or supply chain. We adopted in this study a definition for precarious labor condition as a risky and unsafe type of job that is fragile and unstable by na-

ture, related to temporary, casual and informal jobs, low wages, marginal workers and sub-contracting (Kalleberg, 2009; Standing, 2014; Betti, 2016).

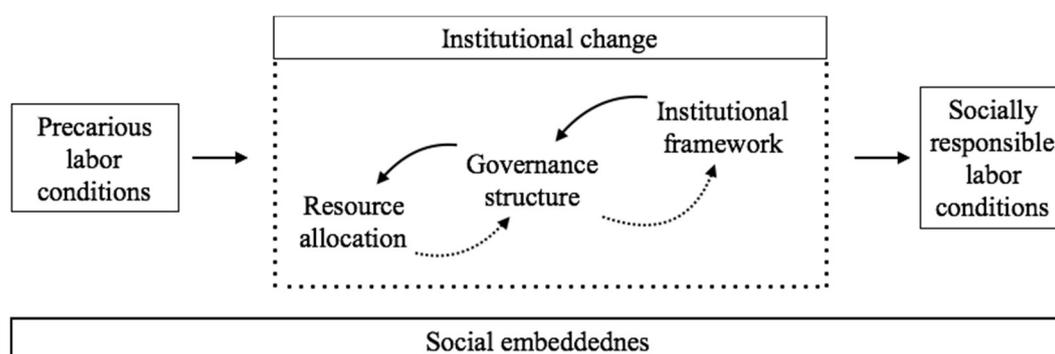
To define institutions we use an integrative definition, as proposed by Hodgson (2006, p. 18): “Institutions are systems of established and embedded social rules that structure social interactions”. We have seen that institutions may have three key functions that affect economic behavior: the restrictive function, which constrains action; the cognitive function, referring to the information contained in institutions to indicate a likely action to be taken; and the motivational function, which comprises the influences on the ends of economic action (Dequech, 2002, p. 567). Institutional change is an evolutionary and adaptive process, subject to different levels of intricacy that can be analyzed separately (Rutherford, 1995; Williamson, 2000).

Based on these two bodies of literature, we combined these contributions in the following theoretical proposition:

*P1: The move from precarious labor conditions to socially responsible conditions for employment in fashion and apparel retail is a process of institutional change.*

We propose that the trajectory from A (precariousness) to B (social responsibility) consists of a complex process of institutional change, which occurs in 3 different and interconnected levels of social analysis, over a period of time. Each level of analysis comprises different enforcement characteristics and incentive mechanisms that influence the pace and direction of institutional change. And the deepest level of analysis comprises slow changing implicit rules that, although slow to change, may emerge spontaneously, and effectively influence behavior. Figure 6 below summarizes our theoretical proposition.

**Figure 6: Theoretical proposition**



This theoretical proposition considers Williamson's (2000) analytical framework proposed as a tool for identifying the changes regarding the different levels of analysis. Williamson's first level is social embeddedness, taken as a given because of its slow changing character, then levels 2, 3 and 4 are resource allocation, governance structure and institutional framework, depicted inside the middle section in Figure 6. Following Williamson's framework, the constraint and feedback mechanisms between each level are represented by solid and dashed arrows, respectively.

## **2.5 Final remarks**

Our aim in this paper was to consult the extant literature on contributions to approach the ethical issue of precarious labor conditions from an institutional economics point of view. We have found scarce intersections from published studies, and from that point we gathered seminal contributions to establish connections and propose a theoretical framework to the study of our phenomenon.

We do not argue that social issues, such as our proposed phenomenon, have not been the object of institutional economics research. Ronald Coase (1960) introduced in his canonical paper the “problem of the social cost” from the commonly neglected point of view of its reciprocal nature, which leads to complex choices. He argued that a situation when an organization's actions have harmful effects on others is not a one-sided way, since it is at the same time generating value to the society, and may be harmed if restrictions apply to its production strategies. This is a view yet to be widely accepted by practitioners nowadays, since it is still very common to see activists defending extreme measures to deal with organizational harmful effects, such as shutting down plants, revoking its production licenses and other ways to stop an organization's harmful activities.

So what Coase suggests is that, in these situations, the complex choice boils down to which of the harms is more serious: damages to external parties or depriving society of the benefits of the organization's production. If it comes down to the government taking this decision, it

should be able to ponder both realities and bear in mind that business may add more value to the society even when their actions deduct value of minorities or even entire communities.

Considering the reciprocity, Coase (1960, p.15) asserts that “the economic problem in all cases of harmful effects is how to maximize the value of production”. In his analysis, he presented cases considering whether the organization is liable or not for the damages and whether the pricing system works costlessly or if it incurs in transaction costs. However, his focus relies on harmful effects on external parties, such as neighboring properties and communities, and mostly relating to environmental externalities, like noise, smoke, shadow and dust.

In this seminal work, Coase didn't address cases concerning harmful effects on the organization's employees and suppliers, in particular from a social point of view. This excludes issues that arise from a range of “bad” organizational and supply management practices that characterize precarious working conditions, such as intentional low wages, child labor, serfdom and even slave labor.

Furthermore, applying the “problem of social cost” logic to labor markets entails also considering whether the labor market is perfectly competitive, which means complete contracts and, therefore, no incurrance of transaction costs. However, as pointed by Kaufman (2010a), in the real world we deal with imperfect competition, and the nature of employment contracts is incomplete (Simon, 1951; Marsden, 1999; Kaufman, 2010b). In this given scenario, not only market forces act to determine, but also institutions “play a role in the coordination and regulation of the labor exchange”, namely “customs, social norms and equity concerns” (Kaufman, 2010a). This way, the field opens for multidisciplinary studies regarding the characteristics of labor contracts (Whalen, 2008, *apud* Kaufman, 2010a).

We propose in this paper a multidisciplinary approach to studying institutional environment and incentive mechanisms that influence organizational choice over the use of precarious labor conditions in their firms and in the supply chain. The institutional economics lens has been adapted to the particular case of ethical concerns regarding institutional changes in labor conditions. We have identified a research gap of using this theoretical framework to analyze the empirical occurrence of precarious labor conditions in fashion and apparel retail s and we will investigate this on the following papers composing this study.



### 3 DIRTY CLOTHES: PRECARIOUS LABOR CONDITIONS AND CONTEMPORARY SLAVERY IN FASHION AND APPAREL RETAIL

#### 3.1 Introduction

Precarious employment conditions are some of the practices that when found among organizations nowadays leave us all perplexed. Not only are they a part of our past, but poor working conditions are a reality in many industries, across many countries (Kalleberg, 2009). On top of that, we have seen a recent rise in contemporary slavery in many different contexts, including sectors in developed countries (Craig *et. al.*, 2007).

When comparing two big infamous disasters in fashion and apparel industrial history, Manhattan company's Triangle Shirtwaist factory fire in 1911 and the Rana Plaza building collapse in Bangladesh in 2013, we can find at least two dismal similarities (Von Drehle, 2004; TI, 2016). Firstly, in both cases workers were in resembling precarious working conditions, subject to long working hours, being paid the very least, and were mainly marginal workers: women, singles or widows, teenagers, migrants and immigrants. Secondly, focal companies avoided responsibility for the tragedies. By focal companies we mean those who have either greater influence power over their supply chain, direct contact with their consumers, are responsible for the design of the product or service being offered or all of the above (Preuss, 2001; Graafland, 2002).

In the 102 years and many continents that separate the two disasters, we have seen the rise of norms, regulations and institutional mechanisms to prevent such situations and provide better working conditions for workers (May, 2007; TI, 2016). However, for consumers looking for clothes better sourced as much as for workers fleeing sweatshops, it is somehow frustrating to see the same practices and social norms lingering around the fashion and apparel industry for decades, in many different shades in each country.

The goal of this paper is to shed some light on the main ethical concerns regarding precarious work conditions in fashion and apparel retail, based on contributions found in academic literature. The research questions guiding this chapter are the following: **What is fashion and ap-**

## **parel retail? What are the key ethical concerns regarding labor conditions in fashion and apparel retail?**

Firstly, we address the definition of the sector, referred to under many different names. Secondly, we provide an overview on this sector, characterizing it worldwide, addressing in particular the growth of the fast fashion paradigm and how do unethical practices of precarious employment occur in this sector. We then move on to present a review of the literature relating ethical solutions to fashion and apparel retail, and at last, we propose an integrative analytical framework for future empirical studies on this field.

### **3.2 Fashion and apparel retail sector**

Unlike the automobile industry, which is made of different sectors and segments, many tiers of suppliers, a different market structure category for each tier, different organizational types, and still is easily unified under one name of industry, the sector responsible for making and delivering clothes and fashion products does not respond to a single title, nor to a single characterization.

The definition of the sector is hindered by no consensus found in literature regarding the appropriate terminology for this sector, or more correctly, complex of sectors. The group of firms responsible for producing our clothes is composed of several links, ranging from fiber and textile production until retail and relationship with final customer (Jones, 2002). Each of these stages can also be considered an entire sector: fibers, textiles, apparel and retail (Guercini, 2004). So how can we name this group of sectors? Table 4 below shows examples of how authors have chosen to name and compose their subject of study, and this variety of ways indicate we need to clarify in detail to what we are referring when we say “fashion and apparel retail sector”.

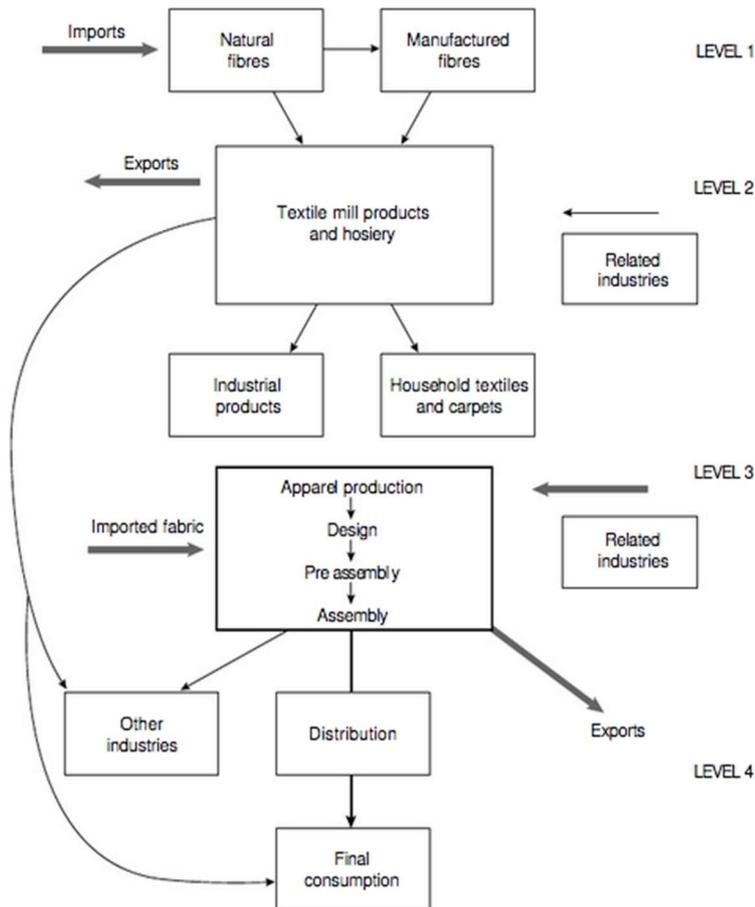
**Table 4: Sector terminology variants**

<b>Sector</b>	<b>Composition</b>	<b>Author (s)</b>
Textile supply chain	Design, manufacture, distribution and retail of fashion garments	Holland (1995)
Fashion apparel	Design, production and wholesale or retail, excluding pure subcontractors	Richardson (1996)
Textile and apparel retail	Apparel, textile products, shoes and leather items	Silva, Davies & Naudé (2000)
Apparel retail	Apparel and other finished products made from fabrics and similar materials (SIC 23)	Cho & Kang (2001)
Textile and clothing industry	Fibers, textile products, apparel and retail	Guercini (2004)
Textile and apparel supply chain	Fiber producers, textile factories, apparel manufacturers and retailers	Şen (2008)
Apparel manufacturers	Design and promotion of apparel items, but not generally their production	Pollin, Burns & Heintz (2004)
Retail apparel textile supply chains	Retailers and producers of textiles and apparel	Abernathy, Volpe & Weil (2006); Jakhar & Barua (2014)
Fashion retail industry	Upstream sectors of the US FTAR (fiber, textile, apparel, retail)	Parrish (2010); McColl & Moore (2014)

The first distinction we are going to make is the aggregation level. According to Bruce, Daly & Torres (2004, p. 152), “in its broadest sense, the sector spans chemical conglomerates producing dyes, detergents and artificial fibers, to healthcare companies producing heart valves, prosthetics, bandages, etc., to niche design driven fashion companies.” In the highest aggregation level, we get this whole myriad of different sectors that produce textile and clothing products, bundled up together. However, there are many different types of operations contained in this sector that this highest aggregate level does not demonstrate.

Figure 7 below is a depiction of the textile – apparel pipeline, as described by the author, since pipeline entails “a logical connection or progression between the stages of the process of converting an input into a product for the final consumer” (Jones, 2002, p. 1).

**Figure 7: The textile – apparel pipeline.**



Source: Jones, 2002, p. 3.

The highlighted inner box of the pipeline is the garment manufacture, or the apparel production. This can be divided in different activities, but consists mainly in three basic ones: design, cutting, and sewing (Richardson, 1996). Out of these three, assembly, or sewing process, is the most critical activity of this stage, and can represent up to 30% of an apparel total cost (Jones, 2002). To economize in this stage, firms differentiate their structures and develop strategies, in particular turning to sourcing practices from low-labor-cost countries or even turning to other alternatives for cost reduction, amongst which are precarious working conditions.

Many apparel makers specialize. A firm may do only design, subcontracting the cutting and sewing, possibly to different sources in different locations. Because sewing remains by far the most labor intensive operation, that step may be done in a low-labor-cost country. Once the clothing is manufactured, the apparel maker usually manages distribution. But here again, firms specialize. Some do their own retailing, some distribute to other retailers, and some sell to distributors. (Richardson, 1996, p. 405).

Organizational types are classifications that make up a myriad of possibilities, from sporadic market exchange relationships to full vertical integration through unification of organizational control (Williamson, 1985). Fashion and apparel retailers are characterized by ephemeral and seasonal products with short life cycles, high volatility and low demand predictability, impulse buying, and purchasing decisions at the point-of-sale (Christopher *et. al.*, 2004). To match this complex demand, fashion and apparel retailers opt for different organizational types, according to their strategies (Şen, 2008).

In this context, vertically integrated firms have gained market leadership in recent years by implementing a set of process innovations known as "rapid response", designed to shorten the production cycle (Richardson, 1996). This is why the focal companies in a textile and apparel retail supply chain is usually the retailer, which owns the brand and has direct access to its consumer base.

The network that composes the apparel industry and retail includes many firms, from spinning and weaving to distribution, that are needed to turn the fiber into the final garment, and the main player in that garment network is the retailer, the distributor downstream of the process, level 4 in Figure 7 above. He makes requests to upstream companies and provides the consumer with their products, thus being the controller of whole flows in the process (Şen, 2008; Thomassey, 2010). The market power of large retail chains is considerably high compared to other members of the value chain and their competitors. According to Bruce, Daly & Torres (2004), all major retailers in the UK are present in the clothing and textile products market, with purchasing power capable of promoting or restricting the success of smaller suppliers, such as new fashion design firms.

Retailers search for textile and apparel suppliers around the world for cost and time advantages to keep pace with the fast changing and demanding consumer needs (Bruce, Daly &

Torres, 2004). Often, partnerships can also be found between large retail chains and small clothing firms related to a designer's name or a famous brand.

In an empirical intersectoral study on the impact of quality of service and other attributes of retailers in the construction of a solid brand, according to the perceptions of consumers, the highlight was given to the particular complexity of the textile retail (Swoboda et al., 2007). The impacts of five dimensions of retailer attributes were analyzed: service (good store service, friendly and competent store employees); value/price (constant prices, fair price and value ratio, attractive special offers); assortment (good assortment quality, ample assortment, good product availability); advertising (good ads, personally attractive advertisement); store design (easy to locate within the store, pleasant shopping atmosphere). Fashion and apparel retailing was the only case where the results indicated significant influence of all five dimensions of retailer attributes analyzed on the retail brand.

So to the high level of complexity in the supply chain, we add high complexity level inside the retail store operations. The perceived consistency in the quality of service with the other dimensions of attributes of the retailer has proved to be relevant for the construction of brand equity, the value of the brand. (Swoboda et al., 2007).

Because of the prominence of retail, in comparison with other links in the supply chain, its relevance dictating the level of production, its closeness to the consumers, we will refer to this part of textile and apparel sector, which engulfs both production and sales of garment products as “fashion and apparel retail”. Still, we are referring to a multifaceted group regarding their organizational types, composed of: a) retail firms that own the brand and manufacture their own fashion and apparel products; b) retail firms that own the brand, manufacture their own products but outsource one or another production step; c) firms who own the brand and retail the products but outsource every manufacture step; and d) retail firms that do not own a brand nor manufacture any step but sell fashion and apparel products from an assorted group of brands.

### 3.2.1 Changes in the industry: from traditional to fast fashion

Fashion and apparel retail supply chains are mostly characterized by short life-cycles for products, low predictability and high volatility affecting the demand, ample variety of products, long and inflexible sourcing processes, complex supply chains and impulse buying among final consumer behavior (Christopher *et. al.*, 2004; Şen, 2008).

The pressure on clothing prices has been addressed as a main factor that has led large fashion retail companies to outsource parts or all of their production to smaller companies located overseas. In doing so, they seek to reduce fixed costs - in particular labor costs - and increase their bargaining power, thus being able to negotiate reduced prices from their suppliers. In the 1990s, retailers in countries of classical industrialization like the UK began to seek clothing and fashion suppliers in low-cost countries in Asia.

This reduced their costs, but in exchange they saw an increase in the complexity of their value chains and an increase in lead times due to distant geographical locations between suppliers and customer markets (Christopher *et al.*, 2004). So for traditional fashion and apparel firms, strategic decisions like cost reductions were supply driven processes, which lead to outsourcing practices, increasing separation of activities among the firms in the supply chains, and longer lead times.

Long term forecasting for clothing demand, accounting for changes in style and cultural habits with a high level of accuracy can be an impossible task. Despite its low supply uncertainty, Lee (2002) asserts that this high demand uncertainty is related to its highly innovative and trend related products with short life cycles, resulting in low demand predictability. However, this demand uncertainty may also be a result of fashion industry's particular supply characteristics.

According to Mattila, King & Ojala (2002), as supply chains grow longer and become more complex, and rely on poorly drawn long term forecasts, fashion products need to be “pushed” towards consumers. The authors argue that this misalignment adds inventory pressure on retailers, leading to discount sales, reduced profits and consumer dissatisfaction.

Thus, an important characteristic of this sector is the high degree of intricacy native both to this sector and to its complex demand market, hampering reliable demand forecasts. Christopher *et. al.* (2004, p.367) suggested turning the focus on “devising strategies and structures that enable products to be created, manufactured and delivered on the basis of “real-time” demand”. This suggestion has been heard, and today is a main characteristic of this sector, the rise of lean and agile strategies in fashion and apparel supply chains.

With changing demand standards, in particular with the increase in access to information through internet and globalization, fast fashion became a dominant concept in the clothing industry and a new paradigm that holds conceptual differences when comparing to previous practices in fashion and apparel retail sector. According to Barnes & Lea-Greenwood (2006, p. 330), it is a “business strategy which aims to reduce the processes involved in the buying cycle and lead times for getting new fashion product into stores, in order to satisfy consumer demand at its peak”. In contrast to the changes occurring in tradition fashion one decade earlier, fast fashion is a consumer driven process, in which cost is still an important parameter, but shorter lead times became more crucial (Barnes & Lea-Greenwood, 2006).

Other key differences are shorter production runs, to respond quickly to changes in demand, instead of mass production and large standardized production runs that were predominant before. Traditional retailers used to work on at least one year buying cycle, from product research to final sales, but that period was reduced to a six week cycle, or even less than this (Barns & Lea-Greenwood, 2006; Bruce & Daly, 2006). Some fashion and apparel retail companies have increased the number of seasons to as much as 20 a year, as in the case of Zara (Christopher *et. al.*, 2004). Figure 8 below shows the differences in planning processes between traditional and fast fashion. Caro & Martínez-de-Albéniz (2015) argue that the traditional timeline is also a depiction of basic products, with less fashion content, and commonly retailers have to deal with both production timelines, having to manage a dual supply chain.



