



THE WEAKEST LINK IN THE GLOBAL SUPPLY CHAIN

How the Pandemic is Affecting
Bangladesh's Garment Workers



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Abbreviations

BGMEA	Bangladesh Garment Manufacturers and Exporters Association
BHRRC	Business and Human Rights Resource Center
CCC	Clean Clothes Campaign
CSR	Corporate Social Responsibility
CGWR	Center for Global Workers' Rights
FABRIC	Fostering and Advancing Sustainable Business and Responsible Industrial Practices in the Clothing Industry in Asia
GDP	Gross Domestic Product
GIZ	Deutsche Gesellschaft für Internationale Zusammenarbeit (aka German Corporation for International Cooperation, GmbH)
ILO	International Labour Organization
IOE	International Organisation of Employers
OHS	Occupational Health and Safety (OHS)
RMG	Readymade Garment industry
STAR	Sustainable Textiles of the Asian Region
UNDP	United Nations Development Programme
UNGP	United Nations Guiding Principles
WRC	Worker Rights Consortium
WHO	World Health Organization

About this Report

This report is prepared by the Institute for Human Rights and Business (IHRB) and the Subir and Malini Chowdhury Center for Bangladesh Studies at the University of California Berkeley, with the support of UNDP Bangladesh and the Government of Sweden. The principal authors are Dr. Sanchita Banerjee Saxena, Director of the Chowdhury Center and IHRB research fellow, Nancy Reyes Mullins, independent researcher and graduate (class of 2020) of the Master of Development Practice (MDP) program at the University of California Berkeley, and Salil Tripathi, Senior Adviser – Global Issues, IHRB.

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The views expressed in this report are of the authors, and not of the companies or the organisations interviewed or of UNDP. A list of those interviewed appears in the Appendix on page 70. The responses of the companies are anonymised and not attributed to any individual by name. The authors thank the brands,² suppliers,³ civil society organisations,⁴ and unions,⁵ for their support and comments.

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- 1 This report builds on a chapter authored by Sanchita Banerjee Saxena, Harpreet Kaur, and Salil Tripathi that is forthcoming in 2021: "How the Pandemic has Impacted the Various Layers of the Global Garment Supply Chain," in *Confronting the Covid-19 Pandemic While Protecting Human Rights* (Morten Kjaerum, Martha Davis, Amanda Lyons, eds.), Oxon: Routledge/Taylor and Francis Group
 - 2 Bestseller, H&M, Levi Strauss, Marks & Spencer, Nike, Primark, PVH, Target, and Under Armour. One company prefers complete anonymity.
 - 3 Bitopi Group, DBL Group, Natural Denims Ltd, and Sidko Group.
 - 4 Business and Human Rights Resource Centre, Clean Clothes Campaign, Worker Rights Coalition and Remake.
 - 5 AWAJ Foundation and Bangladesh Center for Workers Solidarity.

Foreword



2020 was a turbulent year for everyone. What started as a health crisis soon became a socio-economic crisis. The lives of many of the more than 14 million workers directly and indirectly involved in the readymade garment (RMG) sector in Bangladesh were devastated when the Covid-19 pandemic hit, and global trade and production virtually stopped.

Over the last 40 years, the RMG sector - accounting for more than 80% of Bangladesh's total exports – has been a key driving force of the country's economic development. It also has promoted Bangladeshi women's empowerment and rights by enabling them to participate in the labour force. However, with the outbreak of the COVID-19 pandemic, every stakeholder in the RMG supply chain has been affected. Worse, the impact fell disproportionately on the weakest link in the RMG global supply chain – the workers who often lack social security and safety nets – most of whom are women.