Many companies use a combination of manufacturers, with low-cost basic lines supplied by the Far East, fashion lines supplied by North Africa and Eastern Europe, and replenishment/re-manufacture from UK manufacturers [Birtwistle et al., 2003]. (...) A portfolio of supplier relationships offering a balance between time to deliver and cost is emerging. A blend of close to market suppliers for the introduction of new products mid-season and long distance suppliers for cheap core and commodity items is important. In other words, sourcing strategies are placed within the framework of a leagile approach. (Bruce & Daly, 2006, p. 331-332).

As a result of these changes occurred over the last couple of decades, we saw a shift of bargaining power in fashion and apparel industry, from manufacturers to retailers. In some countries, this shift in supply chain power, from manufacturers to retailers was further reinforced by consolidations among retail firms (Şen, 2008). Whereas in traditional fashion, with firms competing over price and seeking cost reductions (specially labor costs), we saw an emergence of unethical practices, with fast fashion and pressure on lead times, precarious working conditions became an important advocacy issue for media and concerned stakeholders of the fashion and apparel industry (Barnes & Lea-Greenwood, 2006). Table 5 below presents our summary with the characteristics discussed in this section.

**Table 5: Key differences comprised in fashion and apparel recent changes.**

<b>Traditional</b>	<b>Fast fashion</b>
Supply driven	Consumer driven
Longer lead times	Shorter lead times
Large standardized productions runs	Shorter production runs
Pressure on retailers (large inventories)	Increasing pressure on suppliers (shorter lead times)
Manufacturer power	Retailer power
Outsourcing and increasing separation of activities	Elimination of stages in the supply chain
Price driven sourcing regions	Emergence of sourcing regions for different purposes
Small - Medium number of suppliers	Larger number of suppliers
Emergence of unethical practices	Unethical practices

### 3.2.3 Labor conditions and contemporary slavery

We have seen previously in chapter 2 that a precarious labor condition, according to academic literature, consists in a risky and unsafe type of job that is fragile and unstable by nature, related to temporary, casual and informal jobs, low wages, marginal workers and subcontracting (Kalleberg, 2009; Standing, 2014; Betti, 2016). Even though it is considered a common practice in the industry, it is seen as a deviation in business ethics, and the opposite and ethical desired reality consists in socially responsible conditions for employment.

Extrapolating precarious conditions to the worst case scenario, we have contemporary slavery, and its only difference to slavery in the historical form, according to Halem (1999) is that now slave masters know for a fact it is an illegal practice. Bales & Robbins (2001, p. 32) argue that contemporary slavery is a modern name for temporary enslavement, and they define it as a “state marked by the loss of free will where a person is forced through violence or the threat of violence to give up the ability to sell freely his or her own labor power”.

Adding to this definition, the three key elements to identifying contemporary slavery, are: “1) they involve severe economic exploitation; 2) the absence of any framework of human rights; 3) the maintenance of control of one person over another by the prospect or reality of violence” (Craig *et. al.*, 2007, p. 12). Sadly, this is not a case from the past of fashion and apparel firms, nor exclusive to this industry's firms in developing countries. Although less common, there have been cases in garment factories even in the US in 1995 (Halem, 1999), and as recent as 2016 (Kitroeff, 2016). Firms in which precarious working conditions and contemporary slavery are found have received the nickname of “sweatshop”.

The problems with law compliance and labor conditions in the apparel industry are not exclusive to the 21st century, they are old news. Even though the world has seen a progressive change in apparel business discourse, leaning towards social responsibility (Dickson & Eckman, 2006), major clothing labels keep getting associated with shameful episodes involving negligent suppliers in emerging countries.

In these cases the focal companies denied integrated relationship and responsibility for production conditions of its suppliers, many of which operating on the fringes of legality and formality. With clothing retailers quickly delivering low-priced items inspired by recent fashion trends but designed for obsolescence, they are pushing lead-times as low as possible and pressuring the supply chain for lower costs, and it seems as if the fast fashion paradigm is reaching its peak. On top of that, we have seen that the apparel industry comprises a series of labor intensive operations, which explains the recurrent relocations towards regions with lower labor costs, places that are frequently correlated with weaker law enforcement characteristics.

Globalization and competition are portrayed by literature as drivers for both positive and negative effects on labor standards, according to Berliner *et. al.* (2015). Ronconi's (2012) interesting contributions explain better why both sides may be right, for his results showed that higher levels of foreign direct investments led to increasing enforcement of labor regulation, whilst higher levels of trade reduced it. So firms with vertical integration of production abroad their home countries had more incentives to comply, in particular due to reputational risks, whereas firms trading with foreign manufacturers are related to wage competition and poor working conditions among the producers' workers (Mosley & Uno, 2007; Mosley, 2010).

Regarding the key social issues supply chains face, Yawar & Seuring (2015) propose a selection of themes, based on a literature review considering evidence from both scholars and practitioners. The social issues represent 7 dimensions to the discussion regarding precarious employment conditions: “labor conditions, child labor, human rights, health and safety, minority development, marginal workers inclusion, and gender equality” (Yawar & Seuring, 2015, p. 5). Despite the general character of the list, the social challenges also apply to fashion and apparel retail firms.

In the particular case of fashion and apparel retail firms, Perry & Towers (2013, p. 482) indicate three buying practices that influence negatively employment conditions, even in the presence of monitoring and enforcement activities like auditing and codes of conduct: “a) demand for shorter lead times; b) demand for flexibility in meeting customer demand; c) continual search for lower prices and better terms of business”. In other words, most of the key elements that make up the fast fashion paradigm are drivers for precarious labor conditions.

### **3.3 Ethics in fashion and apparel retail**

As we have seen in the previous section, fashion and apparel retail has been through some structural changes over the past decades, and some of its key elements have changed from the traditional to the fast fashion paradigm. However, with these changes, the industry is more prone to emerging unethical practices within its supply chains, and three of its buying practices that are fundamental to fast fashion are at the same time drivers for precarious labor conditions (Perry & Towers, 2013).

Ethics in a nutshell is to do the good and right thing, from a moral stand point (Vogel, 2005). As we have seen in the previous chapter, ethics in the context of business is closely related to the concept of social responsibility. We have defined fashion and apparel retail as the part of the production pipeline that entails manufacturing, retailing and the management of sourcing relationships upstream, in particular to those retailers that outsource production. Thus, ethics in fashion and apparel retail, from our point of view, would comprise the inclusion of ethical practices and concerns into those activities, e.g. ethical issues in supply chain and sourcing management, as well as inside retail operations.

After consulting apparel and textile scholars, Dickson & Eckman (2006, p.188) concluded there are three main aspects to social responsible positioning in fashion and apparel retail: firstly relating the initial stages of “raw materials, design, and production”, secondly regarding merchandise and retail, and thirdly the consumption, disposal and recycling aspects of the products. We consider the third aspect as part of the environmental concerns and here we address two emerging concepts that relate to the first two aspects above.

#### **3.3.1 Socially responsible sourcing**

Socially Responsible Sourcing (SRS) entails the inclusion of social and ethical notions in CSR, applied to purchasing decisions in the supply chain (Zorzini et. al., 2015). Although environmental aspects of sustainability have been increasingly the focus of research, social and ethical issues have not received the same level of attention (Mont & Leire, 2009; Hojmosse & Adrien-Kirby, 2012).

This is a concept part of Sustainable Supply Chain Management (SSCM) literature, which is defined as “the management of material, information and capital flows as well as cooperation among companies along the supply chain while taking goals from all three dimensions of sustainable development, i.e., economic, environmental and social, into account which are derived from customer and stakeholder requirements” (Seuring, Muller, 2008, p. 1700).

Zorzini (*et. al.*, 2015, p. 68) suggest the following hierarchy of terms: “1) Sustainable SCM (SSCM) – the broadest term, ; 2) Sustainable Sourcing (SS) – all TBL [three triple bottom line] dimensions, upstream only; 3) SRS – social dimension of the TBL, upstream only”. It encompasses the growing trend among firms of claiming responsibility for their actions regarding the concept of sustainable development. Zorzini (*et. al.*, 2015, p. 69-70) collected a “plethora of definitions” that emerged in SSCM literature, that address partially or exclusively the inclusion of social issues in sourcing decisions. We have highlighted the most similar constructs to SRS, focusing on level 3 of the hierarchy proposed, on the Table 6 below.

**Table 6: Compilation of constructs.**

<b>Construct</b>	<b>Description</b>	<b>Authors</b>
EP – Environmental Purchasing	Involvement of purchasing function in facilitating recycling, reuse, and resource reduction in supply chain management.	Carter & Carter, 1998.
PSR – Purchasing Social Responsibility	Involvement of purchasing function in the socially responsible management of the supply chain.	Carter & Jennings, 2002.
SRB – Socially Responsible Buying	The inclusion in purchasing decisions of the social issues advocated by organizational stakeholders.	Maignan et al. (2002).
Ethical sourcing	Not provided – but referring to both green and social issues in sourcing decisions	Roberts (2003); Preuss (2009a, b); Baden et al. (2009).
SRB – Socially Responsible Buying	A system-wide consideration of causes and impacts of the buying / sourcing decisions on all constituents of society.	Park (2005).
Socially responsible purchasing	The utilization of the purchasing power of public and private organizations to purchase products, works and services that have a positive social impact.	Leire and Mont (2010).

Supplier socially responsible practices	Encompasses all management practices that affect how a firm contributes to the development of human potential and protects people from harm.	Awaysheh and Klassen (2010).
Sustainable sourcing	Managing all aspects of the upstream component of the supply chain to maximize TBL performance	Pagell <i>et. al.</i> (2010); Aggeron <i>et al.</i> (2012).
SP – Sustainable Procurement	Concern for social, environmental and economic aspects of procurement decisions.	Brammer & Walker, 2011.
SERP – Socially and Environmentally Responsible Procurement	Social and/or environmental issues within the buyer–supplier relationship of profit-driven organizations.	Hoejmose & Adrien-Kirby, 2012.

Source: own remarks mixed with contributions from Zorzini (*et. al.*, 2015, p. 68).

Table 6 above shows that there are many different ways of talking about basically the same theme, excluding those definitions encompassing both social and environmental aspects. Henkle (2005) argues that SRS definition is rather straightforward, and depicts the essence of a firm applying social responsibility parameters in the excerpt below.

A quick snapshot of a “socially responsible’ factory floor would find conditions such as workers using safe machinery, walking down unobstructed aisles past functional exit signs and doors, punching in and out of machines that keep accurate records of hours worked, using sanitary bathrooms, drinking potable water, and freely deciding whether or not they want to work overtime. A company sourcing from a global supply chain should feel confident that acceptable workplace conditions exist not just on the days that company representatives visit the factory but on an ongoing basis. (Henkle, 2005, p. 18).

Even though it was born as a supply chain concept, SRS influences fashion and apparel retailers since the focal firm is usually scrutinized in the case of unethical scandals regarding their suppliers and subcontractors. According to Hoejmose & Adrien-Kirby (2012), adopting codes of conduct is the most common way of implementing CSR practices in purchasing in the supply chain. Usually, the goal of these codes, in the context of fashion and apparel retailers, is “to enable garment workers to work under decent conditions, exercise basic human rights, and earn living wages” (Pollin, Burns & Heintz, 2004, p. 145).

Once adopted a code, firms may opt for different types of monitoring and inspecting, some may use external audits and others implement internal auditing as well. C&A, one of the largest Western retailers in the world, has adopted a code of conduct and created a separate organ-

ization (SOCAM – Service Organization for Compliance Audit Management), in charge both for compliance audit and promoting awareness about the code along C&A supply chain (Graafland, 2002).

### 3.3.2 Socially responsible curatorship

The second emerging concept concerning a change in social responsible positioning in fashion and apparel retail is Socially Responsible Curatorship (SRC), which is the influence socially responsible criteria bears on a retail firm's product mix. Product mix, or assortment of merchandise, is one of three key store image attributes, along with competitive prices and convenient location; and these attributes are considered tangible and functional, providing consumers with “economic benefits” (Handelman & Arnold, 1999, p. 36). Aertsens *et. al.* (2009, p. 4) argue that retailers can attract customers by using strategic assortment techniques, and this can be done in three steps: “1) Segmentation of the customers based on their preferences; 2) targeting or choosing the most interesting customer segments; 3) positioning: developing a marketing mix to reach these segments”. They suggest a reactive positioning, for retailers to respond to consumers' perceptions over social responsibility issues, by offering them products, and they exemplify this with issues such as organic, fair trade and sustainability.

Meise *et. al* (2014, p. 510) also refer to this reactive positioning, asserting that retail assortment is one of the organizational operations that are affected by this consumers' pressure towards social responsibility and disclosure, along with “point of purchase displays, the choice of suppliers, the location of production facilities, and the certifications or assurances needed from suppliers regarding their practices”.

In this sense, the adoption of certifications providing information about socially responsible practices can be used as a strategic practice by retailers seeking differentiation. According to Miles & Munilla (2004, p. 7), this adoption will generate “additional social accountability product attributes to use in positioning their product mix”, this way allowing social issues to become sources of competitive advantages. Retailers that transmit their ethical practices can attract fashion and apparel consumers interested in manifestations of personal ethical principles through purchasing (Niinimäki, 2010). Thus, retailers can develop practices in order to

identify the conscious consumers interested in these topics, implement social sourcing practices and communicate their efforts and accomplishments to consumers, strengthening a strategic positioning towards sustainable comparative advantages.

### 3.3.3 Implementation pitfalls

To reduce and eradicate contemporary slavery, and to improve labor conditions in fashion and apparel retail supply chains, Berliner *et. al.* (2015, p. 202) emphasize the need for incentives and improvements, in the form of “new laws, new codes of conduct, and new mechanisms for inspecting, monitoring, and enforcing rights and standards”. Furthermore, they defend that these changes have greater chances of occurring when stakeholders align their interests to influence business, governments and consumers, in particular those agents with “power over workers”, so they can effectively “care about the rights of workers.” (Berliner *et. al.*, 2015, p. 200).

However, an important consideration made by Berliner *et. al.* (2015) is that the mere existence of labor laws and regulations (*de jure*) do not assert for a fact, nor should be used as a proxy for the practice of labor rights (*de facto*). Issacharoff & Samuel (2009) study presents the theme of law enforcement for the protection of consumer rights, which can be applied to workers rights as well, and they suggest a typology for analyzing alternative enforcement scenarios. He distinguishes the enforcement characteristics by the agent of enforcement (private or public) and the timing of the enforcement (before or after the transaction). This typology is shown below in Table 7, but can be adapted and applied to enforcement mechanisms concerning businesses, governments and consumers, as shown in the next paragraphs.

**Table 7: Typology for enforcement alternatives**

	Public	Private
<i>Ex Post</i>	Ex.: Criminal law.	Ex.: Private law suit / Collective class action suit.
<i>Ex Ante</i>	Ex.: Command-and-Control (governmental approval).	Ex.: Contract (advance agreements).

Source: Issacharoff & Samuel, 2009, p. 9.

The foremost way of implementing social responsible practices in fashion and apparel retail firms is through internal codes of conduct, which along with private monitoring and enforcement and voluntary agreements (e.g.: Fair Labor Association) are examples of voluntary private *ex ante* forms of regulation, according to the typology developed by Issacharoff & Samuel (2009) and shown in Table 7 above. Even though private *ex ante* enforcement is the most common step towards social responsibility, some studies present empirical cases of implementation failure, due to internal monitoring challenges, brands sending ambiguous incentives and lack of state enforcement, either due to lack of ability or will (Locke 2013; Locke & Romis 2010; Locke et al. 2007, 2009).

Because of these failures in private *ex ante* enforcement implementation, particularly because of challenges in monitoring labor conditions, Seidman (2007) dismisses them altogether, advocating for public enforcement initiatives. Barrientos et al. (2011) identified differences in private regulation implementation for garment workers in Moroccan fashion and apparel industry, depending on workers level of skill: high-skilled workers yielded positive effects, whereas low-skilled yielded negative or zero effects. The empirical results from Jiang (2009a,b) indicate that private *ex ante* enforcement through implementation of codes of conduct in addition to private monitoring may reduce suppliers' opportunistic behavior, but in a game of "catch me if you can" manner: just barely enough to meet standards and avoid detection, but not enough to ensure "long term sustainability" (Zorzini *et. al.*, 2015, p. 79).

The empirical results from Yu (2008, p. 525) indicate that the main "structural forces and agency-related factors embedded in industrial, national and local contexts" that hampered implementation were three: 1) focal firms' thrust for profit maximization in contrast of their commitment to improving labor conditions; 2) strong competition among brand competitors; and 3) government's weak institutional framework concerning of labor rights.

These negative empirical case results concerning private *ex ante* enforcement alternatives led Hojmosse & Adrien-Kirby (2012, p. 237) to argue that this failure is due to social criteria being translated as "merely written requirements", without considering more intricate factors that may lead to real changes. Nevertheless, in their literature review, they suggest an alternative approach, shown in the excerpt below.

Therefore, procedural justice approaches (Boyd et al., 2007), where the buyer–supplier relationship is built on trust, communication and collaboration, may be more effective to ensure appropriate SERP [Socially and Environmentally Responsible Procurement] standards, as also suggested by the work of Lim and Phillips (2008) and Frenkel and Scott (2002).” (Hoejmose & Adrien-Kirby, 2012, p. 237).

Researches have also analyzed public implementation, mainly public *ex post* regulations like inspections, according to the typology developed by Issacharoff & Samuel (2009) and shown in Table 7 above. Ronconi (2010) observed a positive relation between number of inspections and higher law compliance with labor regulations and Schrank (2013) observed a positive relation with better working conditions. Amengual (2014) saw a positive relationship in the context of low government capacity (weak institutional framework), but civil society organizations and unions could make up for it. Coslovsky (2014) also found positive results of public enforcement, however, Bhorat et al. (2012), found no evidence of positive effect between public monitoring or enforcement and minimum wage compliance. Berliner *et. al.* (2015, p. 202), in their literature review, highlight the effectiveness of “pedagogical” approaches in Latin America, either in combination or not with punitive public inspections (Piore & Schrank, 2008; Pires, 2008).

At last, some studies focus on consumer response and willingness to pay for products with ethical characteristics in fashion and apparel products. Studies show some social responsibility implementation barriers driven by consumer behavior: low consumer awareness about the social and environmental impacts of fashion and apparel industry (Hill & Lee, 2012; Fulton and Lee, 2013), low willingness to pay higher prices for ethical products was observed (Joergens, 2006; Chan & Wong, 2012) and no punitive consumer response to fashion and apparel retailers' involvement in scandals with contemporary slavery (Veludo-de-Oliveira *et al.*, 2014). For consumers who are really willing to turn to more ethical buying behavior may face these four constraints mentioned in the excerpt below.

Four main constraints were identified when attempting to purchase sweatshop free clothing: lack of information regarding the brands or retailers that are sweatshop free; difficulties in accessing ethical retailers; the limited range offered by ethical retailers; and the nature of ethically produced clothing. (Hogg *et. al.*, 2004, p. 3)

Some authors have observed that fashion and apparel retail firms have attracted attention and have been under scrutiny by consumers and stakeholders engaged in themes regarding precarious labor conditions, and because of that, firms in this sector have a high risk of facing consumer boycotts and negative coverage by the media (Jones, 1999; Smestad, 2009).

### **3.4 Analytical Proposition**

We presented in chapter 2 a definition for precarious labor conditions and in opposition, socially responsible working conditions, and we have adopted an institutional economics reasoning to propose a theoretical approach for studying the process from one condition to the other. We proposed that this process consists in institutional change, and we have adapted Williamson's multi-level analysis for this case of including social responsibility to working conditions in fashion and apparel retail, as shown previously in Figure 6.

In this theoretical proposition, the trajectory from A (precariousness) to B (social responsibility) represents a complex process of institutional change, occurring in 3 different and interconnected levels of social analysis, over a period of time. Each level of analysis comprises different enforcement characteristics and incentive mechanisms that influence the pace and direction of institutional change. And the deepest level of analysis comprises slow changing implicit rules that, although slow to change, may emerge spontaneously, and effectively influence behavior. However, due to its slow changing characteristics, it isn't usually addressed in institutional economics analysis.

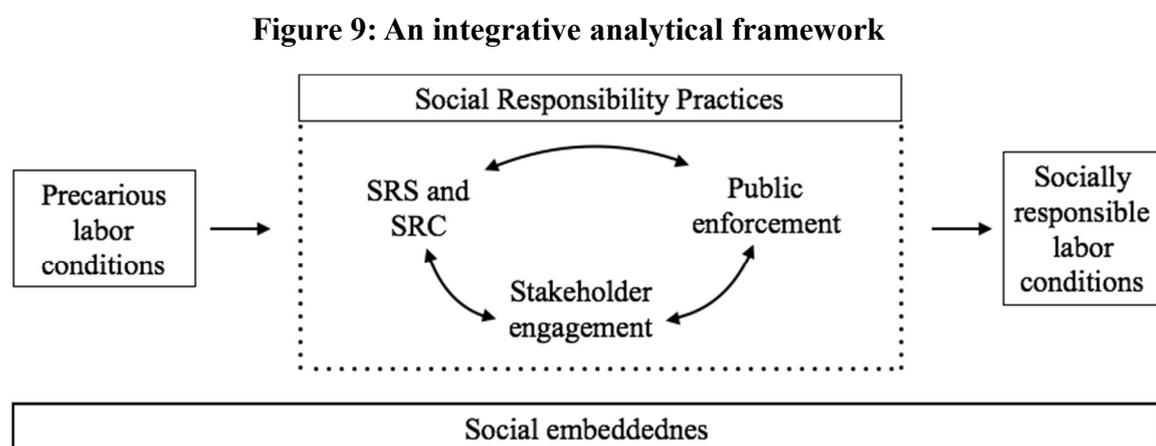
Furthermore, in this present chapter we have advanced over the characterization of fashion and apparel retail sector, comprehending the varied terminologies related to the industry, and particularly addressing the recent changes in fundamental characteristics that determine this industry. We have seen that some of the key characteristics that define modern fashion and apparel retail industry, regarding both traditional and fast fashion paradigms, became drivers for unethical practices in the industry, as shown in Table 5.

Integrating the theoretical contributions from both chapters, we propose conceiving these fundamental changes in fashion and apparel retail paradigms from the point of view of institu-

tional change. From this perception, the trajectory from A (precariousness) to B (social responsibility) denotes understanding the introduction of social responsibility practices as institutional changes to the paradigm. This process also entails different and interconnected levels of social analysis, over a period of time, as presented earlier in Figure 6.

Having these in mind, we propose that introducing socially responsible sourcing and curatorship, along with stakeholder engagement and public enforcement, can all be understood as different levels of the process of institutional change, all interconnected and influencing the pace and direction of the adoption of socially responsible practices. However, unlike the framework for social analysis of institutional change proposed by Williamson (2000), the pace of change between the elements is still obscure. We can see the differences between the elements, although the lines may blurry at times, but empirical data is needed before hypothesizing which came before or which changes faster.

From this association of theoretical contributions we propose an analytical framework for ethical fashion and apparel retail, as shown in Figure 9 below. The acronym “SRS” stands for Socially Responsible Sourcing, and “SRC” for Socially Responsible Curatorship.



### 3.5 Final remarks

The aim of this paper is to shed some light on what are the main ethical concerns regarding precarious work conditions in fashion and apparel retail. Firstly, we have seen that this sector can be referred to under many different names, and we have chosen “fashion and apparel re-

tail” due to our focus on the stages of garment manufacturing and distribution, and because of the prominent position in the supply chain that retailers have conquered over the last few years.

Secondly, we introduced this industry's main traditional and changing characteristics, addressing in particular the growth of the fast fashion paradigm and we propose Table 5 as a distinguishing synthesis between these two prevailing paradigms in this industry. This characterization of the changing paradigm seen over the past few years is the basis for analyzing how ethics can be studied in fashion and apparel retail from a historical point of view, considering an evolutionary and adaptive framework.

We have gathered contributions in literature regarding how do unethical practices of precarious employment occur in this industry. We then introduced ethical issues and solutions to fashion and apparel retail, also highlighting the contributions on implementation pitfalls that were identified in empirical literature. And based on these contributions gathered here, we propose an analytical framework for future empirical studies on this field, as shown in Figure 9 above. This figure combines all the evidence collected from literature in a qualitative way, under the reasoning of institutional change.

One limitation for this theoretical proposition is that the levels of implementation of social responsibility practices have not been thoroughly studied whilst combined, since they are a theoretical suggestion that still needs to be investigated. The levels of social analysis developed by Williamson (2000) are used as a tool for identifying the changes regarding the different levels of analysis; however, we have yet to understand the relationship between socially responsible sourcing and curatorship, stakeholder engagement and forms of public enforcement. We suggest advancing studies in this direction, which we will present in the following chapters.

Berliner *et. al.* (2015, p. 203), in their literature review on the theme of labor rights and working conditions, suggest two important questions for future researchers on this theme: “first, how do states actually implement the changes they make in response to economic, domestic, and international political pressures? Second, what underlying conditions enable public and private regulatory strategies to succeed?” Additional questions follow: is this an automatic

process, where incentives are applied and firms comply, or are there any intricate particularities that may account for the success or failure of the implementation? Are there any difference between private and public enforcement processes?



## **4 INSTITUTIONAL CHANGE AND THE EMERGENCE OF ETHICAL RETAILERS IN FASHION AND APPAREL INDUSTRY**

### **4.1 Introduction**

Over the past few years, companies have been increasingly questioned over social and environmental impacts of not only their own strategies and operations, but also of their suppliers performance in these aspects (Seuring, Mueller, 2008). This is particularly true for focal companies, those who have either greater influence power over their supply chain, direct contact with their consumers, are responsible for the design of the product or service being offered or all of the above (Preuss, 2001; Graafland, 2002). Stakeholders in general, non-governmental organizations (NGOs) in particular, are increasing the pressure over companies concerning their environmental and social responsibilities (Kovács, 2004).

As a result of these growing pressures, along with the threat of being caught in the middle of scandals or becoming responsible for big environmental or social disasters, companies have found the right motivation for improving their environmental and social performance (Snir, 2001). Reputation and brand image are important factors to influence changes in firms decision taking towards a more sustainable way. And since it occupies a primary position in the beginning of the firm's material flow, purchasing is particularly able to contribute for the firm's global sustainability (Schneider & Wallenburg, 2012).

Notwithstanding these considerations, Hoejmose & Adrien-Kirby (2012, p. 240) suggest there is more to implementing sustainable purchasing than a “direct response to stakeholder pressure” concerning firm's performance in social and environmental dimensions. In their literature review, they screen existing developments in this field and call attention for researchers to consider not only the responsive approach to implementing sustainable purchasing, but also look into internal drivers, such as “political processes and available resources within the organization” (Hoejmose e Adrien-Kirby, 2012, p. 240).

This complex side to sustainable purchasing management that hasn't been thoroughly studied was the starting point for the present study. The industry chosen for empirical data was fashion and apparel retail, which has championed news over decades concerning scandals and

cases of precarious labor and contemporary slavery conditions. With the rise of fast fashion, a considerable number of firms have been caught in these situations and now face an increasing stakeholder pressure towards more sustainable supply chain practices.

Meanwhile, on the other side of the spectrum, a growing group of retailers sheds light on this old industry's dim picture. Companies that openly declare their philosophy and how it effectively impacts the business they conduct are gaining territory in fashion and apparel retail markets. In full disclosure, they give faces to the manufacturing process of the products they sell and promote a marketplace for ethical fashion. These retailers have chosen to work differently in the industry and are basing the choice of the products they sell on concepts such as fair trade, people first, living wages, handmade and small scale production.

The research questions addressed in this chapter are the following: **Are “ethical retailers” different from traditional and fast fashion retailers in terms of institutional change? What are the different levels of social analysis in socially responsible practices, in terms of institutional change?** Therefore, the aim of this paper is to present an analysis of new practices and innovations in fashion and apparel retail firms and analyze them in terms of institutional change. Through a multi-case study, evidence is offered regarding the emergence of here called “ethical retailers”.

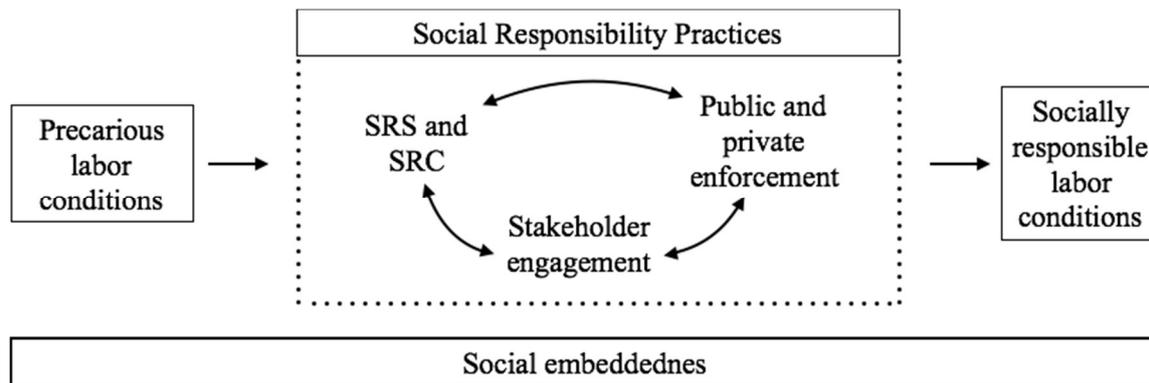
At first we present their main characteristics and we then compare to the characteristics seen in chapter 3 from traditional and fast fashion paradigm, to identify what sets them apart from the rest of the industry. And on the observations here presented we apply the analytical framework proposed in chapter 3, to analyze the components of institutional change previously addressed in chapter 3. From these observations, we propose a definition of ethical fashion and apparel retailers, and we gather new insights regarding the relationship between internal components of our theoretical proposition.

## **4.2 Analytical framework**

Our analytical framework comprises a combination of theoretical backgrounds. At first, we use business ethics and social responsibility reasoning applied to the context of fashion and apparel retail, in order to define our starting and finishing point in the framework. Then, we

combine institutional economic theory to contributions from sustainable supply chain management, seeking to assimilate the process of institutional change to the development of social responsibility practices that connects our starting and finishing points in the framework, which is shown in Figure 9 below.

**Figure 9: An integrative analytical framework for ethical fashion and apparel retail**



The underlying concept that grounds this integrative analytical framework displayed above is the following theoretical proposition:

*P1: The move from precarious labor conditions to socially responsible conditions for employment in fashion and apparel retail is a process of institutional change.*

The perspective used in this study considers social responsible a firm that meets its “core economic responsibility”, as well as comply with existing labor laws, but go voluntarily the extra mile, beyond legal minimums, to build a lasting relationship with suppliers (Sarkar & Searcy, 2016, p.1433; Solomon & Rabolt, 2004). This is a desirable goal for both the focal company and the suppliers, because by adding ethical concerns in all firm's activities, and considering the impacts its actions have on stakeholders, the firm can better meet stakeholder's expectations (Sarkar & Searcy, 2016) and also gain strategic results, being it reputational, in marketing or innovation (Maignan et al., 2002).

In order to identify differences between ruling paradigms in fashion and apparel retail and the characteristics of emerging ethical retailers, we compiled in chapter 3 the key characteristics concerning modern paradigms, thus orienting analysis in this chapter. This compilation is

shown in Table 8 below, and helps orientating the analysis of institutional change we propose in this chapter.

**Table 8: Fashion and apparel retail paradigms.**

<b>Traditional</b>	<b>Fast fashion</b>
Supply driven	Consumer driven
Longer lead times	Shorter lead times
Large standardized productions runs	Shorter production runs
Pressure on retailers (large inventories)	Increasing pressure on suppliers (shorter lead times)
Manufacturer power	Retailer power
Outsourcing and increasing separation of activities	Elimination of stages in the supply chain
Price driven sourcing regions	Emergence of sourcing regions for different purposes
Small - Medium number of suppliers	Larger number of suppliers
Emergence of unethical practices	Unethical practices

According to Whysall (2008), there is no straightforward answer to what consists an ethical retailer. However, based on the discussion presented in chapters 2 and 3, we can infer that ethical retailers are firms who have socially responsible concerns considered in their operation. Carrol (1983, p. 604) proposition matches this line of thought, as shown in the following quote: “In my view, CSR involves the conduct of a business so that it is economically profitable, law abiding, ethical and socially supportive”. Merging this definition with the one presented previously, we propose a definition: an ethical retailer is a for-profit firm that complies with the law and goes beyond legal minimums, in order to build a lasting relationship with its suppliers.

### 4.3 Method

While choosing the methodological approach, three key challenges were recognized for collecting and measuring data concerning labor rights and working conditions in practice (*de facto*), according to Berliner *et. al.* (2015, p. 198): 1) difficult access to data on supply-chain factories, usually located in different countries than those of focal companies; 2) general political hostility to answering inquiries regarding labor conditions, which also leads to poor access to data; 3) different institutional frameworks regarding the places in which focal companies and manufacturing companies are.

On that note, Ménard (2001) suggests researchers to develop new case studies to explore better definitions and details that can contribute to theory building in institutional economics, even though case studies have long been neglected by economists. These considerations can be added to the position defended by Lee Alston, regarding methodological considerations in institutional economics theory building, as shown in the excerpt below.

I advocate the use of case studies because it allows the analyst the ability to isolate the impact of a theoretical concept in a more detailed and potentially more compelling manner. Case studies are especially important for new institutional economics (NIE) because they enable us to analyze both the determinants and consequences of institutions and institutional change. (Alston, 2008, p. 103).

Based on these recommendations, we opted for a qualitative approach, in order to shed some light in the contemporary phenomenon (Yin, 2010) that is the recent emergence of ethical retailers in fashion and apparel retail industry. Since one of the goals of this chapter is to develop a better understanding of the theoretical proposition that was presented in chapter 3, the method chosen was a multi-case study, which we will further explain on the next section.

#### 4.3.1 Multi-case study

The method chosen was a qualitative exploratory multi-case study, following Yin's (2010) recommendation for theory building in stages of assessing questions, propositions and feasibility of research alternatives in the context of contemporary phenomena in real-life contexts. In order to study the differences between here called ethical retailers and traditional and

fashion retailers, we will adopt the literature contributions on the latter, as presented previously on chapter 3, and we have selected a group of firms that are self-proclaimed ethical in their actions, representing the ethical retailers. Based on the empirical contributions, contrasted with literature findings, we later seek to elaborate propositions on the process of institutional change dividing both groups of firms.

Ethical retail firms were firstly chosen by convenience and easy access to respondents, both physical and online, and secondly chosen because of search websites and social media searches regarding the topic “ethical fashion”. Evidence was collected from a group of 15 firms and, as shown in Table 9 below, it consists of a very diverse group.

Based on the empirical evidence, fashion and apparel retail firms in this group were divided by three types of organizational arrangements: a) manufacturing firms, which own the brand, produce parts or all of the production stages and sell their own clothes, but can also sell them through independent firms, b) brand firms, which own the brand but outsource the manufacturing steps, c) independent firms, which don't have an own brand and only sell products by other firms. This information was underlined inside the second column, in Table 9 below. We have also referred to independent firms as stockists, a name that we encountered during our collection of evidence, but are also physical shops of independent retail firms that sell brand firms' fashion and apparel products. All three types of firms may be physical, online or both, which is also indicated on the second column.

Except for the Parisian own brand “My Philosophy” and the Londoner independent stockist “69b”, all firms have a website with an option for consumers to buy online their products, even if they are brand firms that sell their products in stockists. There are large and small firms in the group, pioneers with more than 25 years of operations and recent firms with a little over 2 years.

Table 9 also shows that different techniques for collection of evidence was used for each company. Firms with physical shops (firms 1, 2, 6, 7, 8, 9 and 10) were visited by the author between February 11<sup>th</sup> 2016 and March 9<sup>th</sup> 2016 in London, Paris and Bordeaux. After the visits with semi-structured interviews and direct observation, the author further contacted these 7 firms and a dozen more firms operating online shops and 3 more responded to an

online interview (firms 3, 4 and 5). This comprises the first 10 firms displayed in Table 9. To gather specific social media content provided in Instagram platform, an individual account was created to monitor information of over 70 fashion and apparel firms, from which the last 5 firms were chosen. The criteria were: participation in social media (which meant access to fresh new evidence) and relevance to the observed phenomenon. From this group, firms with online shops and social media content were systematically visited between February 2016 and January 2017. Since a large amount of information was gathered through social media and websites, considerable evidence was collected for additional insights, which justified the choice of these 5 last firms (firms 11, 12 ,13 ,14 and 15).

**Table 9: Case study firms and collection techniques applied.**

	<b>Retail Firm</b>	<b>Type of Retail Operation</b>	<b>Collection Technique</b>
1	EKYOG	<u>Brand firm*</u> , 30 physical own brand shops in France, own brand online shop, medium national range.	Direct Observation, physical and online interview, website and social media
2	Here Today Here Tomorrow	<u>Brand and manufacturing firm*</u> , 1 physical own brand shop in UK, own brand online shop, 9 stockists in UK, Germany and Switzerland, small international range.	Direct Observation, physical and online interview, website and social media
3	Catching a Fish in Norway	<u>Brand firm</u> , own brand online shop, stockists worldwide, small international range.	Online interview, website and social media
4	Silverstick	<u>Brand firm*</u> , own brand online shop, independent online shops, small national range.	Online interview, website and social media
5	Woron	<u>Brand firm</u> , own brand online shop, independent online shops, small international range.	Online interview, website and social media
6	My Philosophy	<u>Brand and manufacturing firm*</u> , one physical own brand shop in France, one stockist in Japan, small international range.	Direct Observation, physical interview, website and social media.
7	69b	<u>Independent firm</u> , physical stockiest, small national range.	Direct Observation, website and social media.
8	The Keep Boutique	<u>Independent firm</u> , online and physical stockist in UK, small national range.	Direct Observation, website and social media.

9	The Third Estate	<u>Independent firm</u> , online and physical stockist in UK, small national range.	Direct Observation, physical interview, website and social media.
10	Un été en automne	<u>Brand firm*</u> , 1 physical own brand shop in France, own brand online shop, small international range.	Direct Observation, physical interview, website and social media
11	Everlane	<u>Brand firm</u> , own brand online shop, international, medium international range.	Website and social media
12	Gather&See	<u>Independent firm</u> , online stockiest, small national range.	Website and social media
13	Matt&Nat	<u>Brand firm</u> , own brand online shop, online and physical stockists in Canada, United States, UK, Japan, Germany and Australia, medium international range.	Website and social media
14	People Tree	<u>Brand firm</u> , own brand online shop, stockists in UK, Europe and United States, medium international range.	Website and social media
15	Serengetee	<u>Brand firm</u> , own brand online shop, small international range.	Website and social media

\*These firms sell a majority of own brand products and a minority of other firm's products (usually accessories).

With the rise of social media platforms over the last years, content sharing has been constantly evolving and gaining new facets, as technology enhances and customs change. That is the case of Instagram, a mobile application and an online community with more than 500 million users who connect with each other and share content through images and videos (Instagram, 2016).

In 2016 Instagram users had two main ways to share public content: 2) users could use images and videos taken previously or simultaneously as they posted it to their accounts, which would stay in their profiles until the user decided to delete them, b) users could share images and videos of current events through a feature called “Instagram Stories”, which would be available in the user's profile for 24 hours and later deleted automatically. This feature was first seen on another mobile application, Snapchat, and introduced a new behavior among users. This ephemeral feature allowed users to show what was happening with them at the particular time they were using the mobile application, and since the content would be soon

deleted, some users shared more content than they would normally share if it was to be permanently available on their Instagram account profiles.

Bayer et. al. (2016) present surveys and in-depth results of users comparing this simultaneous sharing feature of Snapchat to “face-to-face interaction”, and these users reported a tendency to follow more simultaneous content than archived content. According to Anderson (2015, p. 7), “these stories provide a raw, unedited first person experience” which is an interesting online feature for special events such as trips and parties, but also provides a “reality TV” like experience, in which you are the editor of your “a day in the life” program.

Because of this feature, Instagram Stories, along with regular Instagram images and videos, provided an unique source of evidence for direct observation. For researchers, this is an important feature, since it allows direct observation without risks of influencing the subjects of study. As an example, through this feature the author researcher could witness a Serengetee (firm 15) representative communicating with their customers during weekly sessions of questions & answers without being physically present. Other brands documented their visits to new and recurrent suppliers through this feature, providing an ambient for customers to meet the maker of their products.

Table 10 below shows a comparison between the country of firm's foundation and the main sourcing countries, for both fabrics and the assembly stage, for fashion and apparel products. The group we gathered in this chapter is 60% made of British firms and this reflects globally the importance of the United Kingdom in the emergence of ethical retailers.