Bangladesh's RMG sector now stands at a critical juncture. One where there is the opportunity to reshape the global supply chain by adopting responsible business practices. This report, prepared by the Institute for Human Rights and Business (IHRB) and the Subir and Malini Chowdhury Center for Bangladesh Studies at the University of California Berkeley, with the support of the United Nations Development Programme (UNDP) and the Swedish International Development Cooperation Agency (SIDA), sends out clear recommendations to every stakeholder in the global supply chain: from brands to labourers, as well as to governments, manufacturing associations, international organisations, civil society, and all other actors in Bangladesh and throughout the world that there are actions we can take to ensure accountability and dignity of those least protected and most marginalized.

UNDP remains committed to promoting and supporting the implementation of the [UN Guiding Principles on Business and Human Rights in Bangladesh](#). Since 2018, UNDP Bangladesh has organized national and regional level consultations to create awareness among a diverse set of stakeholders. This has provided a platform for meaningful dialogue among government, civil society, national human rights institutions, trade unions and the private sector. UNDP's research studies document critical gaps that need to be overcome to ensure business respect for human rights in Bangladesh.

If we want to reverse pernicious trends that have offset much of the pre-COVID progress made in the implementation of [the 2030 Agenda for Sustainable Development](#), we must commit ourselves to tackling the crisis head-on, and to do so together. We must recognize the pandemic as a watershed moment that requires states and businesses to change their modus operandi, to forge a new normal economy where growth and respect for human rights go hand in hand. UNDP is committed to working together with all stakeholders to ensure that we chart a course towards a much brighter future under collective actions to promote and protect human rights.

Sudipto Mukerjee

Resident Representative, UNDP Bangladesh



Executive Summary

Tailors are seen working in a local garment factory in Bangladesh.
Photo: FLICKR - Image of Content / ILO

Executive Summary

Globally, there has been an explosive growth in the readymade garment (RMG) industry with clothing production increasing exponentially since early 2000.⁶ The apparel industry has designed a supply chain that ensures quick delivery from producers of raw materials to locations where the clothes can be stitched, made, and transported to markets.

That choreography leaves little space for slack, and costs are squeezed away, such that consumers can often purchase clothing at extremely low prices. But the cost of that low price has fallen disproportionately on workers, mainly in developing countries, who have no choice but to work at low wages under difficult conditions, because alternatives to those jobs are few or less attractive.

The RMG industry, which accounts for approximately 80% of Bangladesh's total exports (\$34.13 billion in 2018-19), is a major contributor to the country's economic advancement. From being a predominantly agrarian economy, Bangladesh has seen rapid industrialisation due to garment manufacturing, which has helped catapult the nation to the higher growth trajectory. It is the world's second-largest exporter of RMGs, which go to 132 countries. Exports doubled from 2010 to 2015 and will nearly triple by 2022.⁷ Some 4.4 million workers,⁸ a large majority of whom are women, work directly in the industry,⁹ creating opportunities for work as well as economically empowering women in a socially conservative society.

Partly due to these achievements, the economy has grown to a stage where, in late February 2021, the United Nations Committee for Development Policy recommended Bangladesh's graduation from Least Developed Country (LDC) status, as it had met the three necessary criteria – per capita income, human asset index, and economic vulnerability index,¹⁰ a major landmark for the country celebrating the 50th year of its independence in 2021.

6 "A new textiles economy: Redesigning fashion's future." Ellen MacArthur Foundation, 2017, <http://www.ellenmacarthurfoundation.org/publications>

7 Berg, Achim; Hedrich, Saskia; Tochtermann, Thomas. "Bangladesh: The next hot spot in apparel sourcing?" McKinsey & Company, March 2012, <https://www.mckinsey.com/-/media/McKinsey/Industries/Consumer%20Packaged%20Goods/Our%20Insights/Bangladesh%20The%20next%20hot%20spot%20in%20apparel%20sourcing/Bangladesh%20The%20next%20hot%20spot%20in%20apparel%20sourcing.pdf?shouldIndex=false>

8 Fathi, Nasila. "Safety First: Bangladesh Garment Industry Rebounds." International Finance Corporation, Dec 2019, https://www.ifc.org/wps/wcm/connect/news_ext_content/ifc_external_corporate_site/news+and+events/news/insights/bangladesh-garment-industry