**Table 10: Main countries and sourcing regions 5 case study firms operate**

#	Retail Firm	Originally from	Main sourcing countries
1	EKYOG	France	Bulgaria, Cambodia, China, France, India, Madagascar, Portugal, Turkey.
2	Here Today Here Tomorrow	United Kingdom	Nepal.
3	Catching a Fish in Norway	United Kingdom	India, United Kingdom.
4	Silverstick	United Kingdom	Portugal, Turkey, United Kingdom.

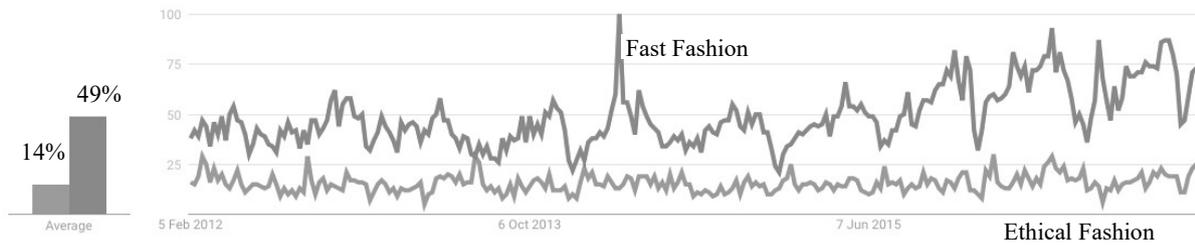
5	Woron	Scandinavia	Hungary, Portugal.
6	My Philosophy	France	Cambodia.
7	69b	United Kingdom	Independent retailer.*
8	The Keep Boutique	United Kingdom	Independent retailer.*
9	The Third Estate	United Kingdom	Independent retailer.*
10	Un été en automne	France	India, Morocco, Peru.
11	Everlane	United States	China, Italy, Peru, Scotland, Spain, United States, Vietnam.
12	Gather&See	United Kingdom	Independent retailer.*
13	Matt & Nat	Canada	China.
14	People Tree	United Kingdom	Bangladesh, India, Kenya, Nepal.
15	Serengetee	United States	Over 25 countries.

\*These firms carry a variety of brands, some of which are also included in this table.

The search website Google has an option called “Google Trends”, in which you can monitor global and local interests regarding specific topics over time that were searched through a Google platform (web search, image search, news search, Google shopping and Youtube). If you make an inquiry on the term “ethical fashion”, and filter by region, it will show comparative results, with values on a scale from 0 to 100, “where 100 is the location with the most popularity as a fraction of total searches in that location, and a value of 0 indicates a location where the term was less than 1% as popular as the peak” (Google Trends, 2017). The only country that showed in our search was the United Kingdom, meaning that the google searches in that country reached the peak in contrast with the rest of the world.

We made a new inquiry, now comparing the term “ethical fashion” with “fast fashion” and the results for the interest in these topics between 2012 and 2017 are shown in Figure 10 below. This graphic entails the difference in magnitude of popularity between both search topics. The highest point in this graphic occurs in the period of 16-22 of March 2014, for the term “fast fashion”, and that is the point of comparison for the rest of the period. On average, “fast fashion” search queries were 49% of that peak, whereas the average for “ethical fashion” was 14%. The main countries that appeared on the search term “fast fashion” were Brazil, Germany, United Kingdom and United States.

**Figure 10: Interests in search topics over Google platforms.**



Source: Google Trends (2017).

#### 4.4 Empirical results

The analytical framework proposed in this paper considers there are a few social responsibility practices that distinguish unethical from ethical retailers, such as social responsible sourcing and curatorship, stakeholder engagement and forms of public enforcement. From the firms gathered in this group we could identify some similarities and regularities among them regarding these themes, as seen below.

##### 4.4.1 Origins of ethical retailers

This group of firms is very diverse, concerning the type and size of operation and also the assortment of products being offered. Interestingly, some of these firms were founded by inexperienced people in fashion and apparel industry, which were somehow drawn to the ethical way of operating a retail firm. Except for People Tree and Matt & Nat, the pioneers in this group, 13 firms were founded after the year 2000, with 8 founded after 2010.

EKYOG was founded in 2004 by the French couple Nathalie and Luis-Marie Vautier. She was working with an outdoor brand and he was in telecommunications, but they were motivated to become entrepreneurs and find new industrial processes to offer ethical products, a gap they noticed at fashion markets at that time.

Here today Here Tomorrow was founded in London by a group of three designers in 2011, and according to their website, they are “dedicated to beautiful handmade design paired with ethical and ecologically conscious fashion”. Anna-Maria Hesse is a fashion designer and a teacher in two universities in London, Bucks New University and University of West London. Julia Crew is a designer and a course leader of BA Fashion Accessory Design at Ravensbourne College, also in London. Katelyn Toth-Fejel is an artist, designer, a lecturer and PhD student of the Centre for Sustainable Fashion at the University of the Arts London.

Catching A Fish In Norway was founded in 2014 in the United Kingdom by a then law student and artist Paul Donati. Their motivation was to be an innovative artist collective and change the fashion and apparel industry, towards valuing in the same measure people, the environment, creativity and profit, according to their website.

Silverstick was founded in 2010 in the United Kingdom by Harry Ludlow Green and Sam Varney. They had accumulated experiences from backpacking trips around the world and wanted to mix sustainability with design for outdoor activities.

Woron was founded in 2015 by the sisters Anya and Arina Woron in Copenhagen, both with backgrounds in the fashion and beauty industry. They were motivated to contribute with their own ideas to the fashion world, and they believed that their share was to develop a lingerie brand that was comfortable, but also vegan, cruelty free and sustainable.

My Philosophy was founded in Paris in 2007 by designer Kroeusna Khaou and her business partner Frédéric Hascoët. The designer, who was originally from Cambodia, after traveling there, was shocked by the extreme poverty of her country of origin. Since then she developed a brand of ethical and artisanal fashion and apparel, honoring Cambodian know-how in clothing.

69b opened in London in 2011, founded by British stylist Merryn Leslie, who had an ample and diverse background, from working in fashion magazines to stylist for famous fashion de-

signers and musicians. Her store started as a place to showcase her own small collection, but she soon switched ways and decided to retail independently for ethical brands she selected carefully. She was motivated to work with sustainable and ethical fashion after taking a course at the Center of Sustainable Fashion of the London Fashion School.

The Keep Boutique was founded in 2012 by British Kate Richards, former secondary school teacher and management consultant. Although she had no experience in the industry, she was moved by the frustration towards the quality of the clothes in her wardrobe, and motivated by an exhibition promoted by the Ethical Fashion Forum (explained on the next section). According to the website, the vision of The Keep Boutique is to be a “one-stop shop offering a curated selection of the most stylish, yet affordable, ethical fashion”.

The Third Estate is the result of collaboration between the friends James and Angela, from Leeds, United Kingdom. He used to run a punk rock record shop, already selling vegan footwear, and Angela had a small ethical trade label, but in 2008 they joined forces, adopting the name The Third Estate, and in 2012 they relocated to London. According to their website, their aim is “to sell well-made good-looking products which are free from any animal ingredients and which meet high social, labour and environmental standards”.

Un été en automne was founded in 2009 by Marie Schlumberger, a student of highly appraised Chardon-Savard's atelier, with a focus on ethical “prêt-à-porter” (ready to wear) women's clothing. At that time, she joined a national business incubator, which helped her launching her brand. In 2012 she began selling her own clothing line on a physical store, and now produces two collections of clothes per year and a full range of handbags.

Everlane was founded in 2010, by American 25-year-old Michael Preysman, who then worked in venture capital, even though he had no experience in fashion. According to their website, his initial motivation was a “frustration with the lack of motivation in the retail space” and since the beginning Everlane is committed to transparency, opening up about the costs of producing the products, their markups, the production timeline, and documenting visits to their factories.

Gather&See was founded in 2014 by the British friends Alicia Taylor and Stephanie Hogg who were in search of “beautiful, stylish ethical fashion brands that protect people and planet and don’t compromise on style”, according to their website. They described themselves as fashion lovers who, after a life consuming clothing products, started to question production processes and became more conscious consumers. Thus, they built a platform for other ethical consumers to find their fashion and apparel products, which were selected for retail based on five aspects of ethical practices.

Matt & Nat was founded in 1995 by Inder Bedi, who is originally from India but was at the time living and studying in Montreal. While he was trying to become a vegan at that time, he realized how this decision had led to a limited lifestyle. From that point, he saw an opportunity and founded Matt & Nat based on vegan principles of respect to life.

People Tree was founded by British Safia Minney, who was initially living in Japan and actually had experience in marketing and publishing, before she adventured into fair trade collections. She started in 1989 producing informational pamphlets about environmental awareness for conscious consumers, which later became an NGO and by 1995 a firm called Fair Trade Company, with a shop in a fashion district in Tokyo. Their first fashion collection was in 1997.

Serengetee was founded in 2012 by Jeff Steitz and Ryan Westberg, two college students in the United States, after they have gathered international experiences and encountered different cultures and realities. With no experience in the fashion and apparel industry, they started manufacturing by themselves the first products before they created an appropriate infrastructure. Their motivations, according to their website, were to support artisans and causes worldwide, as seen in the following excerpt: “we wanted to find a way to use these fabrics to make positive change in the world; we wanted to become the first brand centered around fabric”.

#### 4.4.2 Socially responsible sourcing

Firms in this group have varied standards for sourcing, but a common practice is the use of international, national or sectorial certifications. A Woron representative highlights the importance of using certification in building a relationship with its suppliers: “because we have such a great focus on sustainability we only partner up with suppliers that share the same values; such as being Oeko-Tex certified and member of the European Network Association, we check the wages, working standards and of course the general approach to a sustainable production throughout the supply chain regarding what materials are being used, how to deal with wastage etc.”.

According to Matt & Nat's website, they use the SA8000 standard certification as a criteria for quality in the relationship with suppliers' factories. A Catching a Fish in Norway representative affirms they use as a minimum the certification from Fair Wear Foundation, along with other certifications such as Made in England, Fair Trade and Organic.

People Tree's commitment to their ethical values is shown by the importance they give to fair trade certification. On their website, they defend their position: “we follow the principles of Fair Trade in every aspect of our business. All of our products are made by artisans and producers who work to Fair Trade standards. People Tree has been a pilot case for certification for Fair Trade Manufacture under the World Fair Trade Organization and we were the world's first clothing company to receive the World Fair Trade Organization Fair Trade product mark in 2013”.

The Ethical Fashion Forum (2016) is an industry lead not-for-profit organization that aims at providing solutions to fashion and apparel firms regarding ethical issues they face. According to them, there are 42 key ethical certifications and memberships, out of which 23 are related to the environment (like the JOCA – Japan Organic Cotton Association), 11 are related to labor or social concerns (like WRAP – Worldwide Responsible Accredited Production) and 8 relate to both sides of sustainability (like Naturtextile). These accreditations are an example of private *ex ante* enforcement in place in fashion and apparel retail.

#### **4.4.3 Alternatives to certification in sourcing**

A Woron representative contributed with an interesting empirical discovery: “At first we were quite focused on certifications etc. but we soon found out, that a lot of the smaller production facilities work by higher standards than what is required from the general certifications, but they are just not able to pay the cost of getting the certification in writing”. In complement, a representative from Here Today Here Tomorrow also contributed in this way, as seen on the following excerpt: “our suppliers must either have accredited fair trade or living wage working conditions or in the case of very small organizations where this would be impractical, they must have regular direct contact with the producers or manufacturers themselves and feel confident that similar conditions to fair trade are being met”.

Un été en automne affirms on their website that they look for respect for fair trade norms in the workshops they work with, which means that “employees benefit from decent working conditions, with fair compensation”. An EKYOG representative said that the firm has thorough supplier selection criteria, and on the first time the firm establishes a relationship with a supplier, he “must complete a document and sign an ethical charter”. As another alternative to certification only, some of the firms in this group have exposed either their founders or their employees to different levels of training, in order to enable them to identify and prevent unethical labor conditions in its supply chain.

#### **4.4.4 Relationship building with suppliers**

According to Serengetee, they source fabric from over 25 countries, but hold a factory in Los Angeles, United States, where all fashion and apparel products are handmade and they can ensure good employment conditions. Matt & Nat declare on their website that their bags are produced in chinese factories they've built “long-standing relationships with”, and argue that they monitor closely the operations of their suppliers' factories, by “visiting diligently each factory and building strong personal relationships with their owners”.

My Philosophy's statements demonstrate responsibility throughout their subcontracting factory workers, offering to their workers in Cambodia labor conditions that are hardly found even in developed countries. On My Philosophy's website they affirm the following: “we pay our

employees significantly above local market prices. Overtime is paid or recovered. Productivity bonuses are paid to reward periods of high activity. Workers have 5 weeks of annual leave. A roof is offered to employees who wish". They also offer help to cover medical expenses in case of accidents or illnesses.

Other than the firms above mentioned, Silverstick, Woron, EKYOG, Here Today Here Tomorrow, Everlane and People Tree affirm they all visit their suppliers periodically. Most of the firms in this group also rely on third party certifications to ensure good working conditions apply to their suppliers. This is demonstrated in the following excerpt from a representative from catching a Fish in Norway: "our suppliers release annual social and environmental reports, accredited by the organizations who accredit us, e.g. International Labor Organization".

#### **4.4.5 Longer lead times, shorter production runs and addition of stages**

We identified in all firms in this group a growing trend of longer lead times and also short and more personalized production runs. Some implicitly, by announcing fewer times new collections and replenishment of basic collections throughout the year, in comparison with what has been presented about fast fashion in chapter 3, and other explicitly, as follows. People Tree highlights on their website the great amount of effort and labor that goes into a handmade apparel product. Their design-to-sales process is closer to the traditional than the fast fashion shown in Figure 8, in chapter 3, taking more than a year before their products are made available to customers, a period with more than four months of difference to contemporary fast fashion retailers. They argue that this additional time gives producers better chances for meeting their production goals and offering fair wages for their "highly skilled labor".

Everlane, however, affirms on their website that they work with the same factories that produce clothes for known design labels, but they go further, visiting them often and building a lasting relationship, as mentioned previously in section 4.4.3. And they passed the time pressure from their suppliers to their design team, which "works in rapid iteration, quickly executing from idea to final sample, launching to market in less than six months".

Firms have reinstated stages that weren't a part of the fast fashion paradigm anymore, as shown in the following excerpt from a Silverstick representative: "our factories are audited

for health, safety and ethical standards. We audit the smaller factories ourselves through questionnaires and site visits. The bigger ones are independently audited by licensed organizations. If any problems arise during the audit we put a plan together to solve the issues”. Other than visiting factories, either for monitoring, auditing or strengthening the relationship, firms are also readdressing the stage for quality management. According to Matt & Nat's website, they say that “each season, several quality control tests are performed on all new styles”.

#### **4.4.6 Socially responsible curatorship**

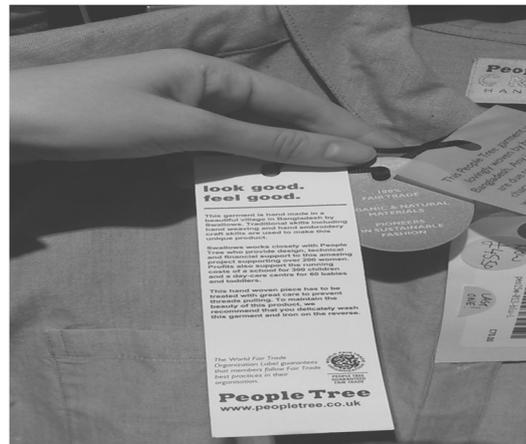
The five independent retailers in this group have each an individual style, with very different ways of displaying their products, as well as with different assortment strategies, indicating that “ethical retailers” are not a homogenous segment of fashion and apparel retail.

A physical Londoner independent store, 69b is a small two stories shop, both with decoration and products arranged in a clean and minimalist manner, with different brands mixed together. There are no signs or visual communication outside the store, just clean windows and white decoration. But when asked about the products, the saleswoman responds about the ethical values of the firm and ethical characteristics of the products being sold. Most of the products display on themselves big labels explaining the ethical characteristics of the production process (ex.: no sweatshop, vegan, recycled materials, etc.).

As an example, Figure 11 shows a shirt from the brand People Tree, for sale inside the store 69b. The product has three informational labels from the brand and one from the store. On the largest label, a piece of storytelling connects the brand with its consumers, a modern marketing technique very common amongst ethical fashion and apparel products, according to our empirical observations. A part of the text contained in the big label is shown in the following excerpt:

This garment is hand made in a beautiful village in Bangladesh by Swallows. Traditional skills including hand weaving and hand embroidery craft skills are used to make this unique product. Swallows works closely with People Tree who provide design, technical and financial support to this amazing project supporting 200 women. Profits also support the running costs of a school for 300 children and a day-care centre for 60 babies and toddlers. (People Tree label).

**Figure 11: Storytelling label of an ethical retail brand.**



Another physical Londoner independent store, The Third Estate, moves in the opposite direction, regarding the store theme altogether. Nothing is clean looking or minimalist in this decoration. With many vases decorating the window displays and the interior of the much larger store, and a profusion of objects ranging from panels to recycled furniture, the store is decorated in a more alternative manner, which includes an artificial grass carpet. They also make use of recycled or reclaimed materials, with pallets all over their walls from which alternative shelves display vegan footwear for sale.

With a much larger assortment and piles of stocked footwear products, the store owner said they have a restricted space in the back of the store where artisans can manufacture products that can be showcased in their store. In specific parts of the store, featured artisans products are carefully curated and displayed, with signs detailing facts about the artisans or the products. They also sell products through their online shop.

Many of the decorating objects in display communicate the ethical values of the firm. Most of the firms have big explaining labels, as seen above in Figure 11, but for those brands that don't leave it clear in their own labels; the independent store makes an individual label, explaining the ethical characteristics of the fashion and apparel product in a simple way. This is shown in Figure 12 below.

**Figure 12: Label of an ethical retail firm.**

The Keep Boutique is a somehow intermediate store, regarding interior decoration and display of products, when compared to the two above. Located inside Brixton Village Market, the store communicates upfront its ethical values, with the following words written on the window glasses: Organic, ethical, sustainable and “who made your clothes”, in reference to the global consumer movement asking for more transparency in fashion and apparel industry. A large assortment of products is displayed in racks made of recovered wood, with small niches with artisan products in special display. On their website, they affirm to be a store with “a curated selection of ethical fashion”, focusing on integrity of the brands and durability of the products when choosing with brands to carry.

The only online independent firm studied in this group, Gather&See chooses the brands that have at least three out of five values – fair trade, organic, eco-friendly, small scale production and heritage – which the consumer can use as filters to select which product to buy. So this is a way they communicate their ethical values towards their costumers, while curating their products. Their selection, according to their website, consists in “carefully curated collections from the very best in sustainable fashion talent from around the world”.

Own brand stores also have curated products in their stores, with similar practices from independent brand firms. Inside My Philosophy store, they have a reserved area where they showcase products from fellow artisans. The same was seen in Un été en automne's store and Here Today Here Tomorrow as well, with all firms showcasing products from artisans and even

small manufacturers other than their own brand products. A representative from the latter explains this practices of curatorship in this excerpt: “we are proud to showcase carefully selected brands in our shop, each of them chosen for their pioneering approaches to sustainable clothing, accessory and jewelry design”. EKYOG has a program called “Le Lab”, through which they choose a few fellow brands, friends, artisans and personalities to showcase their products and promote the makers, both on their online and physical shops.

All four brands above also make use of “big labels”, explaining either which certifications the manufacturing process observed, which ethical characteristics that product has, or also using a storytelling marketing technique. EKYOG stores (30 physical shops) and Un été en automne display in a corner of the store, usually near the fitting rooms, a collage with pictures, news and quotes relating to the brand's ethical characteristics.

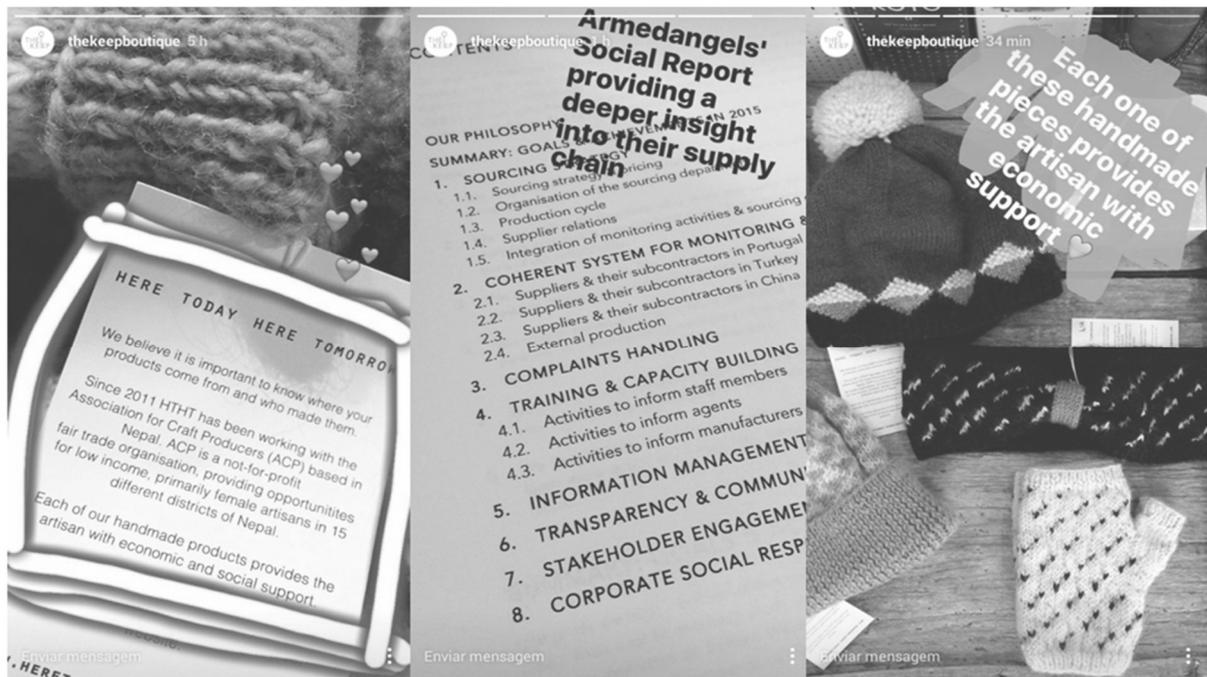
#### **4.4.7 Communication and stakeholder engagement**

Most of the firms in this group that have an active social media account use the platform for means other than just promoting new products or advertising new sales. Some firms use their Instagram accounts to enhance their transparency towards their loyal consumers, followers and stakeholders in general. As explained earlier in section 4.3.1, Instagram Stories is a feature that allows users to upload videos or pictures which will be available for 24 hours and then automatically deleted.

Serengetee and Everlane both use this feature with frequency, hosting at least once a month a “transparency Tuesday” or a “Tuesday Q&A”, when they answer through Instagram Stories videos questions made by their followers regarding the firm's factories, operations, new collections, inspiration for products, and so on. Figure 13 below shows in the first two frames snapshots of Everlane's transparency Tuesday and the last frame has a snapshot of Ryan Westberg, co-founder of Serengetee, answering questions from the firm's warehouse, for the periodical Q&A with followers. These are novel opportunities for followers, which can be both customers and stakeholders, to interact with brands in real time, to get to know the “behind the scenes” experience of the products they are interested at, and find answers for whatever questions they might have on the brands products and actions.



**Figure 14: Snapshots of firms using Instagram Stories for engagement.**



#### 4.4.8 Community building

According to Here Today Here Tomorrow representatives, ethical sourcing is closely related to having a positive impact on the community they're acting. On an interview, they described it as sourcing practices “that provides a living wage and supports looks to create supportive, democratic and working conditions for workers. For example, [they] are very proud to work with artisans from the Association for Craft Producers (ACP) in Kathmandu. ACP is a not-for-profit fair trade organization certified by the World Fair Trade Organization (WFTO). They provide opportunities for low income, primarily female artisans in 15 different districts of Nepal. Each product in [Here Today Here Tomorrow's] collections is handmade and provides the artisan who made it with economic and social support.”

According to My Philosophy's website, they are committed to developing their communities by impacting their workers, as shown in the following excerpt: “at the end of a year of training, the workers of the workshop master all the production of models, from patronage to overcasting; they offer suggestions in the technical realization of the confections and adapt their know-how according to the materials used”. People Tree demonstrates the big impact they can have on suppliers and communities in the following excerpt: “at People Tree, we see

it as our mission to work closely with people in developing countries to build viable businesses that can sustain communities”.

For improving the communities of their workers, and promoting a more thoughtful consumption, Everlane established that every year the profits resulted from black Friday sales would go into an issue concerning one of the factories they work with. In 2014 they raised over \$100.000 to build a basketball court and outdoor recreation area for their workers in a silk factory in Hangzhou, China. In 2015 the chosen factory was their t-shirt factory in Los Angeles, US. According to their Instagram account, they raised \$110.650 for what they called a “new wellness program, offering free groceries, on-site health and vision care, and english classes for the factory employees” working there. In 2016 the chosen factory was the specialty knits factory in Ho Chi Min, Vietnam, and with the profits they bought high quality helmets (scratch-resistant, anti-UC barrier, durable ABS-shell and so on) for all their 8,000 workers, since it is a Vietnamese custom to go to work by motorcycle.

#### **4.4.9 Additional related concepts**

According to EKYOG representatives, ethical sourcing is a combined concept that involves ethical fabric alternatives, regarding their origin and composition, a concern for improving social conditions and a well-developed environmental policy. According to Un été en automne's website, they work with noble materials and respect fair trade in all their collections, and their “clothes are made of cotton from organic farming, wool carbon free and [their] accessories are vegetable tanning leather”.

According to Here Today Here Tomorrow representatives, caring for the environment is crucial for their operations, and they believe that “ethical sourcing also means choosing materials with as little negative environmental impact as possible and supporting those suppliers looking to develop environmentally friendly practices, such as waste treatment, low impact dyes, organic or low chemical fibers and animal products which use farming practices that are as ecologically sound as possible”.

Most firms in this group correlate ethics in general, and social responsible work conditions in particular with other ethical concepts, such as caring for the environment, being sustainable,

fair trade, vegan, organic, and so on. Matt & Nat firm has chosen this name in reference to materials and nature, the basic values they carry, as well as with zero cruelty along their production. Furthermore, as shown in the previous section 4.4.8, firms also value activities that help and empower NGOs and communities where their stakeholders are. According to Serengetee's website, "by giving back 10% of our profits to a diverse range of grassroots causes, [they] work to improve lives in their communities."

## 4.5 Discussion

The analytical framework presented in chapter 3 was proposed to study the process of changing a fashion and apparel retailer's labor conditions from precarious to socially responsible that was constructed with institutional economics reasoning. This latter entails different levels of interconnected social analysis in order to observe and better understand the process of institutional change. The analytical framework entails that introducing socially responsible sourcing and curatorship, along with stakeholder engagement and public enforcement, can all be understood as different levels of the process of institutional change, all interconnected and influencing the pace and direction of the adoption of socially responsible practices.

The empirical evidence here presented show that there is more to the implementation of socially responsible practices than codes of conduct. In fact, none of the firms in this group mentioned using formal codes of conduct or the importance of it, which are the socially responsible practices most researched in this growing area of study, as seen in chapter 3. We have shown that these here called ethical firms have other ways of introducing their ethical values into the routines of their businesses and their suppliers. Most of them make use of third parties certifications and memberships, to which they also submit themselves.

And there's a general trend towards individual and long-lasting supplier development, with firms making efforts to monitor or even audit suppliers' working conditions by themselves. This can be explained by the size of the operation of this group of firms, of which Everlane and Matt & Nat are amongst the largest international fashion and apparel retailers, and EKYOG is the largest one operating nationally. But even in the case of these three we have seen efforts to implement good working conditions by themselves. The former has voluntarily developed ways of meeting the factories' needs, as presented by themselves, by redirecting

their profits periodically. The second one has the SA8000 standard for work conditions implemented in only one of their factories, but declared on their website the intention to implement it in all other factories they work with. The latter has asserted that they terminated businesses with a supplier that didn't comply with their labor standards, but that was only needed once.

Some of the smaller scale firms also engage in deeper ways of developing their suppliers and their communities, either by offering learning experiences, mentoring or even by offering financial and technical help. Notwithstanding these contributions, another firm operating in a large scale not only introduced socially responsible practices, but also demonstrated efforts to go in every opposite direction in comparison to firms in the fast fashion paradigm. As a matter of fact, People Tree can be considered the “patient zero” of fair trade manufacture in fashion and apparel retail, having worked closely with the World Fair Trade Organization in the making of their certification. This firm serves as an example of the shift in paradigm that an ethical retailer can be, on an extreme side of a continuous spectrum of socially responsible practices, perhaps even configuring an emerging paradigm in fashion and apparel retail. We have summarized the empirical observations that substantiate this idea on Table 11 below.

**Table 11: Comparison between literature and case study findings**

<b>Traditional</b>	<b>Fast fashion</b>	<b>Ethical</b>
Supply driven	Consumer driven	Value driven
Longer lead times	Shorter lead times	Intermediate to longer lead times.
Large standardized production runs	Shorter production runs	Short and more personalized production runs
Pressure on retailers (large inventories)	Increasing pressure on suppliers (shorter lead times)	Reduction of pressure and conflicts in the supply chain
Manufacturer power	Retailer power	Supply chain power
Outsourcing and increasing separation of activities	Elimination of stages in the supply chain	Addition of stages (monitoring, auditing, quality control)
Price driven sourcing regions	Emergence of sourcing regions for different purposes	One by one relationship building with suppliers

Small - Medium number of suppliers	Larger number of suppliers	Small number of suppliers
Emergence of unethical practices	Unethical practices	Ethically driven
<b>LITERATURE</b>		<b>EMPIRICAL</b>

Table 11 consists in a suggestion of themes that have been first presented together as evidence of what constitutes an ethical retailer in this multi-case study. However, it does not have a conclusive purpose, and each element of the third column of this table still needs to be further explored into different hypotheses, and tested under different methodological approaches.

Concerning our analytical framework, the empirical contributions presented above have given us feedback over the framework's components, and their interconnected relationship. We have seen that there is a myriad of socially responsible sourcing alternatives to firms, either formal (third parties accreditations) and informal (ethical supplier selection criteria, individual screening, monitoring and auditing), and this are distinguishing factors for ethical retailers. More than just complying with certification standards, we see that these ethical retailers are learning to build lasting relationship with their suppliers, investing time and skills on them, caring for initiatives in community building as well.

Furthermore, we have seen that socially responsible curatorship practices are not exclusive to independent retailers, being a characteristic found amongst brand firms as well. Some of them showcase their own brand products in a specific curated way, others highlight products from fellow brands and artisans in a symbiotic manner.

Regarding stakeholder engagement, empirical evidence indicate that this is an element closely related to both socially responsible sourcing and curatorship, because firms are using these ethical practices in their communication strategies towards their consumers in particular and stakeholders in general. Their efforts in community building are also an important part of stakeholder engagement.

One important consideration from this empirical study is that, from the evidence collected in this part, we haven't seen any information regarding public ways of regulation and enforcement. This should be further studied in other research projects.

Chapter 2 has presented Williamson's institutional change analytical framework, in Figure 5, in which the process of change is composed of different levels, depending on the pace and elements of change, and we can clearly see the differences between each level. Based on the empirical evidence studied in this chapter, the pace of change between the elements is still obscure, but we can elaborate propositions about the key characteristics of our analytical framework.

*P<sub>1a</sub>: The concepts of socially responsible sourcing and curatorship influence resource allocation and employment.*

The fourth level of analysis in the framework proposed by Williamson (2000) comprises decisions concerning resource allocation, price and output adjustments on a continuous basis. The most distinguishing factor between traditional and fast fashion retailers and our group of ethical retailers is that the latter takes these decisions considering additional or even different parameters.

Their decisions regarding with which factory would they close a deal encompass the factory's compliance with labor regulations. They value whether the workers have living wages, or enough time to finish the orders. They worry whether their workers are getting to work and home safe. They focus on working with the right type of raw materials and promoting healthy and safe environments in their factories. They offer trainings and invest in capacity building for their suppliers. They showcase products of artisans in special places in their store, and tell customers the artisans' stories. All of these parameters influence the price level they are willing to deliver to customers, the deadlines agreed with suppliers, which materials they are going to source, all of which determine the firm's production function at a different category in comparison with traditional and fast fashion firms.

So at the first level of institutional change in ethical fashion and apparel retail, decisions regarding a firm's socially responsible sourcing and curatorship can be analyzed. These deci-

sions are taken continuously, and can be observed very easily, but the roots of these decisions are grounded in a deeper understanding of the values these firms have (implicit rules and social embeddedness).

*P<sub>1b</sub>: The level of asset specificity rises in transactions regarding ethical retailers.*

The third level of analysis comprises institutions of governance, that is, the decisions regarding organizational types and supply chain management. The distinguishing point in comparison with traditional and fast fashion firms is that the ethical retailers in our group work actively towards the strengthening of their supply chains. This proposition is a result of a logical deduction, once ethical suppliers have to differentiate from unethical ones, either through certification, compliance to codes of conduct, or simply gradual implementation of values enforced and supported by a focal firm. We can observe empirical evidence of increasing efforts from focal firms towards implementing these differentiation strategies, which results in a general trend of moving away from pure market transactions and towards hybrids.

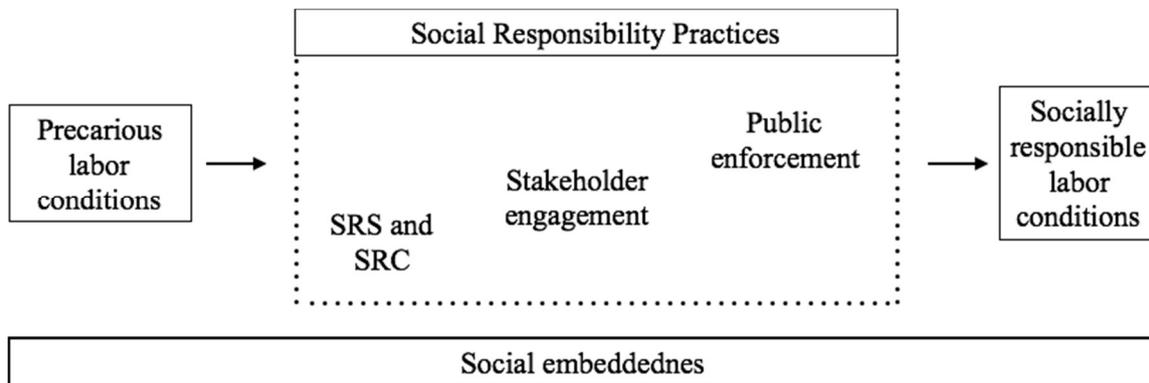
*P<sub>1c</sub>: Ethical retailers have higher stakeholder engagement in comparison with traditional and fast fashion retailers.*

This proposition stems from the main contributions in the literature of social responsibility, which have commonly observed stakeholder engagement regarding “employees and their families”, as well as “local communities” (Sarkar & Searcy, 2016, p.1432). We have presented empirical evidence of focal firms with ethical characteristics actively participating in the communities where their factories are, and also improving working conditions.

Nevertheless, to analyze this proposition, two factors must be taken into consideration: the level of scrutiny has risen over traditional and fast fashion retailers, and the level of operation from these firms is usually much higher than from ethical retailers. Thus, when working with this proposition, researchers could make use of comparison techniques that consider stakeholder engagement relative to the level of operation, revenue, international presence and such parameters.

Based on the empirical evidence and the analysis conducted in this chapter, we propose an adaptation to our integrative analytical framework (Figure 9). Combining the contributions from chapters 2, 3 and 4, we propose that there is a difference in the components of social responsibility practices, similar to the difference between the levels of social analysis proposed by Williamson (2000). This proposition is shown below in Figure 15.

**Figure 15: Adjusted integrative analytical framework.**



We have elaborated considerations and propositions over the fourth and third levels of social analysis of institutional change, based on our empirical evidence. The second level of analysis comprises the institutional environment, or the explicit rules, and the first level entails social embeddedness, the implicit rules. However, in this multi-case study we haven't observed empirical evidence regarding the importance and influence of public regulation and its enforcement characteristics, in the context of ethical fashion and apparel retailers. This will be the theme of our next chapter.

Implicit rules that ground the other levels of institutional change are really important to understand the “cognitive, cultural, structural and political” fundamentals of economic choice (Williamson, 2000, p. 597). Nevertheless, this multi-case study's focus didn't rely in measuring these intricate aspects, which require further ethnographical techniques that can capture profound aspects of slow-changing processes.

## 4.6 Final remarks

Chapter 3 had many contributions regarding the challenges involved in the pursuit of ethics in fashion and apparel retail, and we have seen that mostly two ways of implementing social responsibility have been studied in the context of these firms: public and private institutions (explicit or implicit), which influence the process of institutional change. In this present chapter we have seen substantial differences between these here called ethical firms and traditional and fast fashion firms.

Nevertheless, we have gathered evidence regarding the origins of these firms, and decisions they have taken throughout the course of their growth, and we have identified intrinsic characteristics related to their ethical practices. Some of these firms have emerged in a context with no previous public or private regulation, and participated actively towards the creation of public regulations and enforcement characteristics. Other firms were created even in situations when incentives were negative towards ethical practices. Thus, these real changes may result not only from effective enforcement of socially responsible public regulations, or because firms implemented private written requirements, but also because firms changed internally their incentives to comply by valuing social responsible practices in a different (or inexistent) manner than other firms.

An important distinguishing trait in this group is that all 15 firms were born from individuals somehow unsatisfied with current traditional and fast fashion paradigm. This motivation prompted even the most unexperienced people from different sectors to become entrepreneurs in ethical fashion. So from these empirical evidence, we propose a third and disruptive way through which firms can introduce socially responsible practices, other than by private and public means of enforcement. In this particular way, the fashion and apparel retail firm stems away from fast fashion paradigm core elements that induce precarious labor on the supply chain, and turn to altogether innovative ways of doing business.

Notwithstanding this contribution, as mentioned previously, from this group of firms we didn't collect any evidence regarding the impact of specific public regulations and enforcement on a firm's process to have socially responsible labor conditions, or to become an ethical retailer. Many studies can be suggested to complement our analytical framework in this point,

such as comparative studies, between firms considered ethical and not, and longitudinal studies, analyzing the historical evolution of the so called ethical retailer. To complement the critical appraisal of our proposed analytical framework, next chapter will focus on public regulation and enforcement characteristics.

An important consideration made by Mahoney (1994), is that there can be no ethical retailing without the development of ethical consumerism as well. Therefore, another suggestion for advancing studies regarding the considerations raised by this paper is juxtaposing retailers' ethical concerns and performances with its consumers appraisal, seeking to observe consumer's perception on retailers ethical characteristics as well as willingness to pay.

## **5 GOVERNMENTAL AND SOCIETAL ENFORCEMENT OF LABOR REGULATIONS ON FASHION AND APPAREL RETAILERS**

### **5.1 Introduction**

2016 was marked as the year the Inter-American Court of Human Rights (IACHR), the jurisdictional entity of the Organization of the American States (OAS), ruled against a national government for the first time in a contemporary slavery case. The Brazilian government was convicted of being responsible of “violating the right to not be submitted to slavery and for people trafficking”, regarding 85 workers rescued from the farm “Green Brasil”, in the year 2000 (IACHR, 2011). According to specialized media in the theme, it was the first time in the Americas that a country was found guilty in a case of contemporary slavery by IACHR (Sakamoto, 2016), and the reason was due to lack of institutional enforcement.

When the American Convention on Human Rights was ratified by Brazil in 1992, the State made a binding agreement to respect the Convention, ensure its national effectiveness and abide by the rulings from the IACHR. When the sentence was made public, the Brazilian Especial Secretariat of Human Rights pronounced in favor for the results, and extolled the fact that prohibiting slave labor “implicates obligations for the State”, mentioning recent national advances towards strengthening institutional enforcement in this area (Sakamoto, 2016).

In spite of this recent ruling regarding a case occurred in 2000, the Brazilian government has been on the track to become a worldwide positive example, since the International Labor Organization (ILO) and other international agencies from the United Nations consider the national system to combat slave labor an international reference (Sakamoto, 2016). Due to the efforts of this system, since 1995 around 50.000 workers have been rescued from precarious conditions (Repórter Brasil, 2016c). However, in order for this system to be internationally innovative, and at the same time be highly penalized, there must be some intricacies that are worth the closer look.

Over the past few years, a series of scandals have emerged to the public eye about companies from fashion and apparel supply chain that have been in flagrant violation of labor regulations (Veludo-de-Oliveira, 2014). Although regulations have been increasingly higher and more

complex over focal firms, and academic literature has also been growing documenting and studying this phenomenon (Posthuma & Bignani, 2014), these labor rights violations are usually perpetrated by smaller subcontracting firms, which operate in a low-key and sometimes informal manner that blends in and gets lost amongst big supply chains operations, and is frequently undetected by inspections (Weil, 2012 *apud* Posthuma & Bignani, 2014).