9 Some 10 million are indirectly employed by the sector.

10 Karim Byron, Rejaul. "Bangladesh gets UN recommendation for graduating from LDC status." The Daily Star, 27 February 2021, <https://www.thedailystar.net/business/news/bangladesh-gets-un-recommendation-graduating-ldc-status-2051857>

Report Background

This report focuses on the RMG industry because many emerging economies begin their journey towards industrial development through RMG exports, which have the potential to create a large number of jobs rapidly and improve macro-economic conditions. Exports contribute to improving balance of payments, but the industry is competitive. Investors are willing to move plants to other locations when alternative investment destinations emerge, since low cost is the major driver in the decision. This creates a “race to the bottom” among garment exporting countries.

The RMG manufacturing sector in Bangladesh is noteworthy because it has created millions of jobs and economically empowered women. However, in many garment exporting countries, human rights and labour rights organisations have shown evidence of poor working conditions, including health and safety violations, denial of union rights, sexual harassment, and low wages in this sector. Bangladesh continues to face many of these challenges. Industrial safety has been of particular concern, with 500 deaths between 2005 and 2012, and two particularly tragic incidents since – the Tazreen fire, in 2012, in which 117 workers died, and the Rana Plaza collapse in 2013,¹¹ in which more than 1,100 workers died (to be discussed further on in this report).

These incidents led to the Bangladeshi industry collabourating with international brands and transnational labour activists on initiatives to improve the situation on the ground. The response to Rana Plaza continues to be studied almost a decade later. While building structures have been made safer since 2013, the larger structure of the global supply chain was left intact. Inherent inequities endemic in all layers of this complex network have left workers vulnerable, and created a situation that was ripe for suffering under an unanticipated and unprecedented global pandemic.

As the coronavirus¹² spread across the world in early 2020 and a lockdown in Bangladesh became inevitable, businesses were forced to respond quickly to the evolving situation. This report seeks to capture the responses of global brands and the subsequent effects on workers in the immediate aftermath. The report is drawn from in-depth interviews with international brands, Bangladeshi suppliers, representatives of the international civil society, and Bangladeshi labour activists. It seeks to understand the impacts of the COVID-19 pandemic on the industry and the workers. It proposes changes to policies and practices that can lead to long-term changes that would benefit global retailers, suppliers, and workers.

“

In many garment exporting countries, human rights and labour rights organisations have shown evidence of poor working conditions, including health and safety violations, denial of union rights, sexual harassment, and low wages in this sector.

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11 In April 2013, Rana Plaza, a building in Dhaka which housed many factories, collapsed, killing more than 1,100 workers.

12 Referred to as COVID-19 subsequently in this report.

Major Findings

While the industry suffered from closure of markets, suspended shipments, delayed payments, and a liquidity crisis, Bangladeshi workers suffered what was in effect a 35% pay cut¹³ during the lockdown month. Many workers in other surveys too said they earned less, or their salaries were delayed.¹⁴ Many Bangladeshi factories supplying to international brands (referred to as suppliers in this report) consolidated their business and some went under. Many thousands of workers lost jobs and depleted their savings without having a safety net to fall back on.

Under human rights law, the government bears the obligation to protect human rights, and as such the primary responsibility for the protection of workers' rights rests with the Bangladesh government. The government imposed lockdown like many other countries, during which the statutory pay for furloughed workers was reduced by nearly a third, making workers already living close to poverty even more vulnerable. It did not intervene in the negotiations between international brands and suppliers. With the closure of offices and banks, the government did well in requiring payments to be made through electronic means. The government also issued a stimulus package to help with the wage payments, but only the larger, registered factories were able to avail of this benefit which was ultimately in the form of a loan.