Precarious employment practices and contemporary slavery emerge in complex frameworks of regulations, regarding the context of developing countries (Kenny, 2016). And this is the case of Brazil, this complexity that allows for both good and bad cases in the same institutional framework motivated this empirical investigation. The aim of this study is to assess the relationship between public regulations and its enforcement practices in the context of fashion and apparel retail. This objective is academically grounded in the proposition of investigating “how the potentially different sources of monitoring and enforcement efforts may shape their ultimate effectiveness” (Berliner et. al., 2015, p. 204). The research questions guiding this paper are the following: **How do public regulations relate to socially responsible practices in fashion and apparel retail? What impact does it have on consumer behavior in this sector?**

In order to achieve this goal and address these research questions, a case study is presented of a pioneer governmental enforcement practice promoted by the Brazilian Ministry of Labor and Employment, along with the works of other organizations and Non-Governmental initiatives focused on diminishing the asymmetries of information between the public organs, firms in this sector, consumers and society in general. We also developed an analysis of spontaneous manifestations from consumers, as a proxy for identifying the impact that the enforcement of this regulation has on consumer's economic behavior towards fashion and apparel products.

## **5.2 Theoretical background**

To investigate a multifaceted phenomenon, the analysis developed here is grounded on the theoretical contributions from different parts of academic literature. We initially presented a combination of social responsibility and business ethics to help define the concept of precarious labor conditions. This definition was later fine-tuned by the inclusion of the concept of

contemporary slavery in the context of fashion and apparel retail. These contributions determined one side of the spectrum: precariousness.

Precarious labor conditions comprise risky and unsafe work environments, jobs that are fragile and unstable by nature as well as temporary, casual and informal jobs, low wages, marginal workers and subcontracting (Kalleberg, 2009; Standing, 2014; Betti, 2016). Contemporary slavery entails a temporary enslavement where workers are devoid of free will, threatened by violence to offer their labor under unfavorable conditions and severe economic exploitation (Halem, 1999; Bales & Robbins, 2001; Craig *et. al.*, 2007;).

On the opposite side of the spectrum is social responsibility, and from the standpoint of institutional economics we proposed that the trajectory from one to another is not an instantaneous or sporadic movement, but a process of change that occurs over a period of time. Applying institutional change thinking, we propose that this process is composed of different and interconnected levels of social analysis, following the contributions from Williamson (2000). This idea is comprised in the following proposition:

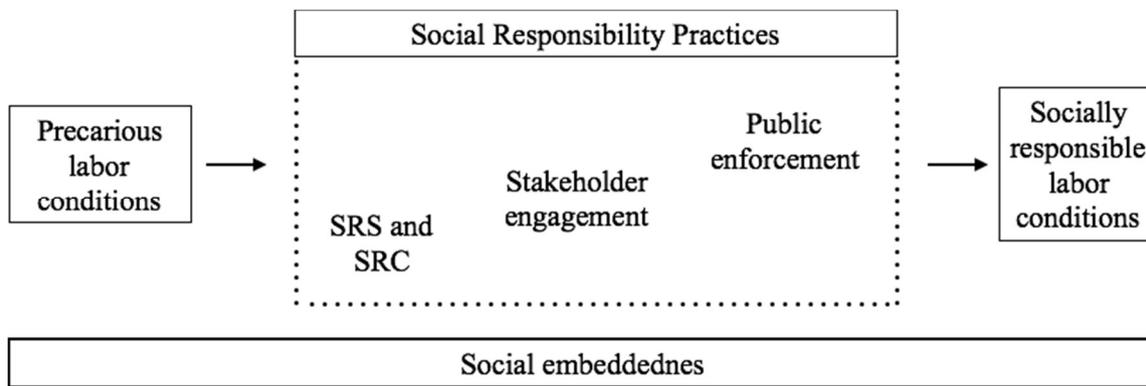
*P1: The move from precarious labor conditions to socially responsible conditions for employment in fashion and apparel retail is a process of institutional change.*

Institutions are the fabric of rules that structure economic behavior. This fabric of rules is a complex tissue made with explicit, legal and formal rules as well as implicit, nonlegal and informal rules. Because they are interconnected, legal rules invariably need nonlegal and implicit rules to function (Hodgson, 2006), in a way that this relationship influences their enforcement characteristics and the pace of institutional change.

Institutions affect economic behavior mostly due to three key aspects: the restrictive function, that constrains action; the cognitive function, that provides information that indicate a likely action to be taken; and the motivational function, that influences the goals of economic action (Dequech, 2002). Institutional change is an evolutionary and adaptive process, subject to different levels of intricacy that can be analyzed separately (Rutherford, 1995; Williamson, 2000).

After combining these contributions into an integrative framework, empirical evidence was compared with the theoretical background, aiming at understanding the relationship between the practices in the trajectory from precariousness to social responsibility. The contributions from previous chapters were accommodated into the adjusted framework in Figure 16 below. As mentioned previously, the acronym “SRS” stands for Socially Responsible Sourcing, and “SRC” for Socially Responsible Curatorship.

**Figure 16: Integrative analytical framework proposition**



Chapter 4 proposed a flow for the levels of analysis inside the corresponding box of social responsibility practices, categorizing socially responsible sourcing and curatorship in the level that analyzes resource allocation and employment, stakeholder engagement in the level of governance and public enforcement in the level of institutional environment. The latter was categorized while raising a flag for the need of further investigation over the third component, since no empirical evidence was collected over the influence of public regulation and enforcement characteristics on the implementation of social responsibility practices, only theoretical findings.

Institutional economics theory indicates that a public regulation doesn't stand on its own, and is in need of other nonlegal rules in order to be enforced. Furthermore, in the specific context of fashion and apparel retail firms adopting practices that are in the opposite direction to precarious labor conditions and slave labor, Mahoney (1994) argues that ethical retailing fully dependent in the emergence of ethical consumerism. To shed some light on this relationship, regarding the importance and the pace that an introduction of a public regulation has on conducting firms from precariousness to social responsibility, a case study of an implementation of a public regulation is presented.

### 5.3 Method

The methodological approach chosen was qualitative and exploratory, once it focus on contemporary and real-life phenomenon and seeks to provide new insights and propositions to contribute to theory building (Yin, 2010). This method matches our interests, which comprise an effort to adjust an analytical framework proposition, analyze the development and enforcement of a public regulation through the lens of a consolidated stream of research (institutional economics) and assess the impact of this regulation on consumer behavior. The method chosen was a single case study, once it represents a peculiar case challenging common understanding regarding public enforcement. Choosing a peculiar case is one of five justifications suggested by Yin (2010) for opting for a single case study, along with it being a critical, a representative, a revealing or a longitudinal case. This single case study was developed in three interconnected levels, with a Brazilian public regulation on a first level, along with its interface with private and societal enforcement characteristics on a second level, and at last, its adoption by consumers and service firms (the financial sector).

The collection of evidence was made through online and phone interviews, empirical literature and a comprehensive collection of evidence from websites, social media platforms and online databases. For the first level, we collected evidence from Brazilian government official communication vehicles, ministerial orders and regulations, and consulted extant literature on the regulation. The specific regulation subject of this case study won a good case practice contest in 2014 promoted by the Brazilian government accountability office of the comptroller general (CGU), in the category “active or passive promotion of transparency”. Thus, the historical evidence for the timeline of the regulation were partly based on the application for this contest, filled in 2014 by Alexandre Lyra, the then head of the surveillance division for the eradication of slave labor from the Brazilian Ministry of Labor and Employment (CGU, 2014).

For the second level, we first consulted with Luiz Antonio Machado, the coordinator for the International Labor Organization (ILO) Programme for Eradication of Slave Labor in Brazil. The ILO has a technical cooperation agreement with the Brazilian government, and offers assistance in many capacities to an ample variety of public organs and agencies. However, the

ILO seeks to not interfere in legislative processes on member countries, respecting their autonomy.

We have also exchanged emails and collected secondary evidence from Repórter Brasil, a research and reporting NGO. Since its foundation in 2001 the work has been centered in reducing information asymmetry and promoting reflection and action on the topics of violation of labor and human rights in Brazil. Other than specialized news, they develop educational programs against slave labor, have more than 70 technical publications on various themes and one of its founders, Leonardo Sakamoto, is counsellor to the United Nations Voluntary Trust Fund on Contemporary Forms of Slavery. They have also developed a mobile application called “free fashion” (Moda Livre) that monitors brands regarding their policies and actions to eradicate contemporary slavery, and focuses on giving information and raising consumer awareness. Since its last update, the app monitors 101 fashion brands (national and international brands operation in Brazil) that since its launch in 2013 has had more than 50.000 downloads (Repórter Brasil, 2016a).

For the third level, we consulted with the chief-economist of Serasa Experian, Luiz Alberto Rabi and the manager for socio-environmental risks, Franklin Thame. Serasa Experian is the Brazilian pioneer in information services for both firms and consumers, with 45 years of experience offering solutions in credit, marketing, certifications and database consulting. On a daily basis, they have 6 million consults to their database, which are made by over 500 thousand clients (Serasa Experian, 2016).

For the third level, we also conducted an innovative data mining analysis, with the support of a customized network analysis research tool. With the use of this “webscraper” tool, built with algorithms from Python programming language (Bird *et. al.*, 2009), we collected data from the social platform Twitter for content analysis. The focus of this collection was to access spontaneous manifestations from consumers regarding their interest in boycotting firms based on the information provided by the “dirty list”. From empirical observation, we decided to choose this particular social media platform due to its easy-to-access data. Other social networks have closed databases, such as Instagram, or have learning algorithms that apply filters to search results according to your collected preferences as users, such as Facebook.

Social media monitoring is an emerging type of consumer research that is in essence a distinguishing “observational, passive and quantitative approach”, through which firms get access to “unseen and unheard 'spontaneous' opinions about brands” (Branthwaite & Patterson, 2011, p. 431). As it happens to any data collection technique, there are many limitations to social media monitoring, amongst which two can be highlighted: content analysis softwares still in need of improvement and imprecise sampling (Branthwaite & Patterson, 2011).

To address the first limitation, we have conducted many rounds of data mining and filtering. We started from a search of terms related to boycotting firms, limited to posts in portuguese and in the context of Brazil, that produced 60 thousand results in only one year, approaching possible 1 million tweets for the whole period (2009-2016). Next step was disambiguation, reducing the scope of the search to publications specifically referring to contemporary slavery and exploration of precarious working conditions. At the final step, for the 7 year period between January, 2009 until November, 2016, 661 tweets were collected.

To address the third limitation, content analysis was made organically on excel sheets, with our webscrapper tool only filtering the data according to 4 categories (brands mentioned, user accounts, hashtags, years). The rest of the content analysis was the work of two PhD candidate researchers, the one proposing the present thesis and Hugo Neri, the developer of the webscrapper tool.

According to the social media platform Twitter's website, by January 2017 they had 313 million monthly active users, with more than 247 million user accounts from outside the U.S (Twitter, 2017). And since you can also access twitter content outside the social media platform, from embedded websites that show “tweets” (content publications) – amongst them other social media platforms like Facebook – the website informs the impressive mark of 1 billion unique visits monthly to these external websites. This shows that even though the platform has an amount of users, the amount of people exposed to the content provided through the social media platform is more than three times this number. Regarding Brazil, Twitter had 15,03 million users in the country in 2014, 16,57 in 2015 and 17,97 in 2016 (Statista, 2016).

### 5.3.1 Single case study

The public enforcement mechanism is called “register of employers who have maintained workers in conditions analogous to slave labor in Brazil”, but has more commonly been addressed to as the “dirty list” about analogous to slave labor. The relationship between this regulation and emerging practices of private regulation, organized by the sectorial association of fashion and apparel retail, has already been thoroughly addressed by Posthuma & Bignani (2014). Nevertheless, a more integrative analysis, assessing the timeline of the regulation and the importance of other organizations outside the main government entity, which is officially responsible for the register, to the effective enforcement of this regulation was missing. Also, other point that hasn't been addressed is the adhesion to the dirty list by other firms and by consumers, indicating that the information comprised by the regulation has been utilized as an institution with restrictive, informational-cognitive and motivational functions.

Applying Issacharoff & Samuel (2009, p. 9) typology, the dirty list about slave labor is a public *ex post* enforcement mechanism of regulations, since the implementation action happens after the firm does not comply with public regulations. The determinants of inclusion on the list have changed inasmuch as the regulation evolved and encountered hostile opposition. The details about the list also changed throughout the time, as presented on the next section, but the key informations comprised in the list are: the name of the owner of the firm, the name and the address of the property or establishment where the flagrant violation happened, the year of the inclusion on the list, the identification of the firm or the individual (CPF or CNPJ), and the number of employees rescued. The list was updated every six months, until it was interrupted by legal processes.

## 5.4 Empirical results

### 5.4.1 Origins and historical account of the dirty list on slave labor

In 1995 an inter-ministerial forum was created by the Brazilian national government: the executive group for the repression of slave labor. Its members consisted in ministries related to the issue of slave labor, and they were orchestrated by the secretariat of labor inspection, under the Brazilian Ministry of Labor and Employment. This executive group was then the only inter-ministerial forum on the issue of slave labor, and worked until 1999. (CGU, 2014).

During that time, the labor inspection structure had a support division for mobile surveillance that was the “operating arm” of the executive group, in charge of organizing field surveillance and screening all available information (from public agencies to societal sources) on tips over slave labor. They were also responsible for treating the information collected from mobile surveillance (testimonies, descriptive photographs and reports) and passing it forward in order for public agents to implement *ex post* enforcement mechanisms (civil or criminal suits, police investigation, etc.). (CGU, 2014).

After analyzing this incoming information, public agents from this support division realized that some of the firms being caught with slave labor, which were predominantly farms and agribusiness firms, were actually recipients of funds from federal agencies and banks. They proceeded to triangulate data to track the resources and traced most of them back to the Ministry of National Integration and a few state owned banks. This led to the astonishing conclusion that the Brazilian national government was financing slave labor. (CGU, 2014).

With the primary objective of reducing information asymmetry by sharing information between public bodies for blocking further resources for firms identified in labor inspections as maintaining slave labor practices, the first ministerial order was edited in 2003 under the Ministry of Labor and Employment. It established procedures for forwarding information on labor inspections to other public bodies, which were: the Special Secretariat for Human Rights; Ministry of the Environment (in case of evidence with of environmental degradation); Ministry of Agrarian Development; Ministry of National Integration; and Ministry of Finance (Brasil, 2003a). The information was shared in the form of a list with the names of the firms caught by labor inspection in flagrant violation of practicing slave labor. (CGU, 2014).

One month after this ministerial order was edited, under the advice of the Ministry of Justice, Brazilian president Luis Inácio Lula da Silva altered a decree from 1940 to establish penalties to the crime and hypotheses of what constitutes analogous to slave labor conditions. The definition states analogous to slave labor conditions as subjecting a person to: a) forced labor; b) exhaustive working hours; c) degrading work conditions; d) restriction to any means a person's locomotion by reason of debt bondage with the employer or agent; e) restriction to any means of transport, in order to keep the person in the workplace; f) ostensive surveillance in

the workplace; g) seizing documents or personal objects, in order to keep the person in the workplace. The penalty incurred would be imprisonment, from two to eight years, and a fine, in addition to the punishment corresponding to the violence. And the penalties should be increased by half if the crime is committed against children or adolescents, or reasons of prejudice of race, color, ethnicity, religion or origin. (Brasil, 2003b).

The information sharing mechanism provided in the first ministerial order of 2003 was institutionalized and improved with a new ministerial order one year later, under which was created the enforcement mechanism of the “register of employers who have maintained workers in conditions analogous to slave labor” in Brazil, hereby referred to as “register”. For the (firm or individual) offender to have his name included in the register, three actions were needed: a) identification of workers subject to analogous to slave labor conditions; b) enforcement of a fiscal action due to this identification; c) a final administrative decision regarding the notice of infraction. Under the responsibility of the Ministry of Labor and Employment, the register was set to be updated every six months and shared with the previous five public organs and three additional organs: Brazilian Central Bank, Federal Prosecution Service and Labor Prosecution Service (Brasil, 2004), two branches of the prosecution service, the national independent organ of law enforcement inspection known in Brazil as the Public Ministry of the Union (PRSP, 2016).

With this adjustment and the creation of the register, the inclusion on the list depended on an official administrative decision, which encompassed the offender's right to defense during the process. Firms on the list had inspections for a period of two years, and if they didn't occur in relapse during that time, and after fines and labor passives were paid, the name would be excluded from the list. (CGU, 2014).

In Brazilian government, ministries and special secretaries are appointed by the president and are a part of the executive branch, with the goal to “establish strategies, guidelines and priorities in the application of public resources, as well as create standards, monitor and evaluate federal programs” (Portal Brasil, 2009). On the other hand, the Prosecution Service isn't a part of any of the three branches, but an autonomous and independent State organ that cannot be terminated or transferred to other organs.

The head of this ministry is the Republic's Attorney General, an office appointed by the president and approved by absolute majority in the Senate for a period of two years that can be extended for another two years. Federal and state prosecutors join this ministry by national exams and have their independence to “act according to their conscience and convictions under the law” guaranteed by the Brazilian Constitution, which means they don't answer to hierarchical levels inside or outside the ministry (PRSP, 2016). The role of the Public Ministry of the Union entails: a) defense of the legal order, ensuring observance and compliance with the law; b) defense of national patrimony, being it public and social, cultural, environmental, collective rights and interests, and minorities; c) defense of unavailable social and individual interests; d) external control of police activity (MPU, 2016).

In 2011, under the government of President Dilma Rousseff, the Special Secretariat for Human Rights rose to the status of Ministry, which became a signatory of the register along with the Ministry of Labor and Employment. A new inter-ministerial order was edited, including five banks in the group of public organs that were the recipients of the register. Amongst these banks were one national bank focused on development, one public bank with social objectives and three banks that have the Brazilian government as largest shareholder (Brasil, 2011). Table 12 below comprises the public organs to which the register was made available and the order indicating the inclusion in the mechanism for sharing information.

**Table 12: Public organs that were included in the mechanism for sharing information.**

<b>Brazilian public organ</b>	<b>Ministerial order of inclusion</b>
Ministry of the Environment	Order n° 1.234, 11/17/2003
Ministry of Agrarian Development	Order n° 1.234, 11/17/2003
Ministry of National Integration	Order n° 1.234, 11/17/2003
Ministry of Finance	Order n° 1.234, 11/17/2003
Special Secretariat for Human Rights	Order n° 1.234, 11/17/2003
Labor Prosecution Service	Order n° 540, 10/19/2004
Federal Prosecution Service	Order n° 540, 10/19/2004
Brazilian Central Bank	Order n° 540, 10/19/2004
National Bank for Social and Economic Development	Order n° 2, 05/13/2011
Caixa Econômica Federal (public firm)	Order n° 2, 05/13/2011

Banco do Brasil S/A (mixed economy firm)	Order nº 2, 05/13/2011
Banco da Amazônia S/A (mixed economy firm)	Order nº 2, 05/13/2011
Banco do Nordeste do Brasil S/A (mixed economy firm)	Order nº 2, 05/13/2011

#### 5.4.2 Enforcement barriers and pitfalls

Since the beginning, the register encountered innumerable opposition. City mayors, legislators, politicians, congressmen and even a senator and a state judge saw their names on the list due to precarious conditions on their agribusiness firms. Other than farms, big construction companies, sugar cane mills, logging companies, charcoal mines, steel mills and fashion and apparel firms also ended up on the list. The transnational giant in agribusiness DuPont had 99 workers rescued in 2010 from slave labor in corn crops in the state of Goiás (Repórter Brasil, 2013). A multinational construction conglomerate OAS was included on the list in 2014 due to 111 workers rescued in 2013 from the reform works of Brazil's largest airport in São Paulo, infrastructure works that predated the world cup held in Brazil in 2014. Also in 2013, 124 workers were rescued from the construction of a shopping mall's commercial tower under the responsibility of OAS (Repórter Brasil, 2014a). These are just a few examples of the inclusions on the list.

Soon after the establishment of the register, many employers and individuals included in it have filed law suits, under many different defense strategies, mostly highlighting the image and moral damages incurred by the offenders. OAS has managed to have their name excluded from the register after filing for a preventive injunction, a measure also taken by the fashion conglomerate GEP, owner of Brazilian brands Emme, Cori e Luigi Bertolli, which was also included in 2014 along with the construction company (Repórter Brasil, 2014b).

While some were legally trying to be excluded from the list, others were trying to eliminate the register altogether. Despite being a participant of national forums against slave labor, like the national commission to eradicate slave labor, the National Confederation of Agriculture and Livestock (CNA) filed for an unconstitutionality direct action against the register. Highlighted the negative 'name and shame' enforcement characteristics of the register, the CNA

filed the action firstly in 2004 (less than a month after the ministerial order) and another time ten years later, in April, 2014. Later that year, in December, 2014, the opposition finally came through. With an unconstitutionality direct action against the register filed by the Brazilian Association of Real Estate Developers (ABRAINC), claiming mostly that the register bypasses the principles of separation of powers, legal reserve and presumption of innocence, the Supreme Federal Court conceded an injunction suspending the register until the final trial of this unconstitutionality direct action (Repórter Brasil, 2014c).

While the register remained suspended, the Minister of Labor and Employment, the Minister-Chief of the Secretariat of Human Rights and the office of the highest State Attorney, which represents the executive branch before the Supreme Federal Court, all prepared a new inter-ministerial order addressing the main arguments offered by the judge to suspend the list (Repórter Brasil, 2015b). Under this revised version, the order improved criteria and procedures for inclusion on the list, limited the period of inclusion and emphasized the need of a final administrative decision. However, the most distinguishing element of this new inter-ministerial order was the fact it was grounded on a law of information access, (Brasil, 2015). Nevertheless, the responsible ministries decided not to make the list public until a final trial is held on the unconstitutionality direct action. The Supreme Federal Court analyzed this proposal and maintained the suspension, claiming that the adjustments didn't address appropriately the demands contained in the unconstitutionality direct action (Repórter Brasil, 2016b).

One year later, in May 11<sup>th</sup>, 2016, under the advice of one of the justices from the Supreme Federal Court, the last inter-ministerial order was edited. Specifically addressing the guarantee to the right of ample defense for the employer before being included in the list, the new mechanism entailed innovative procedures, including an observation area. Before this last adjustment, once a firm was included on the list, it would stay there for at least two years and would only leave after the situation with the Ministry of Labor and Employment was regularized. From this new inter-ministerial order, if the employer cooperates and signs a Term of Adjustment of Conduct or a judicial agreement with the federal government, adopting a series of measures, the firm will remain in a kind of observation area, with who are working on improving working conditions after being caught (Repórter Brasil, 2016b).

This is by far the most detailed and thorough inter-ministerial order for the register, composed with fifteen articles and many paragraphs, whereas the first ministerial order from 2003 had only three articles. It aimed at addressing every inquiry and fine tuning to prevent for future issues as well, since it established procedures that were not clear in the other versions of the order (Brasil, 2016). Five days after this improved register was edited, a justice of the Supreme Federal Court lifted the 2014 injunction, legally allowing the ministries to disclose it again.

Nevertheless, Brazil was going through a political turmoil over the previous years. One month before this last and improved version of the dirty list passed, president Dilma Rousseff was impeached by the Chamber of Deputies, the lower house of Brazilian legislative branch, and only one day after the final version of the register was edited, the Senate approved the opening of the impeachment process, meaning Rousseff had to step down of the presidency until she was finally impeached three months after. The vice-president, who took over the power, established new government guidelines, which included reducing the number of Ministries and replacing ministers, thus hindering the rhythm and the strategies faced by the Ministry of Labor and Employment.

Ever since the 2014 injunction the ministries haven't disclosed any new registers, even after the injunction was lifted. In December, 2016, a judge from the Labor Justice determined a period of 30 days for the Ministry of Labor to disclose a new and updated register; however, this deadline was not met. In a critical tone, the ruling minister of labor claims the register is flawed and is a result of hasty decisions, and it will not be disclosed anymore. The Ministry of Labor established a working group to rethink the rules of the dirty list and suggested an initial deadline of six months for results. (Sakamoto, 2017).

Altogether, Brazilian public efforts to reduce and eradicate slave labor have reached impressive scale. Between 1998 and 2015 they had 1.910 operations on 3.922 establishments, rescuing 48.173 workers from precarious conditions formalizing labor contracts for 44.841 workers. These operations generated 47.670 judicial decisions and an amount of R\$91.713.958, 91 was paid in fines (MTE, 2016). This information is disclosed in Appendix I.

### 5.4.3 The engagement from businesses and society

The narrative above details the public and institutional intricacies of the origin and evolution of this regulation, which had also evolving enforcement characteristics. The focus of the narrative, however, relied on the decisions taken by the public organs in order to make this institutional mechanism a reality. Parallel to this, a number of firms and NGOs responded to this public initiative and participated in many capacities in the process of establishing and improving disclosure of governmental decisions. An account of the key stakeholders and organizations engaged in this process is presented below.

Repórter Brasil, as mentioned before, is an NGO that works with reporting and journalism as well as research and educational projects focused on the theme of contemporary slavery and precarious working conditions. Shortly after the introduction of the ministerial order in late 2003, the Special Secretariat for Human Rights requested the International Labor Association in Brasil to finance a study of productive chains, in order to identify which were the economic sectors affected by slave labor. The researchers from Repórter Brasil mapped out business relationships of 100 employers, based on the recently published dirty list (the register), and the results revealed a network of 200 national and international companies that marketed products and services from employers mentioned in the dirty list. (InPACTO, 2016).

After analyzing this information, the International Labor Association contacted the Ethos Institute in order to conduct meetings with the firms identified in the study (InPACTO 2016). Ethos Institute is an NGO that works with articulation of firms and organizations, focusing on mobilization, awareness and assistance towards socially responsible and sustainable management. Founded in 1998 by executives from the private sector, the institute promotes articulation events, offers solutions in research and executive education and has developed indicators for responsible and sustainable business, which are a national reference in the area. (Ethos, 2016).

The result of these meetings was the launch of the National Pact for the Eradication of Slave Labor (Pact) in May 19<sup>th</sup> 2005, managed by Ethos Institute and supported by the International Labor Organization. The Pact was a public commitment from the private sector to deal with

the issues of slave labor by adopting sanctions such as commercial restriction to suppliers caught in flagrant use of slave labor. (InPACTO, 2016).

According to Luiz Antonio Machado from the International Labor Organization in Brazil, the three organizations (Ethos Institute, Repórter Brasil and the ILO) produced three big productive chain studies, encompassing all the sectors of the firms included on the register. The information provided by the register was useful for the studies on the productive chains, from which they collected evidence on focal firms and later invited them to be a part of the Pact. Machado says that, after more than ten years of experience with the Pact, firms ask them for the information on the updated register, since they have incorporated supply chain monitoring into their management system.

This is a result of one of the key distinguishing characteristics of the Pact: its signatory firms commit themselves voluntarily to fulfill their 10 commitments, which are lines of action that the firms must develop to confront slave labor in their productive chains. Compliance with these commitments is monitored annually, and signatory firms can be kept, suspended or excluded from the Pact, depending on the level of commitment. (InPACTO, 2016).

As the number of firms signatories of the Pact increased, so did the need for governance structure, so a managing committee for the Pact was formed with the ILO, Ethos Institute, Repórter Brasil and Social Observatory Institute. By early 2014, the Pact had more than 400 signatory firms, a group that represented more than 35% of the Brazilian GDP. Therefore, in May 2014 a new governance structure was formed in order to manage and sustain the Pact, the InPACTO - Institute of the National Pact for the Eradication of Slave Labor. (InPACTO, 2016).

Meanwhile, other mechanisms of private enforcement were emerging. Following the measures applied by public and mixed economy banks, the Brazilian Federation of Banks, which is the main representative body of the Brazilian banking sector, recommended its members not to grant credit to labor rights offenders assessed by labor inspectors. These financial restrictions were not conducted by public enforcement; they were rather the result of private enforcement as the Brazilian society engaged more in the fight to eradicate slave labor. (Pinto, 2008).

Serasa Experian developed a service package under the office of management of socio-environmental risks, namely the social and fiscal compliance. Through analysis and reports, it helps identifying social and fiscal vulnerabilities, amongst which are labor debts, active governmental debts and judicial and fiscal enforcement actions. They established a technical cooperation agreement with Repórter Brasil in order to get the information from the dirty list, and then the transparency list, which then are used in their reports. According to Luiz Alberto Rabi, this service is highly regarded amongst their clients, who are increasingly becoming interested in this type of information. This is confirmed by Franklin Thame, who affirms a large number of firms were interested in this service, particularly from the agribusiness and the banking sector. However, after the 2014 injunction, Serasa Experian stopped including the information from the dirty list on their social compliance reports.

Only seven months after the creation of InPACTO, the register was suspended by the injunction from the Supreme Federal Court. Three months later, Repórter Brasil developed an innovative solution. Grounded on the law on access to information, a law from 2011 that established the principle of publicity as a general precept regarding public governmental activities and secrecy as an exception, the NGO requested that the Ministry of Labor and Employment provided the data of the employers who were fined as a result of analogous to slave labor conditions and that had incurred into a final administrative decision between December, 2012 and December, 2014.

Thus, a new mechanism of private *ex post* enforcement was created: the transparency list about slave labor, which is an approximate content of what would be the former register, but is not equal, since it entails only the recent inclusions, and leave out the updates on previous inclusions. The transparency list is thus shorter than the dirty list, since the last version disclosed of the dirty list contained 575 names by the end of 2014 and the first transparency list generated had 404 names (Repórter Brasil, 2015a).

This mechanism was an ingenious way of dealing with the increasing opposition to the register. Officially, the Ministry of Labor and Employment was not allowed of releasing the register as it was, since there was an unconstitutionality direct action still in need to be judged. So a similar, yet still highly informative mechanism was the solution, and since March 2015,

Repórter Brasil has been able to disclose four rounds of transparency list. (Repórter Brasil, 2015a).

According to Franklin Thame, after high profile fashion and apparel firms were included in the register, Serasa Experian received queries concerning supply chain management. Fashion and apparel retail firms were interested in assessing whether their suppliers were included or had anything to do with the garment workshops included on the register. Thame suggested a supply chain analysis, thoroughly researched and developed making use of Serasa Experian's know-how that would be possible only if fashion and apparel firms were more transparent and responsible about their supply chains.

According to Luiz Antonio Machado, from the International Labor Organization in Brazil, although the country has a great deal of issues that still need to be addressed, Brazil is not behind in the international context of the fight to eradicate slave labor. He highlights that the country has well structured, innovative and creative mechanisms, both from the public and the private side, and has a history of implementation and learning. The dirty list and the Pact are cited as interesting mechanisms that Brazil has to offer as a reference for other countries.

Meanwhile, other private enforcement initiatives were emerging from fashion and apparel retail firms, out of which we can highlight one in particular. In 1999 C&A, Marisa, GEP, Pão de Açúcar, Renner and Riachuelo, six of the larger firms in this sector operating in Brazil, founded the Brazilian Association of Textile Retailers (ABVTEX). With the growth and strengthening of public *ex post* enforcement activities, they were later accompanied by 11 other firms, 7 national retailers and 4 international retailers, amongst which Zara and Walmart Brasil.

As a reactive movement, after São Paulo city council created a Commission to Investigate Slave Labor in the Apparel Industry, most ABVTEX members started implementing codes of conduct and promoting internal or external social audits. Eventually, in 2010, the association developed a private *ex ante* enforcement certification process through the Supplier Qualification Programme. Nevertheless, this certification has encountered considerable challenges and the association is still in need to offer solid evidence about the changes and gains in terms of work conditions (Phosthuma & Bignami, 2014).

#### 5.4.4 Social network analysis

The previous section shows how the private sector has increasingly engaged into the issues concerning slave labor in Brazil, as well as participated in efforts to strengthen the enforcement mechanisms. On the one hand, firms were taking action, based on the information from the register, towards reducing slave labor in their supply chains, which entailed cutting ties with firms that were included in the list. On the other hand, consumers have also responded to the information on the register, only in a much different pace.

With the goal of analyzing one particular response that consumers can have that is similar to firms breaking contracts with suppliers who were caught with slave labor, we chose consumer boycott. We have collected tweets<sup>2</sup>, which are comments or publications on the social media platform Twitter, which were relating terms concerning boycott and slave labor. The group of tweets collected consisted in a proxy for consumer behavior in response to the information disclosed about the Ministry of Labor and Employment law enforcement activities as well as the dirty list. From the group of 661 tweets collected, 38% were sent in 2011 and 17% in 2016, as shown in Table 13 below.

These are revealing numbers, indicating the relevance of fashion and apparel retail in the context of consumer response to precarious and slave labor conditions. It is so because 2011 was marked as the year the clothing retailer Zara was involved in scandals regarding two subcontracting firms that were caught in flagrant violation of slave labor conditions. Each firm was subcontracted from a supplier Zara had contracts with. For one of these suppliers, Zara was notified and judicially responsible for the offenses, proceeding to terminate relationship with this supplier and signing a term of conduct adjustment along with the Labor Prosecution Service. For the other firm, when Zara was made aware of the charges, they were already solved, so Zara maintained commercial contracts. (Falcão, 2014).

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<sup>2</sup> This search is reproducible on Twitter platform by following these parameters: ("boicote" OR "boicotar" OR "boicotei" OR "boicotando") & ("trabalho escravo" OR "exploracao infantil").

**Table 13: Evidence collected over the years**

<b>Years</b>	<b>Comments (Tweets)</b>
2009	5
2010	75
2011	252
2012	52
2013	31
2014	54
2015	77
2016	115
<b>Total</b>	<b>661</b>

By reading individually each of the comments, it is possible to trace back the first mention of Zara in this group of 661 tweets to August 16<sup>th</sup> 2011. On this day, a Brazilian TV program called “A Liga” broadcasted a special segment on slave labor in Brazil. For this program, journalists followed the mobile surveillance group, along with members from Repórter Brasil, during their inspection visits, in which a large number of workers were rescued from analogous to slave labor conditions.

One of the journalists went to a charcoal mine, the other went to a construction site and two other journalists followed inspectors while they busted into a garment workshop where Bolivian workers were making clothes for clothing retailers, amongst which was Zara. Since the other brands and firms mentioned in this program weren't as close to the final consumer as Zara, this firm ended up receiving all the backlash over the program segment. Being a retail brand, consumers manifested wanting to act on, or at least express their frustrations towards the brand and the situation. A few examples of tweets from this day are: “watching #ALiga and from now on making a boycott to ZARA it may not help much, but is a beginning towards the end of slave labor”; “shocked with Zara manufacturing their clothes with slave labor. Boycott to Zara!”; “who is watching #ALiga, never buy anymore at #ZARA let's boycott!... Spread it around. Slave labor makes the clothes you wear. Get out ZARA” (users tweets on August 16<sup>th</sup>, 2011).

The year of 2016 also accounted for a large number of tweets on the topics researched. We could identify three main events that generated a higher amount of tweets. Firstly, a series of Brazilian websites translated and published an article on 7 international brands of chocolate that have child labor in their supply chains. Secondly, Riachuelo, a Brazilian popular brand of clothing was involved in a scandal with subcontracting firms caught in slave labor conditions. And thirdly, a Brazilian gospel singer and celebrity took a stand against the international fashion and apparel brand C&A in protest of new advertising campaigns with genderless clothing, which she believed promoted gender fluid concepts she does not support. This triggered an intense movement of people questioning this celebrity's stand, whereas she was promoting boycott to an ideology she believed didn't believe in instead of promoting boycott to brands who were caught with slave labor conditions.

One interesting thing we have noticed from this group is that, when filtering by brand name, there were 284 mentions to fashion and apparel brands and only 29 mentions to brands and firms in other sectors, as shown in Table 14 below. This number indicates that, regarding boycotting as a consumer response to information about firms being caught with slave labor conditions, fashion and apparel retail is visible sector that attracts consumer scrutiny. As an example, despite being caught in high profile scandals such as the airport reform and the shopping mall commercial tower mentioned on the previous section, the constructing firm OAS wasn't mentioned by any of these tweets. The only construction company mentioned in regards to its relationship with slave labor was MRV, but only by two twitter users, only two tweets. No other mentions, not even to increase awareness and raise societal pressure on governments in order to stop signing deals with these construction firms.

This is confirmed by literature, as presented earlier in chapter 3. Authors claim that fashion and apparel retail firms draw attention and have been under scrutiny by consumers and stakeholders with a higher level of engagement in ethical themes such as precarious labor conditions, and as a result, firms in this industry have a high risk of facing consumer boycotts and negative coverage by the media (Jones, 1999; Smestad, 2009).

**Table 14: Frequency that brands appeared in the group of tweets.**

<b>Brand</b>	<b>Frequency</b>	<b>Brand</b>	<b>Frequency</b>
Zara	152	Pernambucanas	10
Marisa	35	M.Officer	9
C&A	29	Billabong	5
Renner	13	Riachuelo	5
Gregory	11	Arezzo	3
Brooksfield	10	Hugo Boss	2
<b>Total Fashion</b>	<b>284</b>	<b>Other sectors</b>	<b>29</b>

In spite of the manifestations we have collected from consumers, in which they voice their opinion and promote boycotting firms and brands because of innumerable reasons, little consumer response has been translated into boycott *de facto* at the cash registers of the stores. Zara Brazil announced in 2013, after the scandals of 2011, a revenue of over US\$ 300 million (in 2016 prices) only in the Brazilian operation, which represented nearly 1,7% of Zara's global operation revenue for that year (Falcão, 2014; Rolli, 2014). Whereas for the brand image and reputation effects for the firm, the impact was considerable. A representative of the firm announced that Zara has invested R\$ 20 million in social responsibility activities, between 2003 and 2014, out of which R\$ 14 million accounted only for the period after the scandals in 2011. (Falcão, 2014).

Other brands mentioned above in Table 14 have also been caught in labor inspections with workers being rescued from slave labor. Marisa, the second store in Table 14, was first caught and fined with analogous to slavery conditions in their subcontracting firms in 2010. One of the first tweets reporting this follows: “Boycott. Don't buy; Marisa store is fined for slave labor: Marisa, one of the largest clothing store chains in the country <external link to the news>” (user tweet in March 18<sup>th</sup>, 2010). Nevertheless, between 2011 and 2013, Marisa's revenue grew 51,9%, reaching US\$ 1,190 billion in 2013 (in 2016 values), the fifth place in revenue growth in fashion and sports retail ranking of largest retail firms. (IBEVAR, 2014).

In March 2014 another firm was fined due to its subcontracting firms. Pernambucanas is a large department store that retails clothes as well as home appliances, decoration items and so forth. One month after, one of the journalists from the NGO Repórter Brasil reported the inspection results that she had witnessed. A number of 16 Bolivian immigrants were found sewing for a label carried by Pernambucanas, in a workshop delivering clothes for an intermediary confection company, which is just one out of more than 500 suppliers for Pernambucanas (Sakamoto, 2011). One tweet linked this online article on the following tweet: “Boycott to @pernambucanas. Don't buy from companies that use slave labor! <external link to the news>” (user tweet in April 5<sup>th</sup>, 2011). Meanwhile, in the period between 2011 and 2013, Pernambucanas' revenue grew 58%, reaching astonishing US\$ 19.19 billion in 2013 (in 2016 values), the first position in revenue growth in fashion and sports retail ranking of largest retail firms. (IBEVAR, 2014).

These above are just two examples of fashion and apparel retail firms being caught in an intricate net of suppliers who end up subcontracting small workshops with workers in analogous to slavery conditions. Nevertheless, these firms can't stop growing their revenue and market share, leading us to the unfortunate issue of consumers (perhaps unwillingly or unaware of it) approving this type of contemporary slavery. This is also a result that is predicted by literature, particularly with studies observing consumer ethical positioning against precarious labor conditions and prone to choosing ethical alternatives, but unable to act on it, either because he couldn't find satisfactory alternatives, or because his willingness to pay didn't match the ethical product offer (Hogg *et. al.*, 2004; Joergens, 2006). In addition, there is the case of ethical consumers who would like to behave more ethically but do not have access to reliable information in order to change consumer behavior (Meise *et. al.*, 2014). At last, the relationship between ethical practices in retail firms and ethical responses and demands by consumers has been predicted by Mahoney (1994).

## 5.5 Discussion

The aim of this paper is to complement and improve an analytical framework proposed in previous chapters. In this chapter, the focus was on shedding some light on the relationship between public regulation and other components of social responsibility practices in the process of institutional change, as shown earlier in Figure 16. In order to better understand the

components and the relationship between them, we focused on two research questions. Each research question was addressed by a respective collection and analysis technique.

The first question was: How do public regulations relate to socially responsible practices in fashion and apparel retail? We presented a historical analysis comprising the stages of development of the regulations, which are applied not only to fashion and apparel retailers, but to every sector in the industry. We also presented the evolving enforcement characteristics of these regulations, the agents involved into making the regulations, the agents involved into blocking the regulations and the supporting nonpublic agents that participated in the process, contributing to its strength and higher reach. The regulations are related to socially responsible practices in fashion and apparel retail through public *ex post* enforcement like the register, private *ex post* enforcement through the Pact, which later evolved to InPACTO the transparency list and by consumer boycott, and private *ex ante* enforcement, through the ABVTEX certification.

The second question was: What impact does it have on consumer behavior in this sector? Making use of innovative collection and analysis techniques, from a filtered group of publications on Twitter we established our proxy and presented historical data in order to assess this impact. Consumers have used social media platforms in order to express their opinions and advocate for the eradication of slave and child labor, also promoting boycotts to firms caught in analogous to slave conditions. However, they have presented an erratic behavior, pronouncing more opinions when triggered by specific issues, mostly regarding consumer goods like retail clothes and chocolate. From these contributions above, we can summarize our findings in an exercise of propositions.

*P<sub>1a</sub>: Public ex post enforcement may not sustain on one public organ when it threatens supporting habits.*

Literature predicts that explicit laws aren't necessarily always adopted, but they require a supporting custom in order to become customary and acquire a normative status (Wittgenstein, 1958; Hodgson, 2006). So this proposition is an unfolding of this literature prediction. The supporting custom was to finance firms from important sectors in the economy, such as agribusiness, construction companies and so on, without caring to look beyond the focal firm and

into the supply chain. The supporting custom can also be seen as looking for firms as just the focal firms and not considering them responsible for what happens in their supply chains.

In this particular case, public *ex post* enforcement was done mainly in three ways: a) legal punishment by labor related law enforcement public organs, such as the mobile surveillance division of the Ministry of Labor, the Labor Prosecution Service and the Federal Police; b) financial punishment by public organs and banks who stop providing funds and credits to law offender firms; c) moral punishment, by being publicly known as a labor regulations offender firm.

In this case study there were a group of regulations regarding slave labor that were comprised by the mechanism of sharing information and the register. However, the success of these regulations depended not only in the law enforcement practices from law enforcement public organs responsible for it (such as the Ministry of Labor inspections division, the Labor Prosecution Service and the Federal Police) but also depended on the information sharing principle (with a focus of reducing information asymmetry) and the adhesion to it by other public organs, particularly those with financial services) who were financing law offender firms.

*P<sub>1e</sub>: Stakeholder engagement in public regulations can generate private ex post enforcement.*

This proposition is the key contribution of this paper in a nutshell. Stakeholder engagement by civil society organizations towards the regulations that structured eradication of slave labor in this case study was to such extent that when the public enforcement mechanism was suspended, an NGO created a new private *ex post* mechanism based on it. Substantiated on a ruling explicit law (the law of information access), Repórter Brasil requested the Ministry of Labor and Employment to generate a new and different but similar list, which could work for the same objective that the dirty list had: reduction of information asymmetry. It would be interesting to compare this case to others in which stakeholder engagement provided private *ex post* enforcement mechanisms that superseded a public *ex post* enforcement that wasn't being supported.

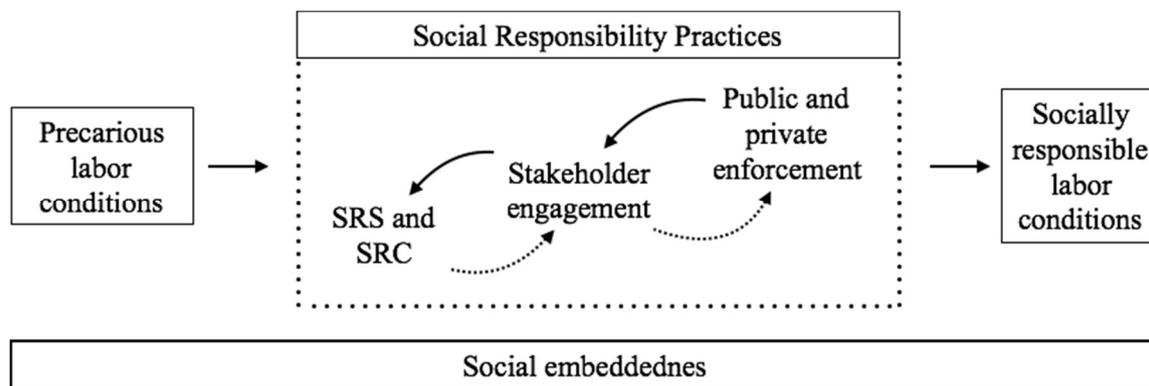
*P<sub>1f</sub>: 'Name and shame' type of law enforcement affects consumer goods firms reputation more than firms in other sectors.*

As presented earlier, some authors claim that firms in the sector of fashion and apparel retail are scrutinized by consumer and have a high risk of facing private *ex post* enforcement such as consumer boycotts and negative coverage by the media (Jones, 1999; Smestad, 2009). The empirical evidence here presented indicate that this 'name and shame' type of law enforcement promoted both by public and private organizations has greater impact on consumer preferences (namely, their manifested opinions) for consumer goods, in particular retail firms like in the fashion and apparel sector. However, what we have seen may indicate that there's a gap between influencing consumer preferences and influencing their willingness to pay, which has higher impact in firms' behavior.

For a better understanding of these consumer preferences and their change as a result of getting to know new facts shown by instruments like the dirty list, qualitative studies such as focus groups and ethnography are recommended. In order to better trace the impact of consumer preferences on consumer behavior at the register, quantitative studies through surveys and experiments can generate useful data.

Taking in consideration the analytical framework proposed in Figure 16, we proposed a final adjustment, regarding the contributions seen here. Public enforcement is dependent not only in implicit institutions, which haven't been thoroughly addressed in this paper, but is also related to private enforcement. Both public and private enforcement are grounded on stakeholder engagement, but act on a different sphere, influencing and constraining it. The same relationship has been seen in chapter 4 regarding socially responsible practices and stakeholder engagement. This relationship between constraints and feedbacks is present in the framework for social analysis in institutional change by Williamson (2000), in which our proposition is based. Thus, in Figure 17 below we propose a final adjustment.

**Figure 17: Analytical framework**



## 5.6 Final remarks

The purpose of this chapter was to contribute to the analysis of institutional change process of implementing social responsibility practices in fashion and apparel retail by shedding some light in public enforcement activities. Our first interest was to observe an implementation process of a public regulation in the context of fashion and apparel retail firms, observing the particular enforcement characteristics. We made use of a case study design that generated a historical account of the events similar to the ones developed in important institutional economics research papers, such as Coase (1960) and North (1993).

In addition, we could also observe the interdependencies between public organs, in order for the public *ex post* enforcement to succeed, and between public organs and private organizations, particularly civil society organizations (NGO)s that reported and disclosed public organs' enforcement activities. From that, we proposed that the importance and influence that private enforcement activities have on the effective enforcement of public regulations isn't inexpressive, and this link can be better researched, while applying and putting to empirical test the analytical framework here proposed.

Our second interest was to observe the relationship between informations disclosed about public *ex post* enforcement activities and changes in consumer behavior. On the second part of the paper, evidence was collected from a social media platform regarding the impact of general inspections and surveillance activities from labor law enforcement public organs, and

the specific impact of the register of employers who have maintained workers in conditions analogous to slave labor in Brazil wasn't measured. This was so because the register originally is focused in reducing information asymmetry between public organs to improve their performance in eradicating slave labor, it does not have the focus on reducing information asymmetry for the consumers wanting to act more ethically in their purchases.

However, this role is played out by the media and NGOs, like Repórter Brasil, and we could observe instances in which their reporting and investigative works have influenced consumer preferences and expressed opinions. From our limited proxy, we could see a much greater impact on consumer preferences when the reduction of information asymmetry was portrayed by a television program, with journalists reporting from the field the evidence that firms in this modern day incur in slave labor practices. Although Repórter Brasil has accompanied these inspections, allowed by the Ministry of Labor, their reporting work hasn't generated as much consumer participation via tweets as other traditional media channels such as TV, magazines and online news websites.

Our research has methodological limitations that stem from collection of evidence and from analytical choices. We have chosen a qualitative approach to observe these contemporary and real life events, and the techniques for collection of evidence were interviews, empirical literature and a comprehensive collection of evidence from websites, social media platforms and online databases. For the historical account of the origins and evolution of the regulation, we have reduced our sources of evidence in order to present concise recollection of events, and we have gathered the “official” side of the story from an award application filled by an employee of the Ministry of Labor. This limits the analysis, which doesn't account for the backstage of the implementation of the register. Nonetheless, when crossing evidence from other sources, such as Repórter Brasil, the International Labor Organization, Ethos Institute, InPACTO and Serasa Experian, we were able to check and confirm the information provided in the historical account.

For the part that presented businesses and society engagement in the implementation of the register, we have contacted personally members from three organizations, limiting our analysis to the evidence provided by the leaders and articulators of the engagement actions. An interesting complementation to this part would be contacting the firms that adhered to the

private enforcement activities, which wasn't done in this paper due to time restrictions. One big challenge we have encountered while doing this research was finding firms that have dealt with problems inside their firms and supply chains regarding slave labor and were opened about it to participate in a research thesis. Perhaps the very fact of dealing with an ethical issue inside their firms leads to non-cooperative approach to participation in researches.

For the part in which consumer behavior was observed in relation to disclosure about labor regulation public enforcement activities, we have collected evidence from only one social media platform, due to already mentioned intrinsic characteristics from other social media platforms that hinder data collection. This method has analytical limitations afore mentioned that were overcome by applying a more individualized, analogical and thorough analysis in place of relying on digital software analysis.

In the context of institutional change towards ethical practices being implemented in fashion and apparel firms, the purpose of this paper didn't entailed generating conclusive arguments, bearing in mind the phenomenon observed comprises the contemporary change process many firms are or expect to soon be going through. When approaching this multidisciplinary theme, we have encountered countless contributions from a diverse range of theoretical backgrounds, but scarce contributions relating the institutional economics literature to the theme. That was the starting point of our work, to develop an analytical framework that allowed researches to understand the inclusion of socially responsible practices to fashion and apparel retail firms in terms of institutional economics. The results of this paper point to further researches in this theme, offering three propositions and an analytical framework that may be studied through diverse alternatives of methodological approaches and data collection techniques.



## 6 CONCLUSION

The purpose of this thesis was to raise the understanding of ethical concerns about precarious labor conditions in fashion and apparel retail, with the contributions from the perspective of institutional economics. With this in mind, the goal was to deliver an original contribution from institutional economics to the discourse on ethics in labor conditions on fashion and apparel retail, and this goal was accomplished by developing a theoretical proposition, an analytical framework and complementary propositions to orient further research projects interested in continuing this line of approaching ethics in fashion and apparel retail. The thesis has been divided into two theoretical papers (chapters 2 and 3) and two empirical papers (chapters 4 and 5) in order to organize better the evolution of thought that this thesis has entailed.

In chapter 2 the first operational definitions are explained, about what are labor conditions, how do ethics and social responsibility oppose these conditions and how does the field of institutional economics present a perspective to identifying the path and mechanisms for institutional change. This paper identifies a research gap and provides a first effort to systematize the literature of institutional economics in the specific case of ethical issues concerning precarious labor conditions in fashion and apparel retail. The original contributions from this paper are a theoretical proposition presented below in Table 15 and a theoretical framework, in spite of being incomplete and in need of further adjustments.

In chapter 3 further definitions are presented, regarding what is fashion and apparel retail here studied and what are the main ethical issues concerning labor conditions in this sector. An integrative summary of ruling paradigms in the sector is presented, comprising the key characteristics of traditions and fast fashion retail firms. From this contributions on the sector, the theoretical proposition was adjusted including terms from the reality of fashion and apparel retail sector, now becoming an analytical framework that was used and adjusted in the two following papers. The original contributions from this paper are the systematization of fashion and apparel retail, a sector comprised in the larger picture of the fashion and apparel industry; and the analytical framework, combining the theoretical contributions from a multidisciplinary group of fields of research: business ethics, institutional economics, labor conditions and fashion and apparel retail.

Chapter 4 is the first attempt to assessing the elements contained in the analytical framework proposed in chapter 3. In this first empirical study, a multi-case study is presented with 15 firms, and from the observations gathered here a list with empirical observations is suggested as themes for further research into ethical retailers, in particular regarding if they comprise a new paradigm in fashion and apparel retail firms. The empirical evidence clarified the elements composing the analytical framework proposed in chapter 3, so in this chapter, the framework is adjusted, better revealing the understanding that emerged from this paper.

The original contributions from this paper are the characterizing list regarding ethical retailers, three empirical propositions in addition to the key theoretical proposition. On a secondary level of contribution are the adjustments on the analytical framework, which still needed a third round of adjustments. The methodological contribution is made by making a novel use of social media platforms to collect real-time evidence, which have demonstrated to be useful for the qualitative methodological approach here employed. The propositions are showed in Table 15 below.

**Table 15: Theoretical and empirical propositions of the thesis.**

<b>Propositions</b>
<i>P<sub>1</sub>: The move from precarious labor conditions to socially responsible conditions for employment in fashion and apparel retail is a process of institutional change. (Theoretical).</i>
<i>P<sub>1a</sub>: The concepts of socially responsible sourcing and curatorship influence resource allocation and employment. (Empirical).</i>
<i>P<sub>1b</sub>: The level of asset specificity rises in transactions regarding ethical retailers. (Empirical).</i>
<i>P<sub>1c</sub>: Ethical retailers have higher stakeholder engagement in comparison with traditional and fast fashion retailers. (Empirical).</i>
<i>P<sub>1d</sub>: Public ex post enforcement may not sustain on one public organ when it threatens supporting customs. (Empirical).</i>
<i>P<sub>1e</sub>: Stakeholder engagement in public regulations can generate private ex post enforcement. (Empirical).</i>
<i>P<sub>1f</sub>: 'Name and shame' type of law enforcement affects consumer goods firms reputation more than firms in other sectors. (Empirical).</i>

Chapter 5 seeks to complement the line of thinking developed throughout the thesis by investigating the remaining elements and relationships that compose the analytical framework that weren't addressed in the previous empirical chapter. With a three-level case study of a public regulation and its enforcement characteristics, this paper conjugates different contributions and sources of evidence to deliver a historical account of events concerning the origins, implementation, development and barriers faced by this public regulation. The paper goes further and presents an account of private actors and their response to the origin and development of the public regulation.

In addition, further evidence is contrasted with literature findings regarding the relationship between the disclosure of information about public law enforcement and its impact on consumer preferences and behavior. The original contributions from this paper are the final adjustments on the analytical proposition, allowing it to be used in posterior researches interested in the combined knowledge comprised in the framework. Other than that, this paper contributes to a novel empirical understanding of the relationship between public regulation and private *ex post* enforcement, with a historical account of a public regulation that faced countless challenges to be implemented but was enforced by innovative mechanisms proposed by private actors. This paper presents additional three propositions, presented in table 15 above.

The practical implication of this thesis is that it can help orienting decisions from focal firms in fashion and apparel retail interested in promoting institutional changes towards socially responsible practices inside their firms and in their supply chains. The implication for public policies is related to the mechanisms of enforcing institutions and promoting institutional change for fashion and apparel retailers, motivating them to go beyond law compliance, but seeking the strengthening of their supply chains. This sector is important for Brasil, and institutional changes promoting solutions for ethical issues could have a big impact in the economy and society.

The overall contribution of this thesis represents an attempt to allow other researchers to continue to investigate issues regarding labor conditions in fashion and apparel retail. Instead of being conclusive, this thesis seeks to provide the theoretical background and some analytical propositions for researchers to identify, observe and test hypotheses in this theme. When the

first research question was proposed, the author encountered difficulties regarding the scarce contributions in literature approaching these institutional economics problems in fashion and apparel retail from an institutional economics point of view. In the spirit of contributing to what was wished to have existed previously, this thesis attempts to fill this gap, by starting the discussion and delivering insights for further researches.

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## APENDIX I

Semi-structured interview script – Guide for conversation between representatives of the case studies for Ethical Fashion Retail in this thesis.

**Researcher:** M. Sc. Livia Tiemi Bastos **Supervisor:** Prof. PhD. Nuno Manuel Martins Dias Fouto

**A) Sourcing** – Interview an employee responsible of marketing, purchasing, procurement or supply chain.

1. Do all the clothes sold at the store hold the brand's label (own brand products) or does the store sell products from other brands?
2. Which part of the supply chain does the company outsource? (What do you make and what do you buy, what is the legal and contractual relationship with your sources/suppliers?)
3. Which countries/ cities do you source from?
4. How do you approach your suppliers? (“Go to the market” like browsing through internet or listings, through an intermediary like associations or agencies, visit and contact in person, word of mouth).
5. Does anyone from the company visit in person all your sourcing partners before closing the first deal/contract?
6. What factors into the decision of which source/supplier provides which clothing product? (Type of fabric, lead time, relationship with supplier, production technique, etc.) -> Why some clothes are made in one country and other similar clothes are made in other country?
7. What is the minimum deadline between designing and sending to the production? (What is the least amount of time you allow your sourcing partners to deliver product?)

**B) Delivering** – Interview an employee responsible of marketing, communication or sales.

1. How does the company communicate to its customer (online and offline) and shopper (retail store and e-commerce) its ethical fashion features? (Store layout and design, store decoration, educative label, talking with sales clerk, etc.)
2. Are there any activities in order to communicate specifically to ethically conscious customers? (Such as promotion events, educational activities, etc.)
3. Is the customer's opinion an ingredient to store layout (or e-store choice of products)?
4. What are the opportunities of interaction for the customer with the company (social media, events, etc.)?
5. Does the company follows and attracts its most valuable customers and its passionate customers?
6. How does the store try to reflect its customers' tastes and preferences?

**C) Founder's story** – Interview with one of the founders of the company.

- 1) What motivated you to create your business around ethical fashion?

**APENDIX II**

Data from inspections from the Ministry of Labor and Employment in Brazil.

A)

<b>Year</b>	<b>N° Operations</b>	<b>N° inspected stablishments</b>	<b>Workers whose contracts were formalized in the fiscal year.</b>
<b>1998</b>	20	47	159
<b>1999</b>	23	56	725
<b>2000</b>	25	88	1130
<b>2001</b>	32	149	2164
<b>2002</b>	35	85	2805
<b>2003</b>	68	188	6137
<b>2004</b>	78	276	3643
<b>2005</b>	93	189	4271
<b>2006</b>	110	209	3454
<b>2007</b>	119	206	3637
<b>2008</b>	163	302	3035
<b>2009</b>	160	352	3418
<b>2010</b>	150	310	2747
<b>2011</b>	177	344	2012
<b>2012</b>	150	259	1566
<b>2013</b>	189	313	1963
<b>2014</b>	175	292	1158
<b>2015</b>	143	257	817
<b>Total</b>	<b>1910</b>	<b>3922</b>	<b>44841</b>

B)

<b>Year</b>	<b>Workers in analogous to slavery situation</b>	<b>Payments for fines judicially enforced</b>	<b>Official judicial actions</b>
<b>1998</b>		R\$ 0,00	282
<b>1999</b>		R\$ 0,00	411
<b>2000</b>	516	R\$ 472.849,69	522
<b>2001</b>	1305	R\$ 957.936,46	796
<b>2002</b>	2285	R\$ 2.084.406,41	621
<b>2003</b>	5223	R\$ 6.085.918,49	1433
<b>2004</b>	2887	R\$ 4.905.613,13	2465
<b>2005</b>	4348	R\$ 7.820.211,26	2286
<b>2006</b>	3417	R\$ 6.299.650,53	2772
<b>2007</b>	5999	R\$ 9.914.276,59	3139
<b>2008</b>	5016	R\$ 9.011.762,84	4901
<b>2009</b>	3707	R\$ 6.033.742,88	4586
<b>2010</b>	2634	R\$ 6.954.677,47	3981
<b>2011</b>	2495	R\$ 5.566.798,99	4583
<b>2012</b>	2771	R\$ 8.209.962,81	3808
<b>2013</b>	2808	R\$ 8.283.172,86	4409
<b>2014</b>	1752	R\$ 5.937.501,01	3927
<b>2015</b>	1010	R\$ 3.175.477,49	2748
<b>Total Geral</b>	<b>48173</b>	<b>R\$ 91.713.958,91</b>	<b>47670</b>