International brands sent health and safety guidance on responding to the pandemic to their suppliers, drawing on standards developed by international agencies. They also engaged stakeholders and suppliers in dialogue after the initial shock wore off. But many brands either delayed payments, suspended orders, or, in a few instances, invoked *force majeure*, a legal provision by which they could cancel the contract. Some brands intervened with international financial institutions or banks to advocate for greater liquidity for their suppliers. Campaigns by international civil society groups partly influenced some brands to honour their original contractual obligations. However, none of the brands interviewed for this report made direct financial contributions to either the suppliers (beyond their contractual obligations) or to the suppliers' employees.

Suppliers redesigned factories, provided personal protection equipment such as masks and gloves as well as sanitisers, measured temperature, provided washing facilities, and made medical facilities available. According to the interviewed labour leaders, however, some suppliers paid their workers late, less, or not at all. Many workers had no safety net to fall back upon. While suppliers complied with new regulations about social distancing, labour leaders said that some suppliers subsequently relaxed those rules to meet contractual commitments, which exposed workers to greater vulnerability.

13 Fair Labour Association, Country-specific updates on provisions for workers in response to the covid-19 pandemic, 18 June 2020, <https://www.fairlabour.org/blog/entry/country-specific-updates-provisions-workers-response-covid-19-pandemic>; Ershad Kamol, New Age, RMG owners, workers form monitoring committee, 9 May 2020, <https://www.newagebd.net/article/106066/rmg-owners-workers-form-monitoring-committee>. As of March 25, 2020 the government had asked RMG factory owners to pay workers 50% of their basic salary as an Eid bonus before the festival and another 50% after based on a decision from a tripartite meeting, but employers in the Bangladesh Export Processing Zones Authority were believed to be unlikely to make the payments. The state labour minister said that those who could not work during April would receive 60% pay; those who worked the full month will receive full wages; and workers who resumed work after 26 April would get 60% wage of 25 days and full wage for the remaining five days. The government announced a \$588 million stimulus package to pay wages, charging 2% interest on loans to factory owners. Banks disbursed wages to key workers based on the government's stimulus package of Tk 5,000 crore. The employer was to pay back the loan within two years. An official said factory owners who would not pay their staff during lockdown could get sued.

14 Lowell Jackson, James; Judd, Jason; Viegelaahn, Christian. "The supply chain ripple effect: How COVID-19 is affecting garment workers and factories in Asia and the Pacific." International Labour Organization and Cornell University, October 2020, https://www.ilo.org/asia/publications/issue-briefs/WCMS_758626/lang-en/index.htm

Local Bangladeshi labour groups were vocal in articulating their concerns, but their effectiveness was hampered by government crackdowns on organising. Many labour leaders who were able to engage the international community directly, were more successful in making their dire situation known. Transnational labour organising groups were effective in making brands aware of the reputational risks they were exposed to, but their ability to act depended on consumer pressure and willingness to participate in campaigns. Local and international unions and international human rights organisations have been campaigning to improve conditions in garment factories around the world at least since the early 1990s. As a result of decades of activism, many brands have established requirements for suppliers to adhere to certain international norms and standards, although enforcement is inconsistent.

Academics, trade unions, and civil society groups have frequently criticised the structure of the RMG industry because of its inherent power imbalance. On one side are international brands – large companies from the industrialised world, their identities recognisable and their presence global. At the other end are workers with low wages, often working in poor conditions, represented by unions which are weak or face restrictions. In between are suppliers – factories in the developing world, which employ the workers, and which must compete with suppliers in their own country as well as other suppliers around the world. The suppliers are many and the brands are few, and in negotiations, the brands have the upper hand, making negotiations uneven. The brands also operate in a highly competitive industry where consumers want cheap clothing that keeps up with changing trends. The pressure to reduce costs is enormous.

Developing countries are eager to attract and retain foreign investment, which has also created a perverse incentive of reducing regulation, and, sometimes, eroding minimum standards.

That power imbalance is one of the reasons why factory conditions remain inadequate, wages face competitive pressure, and safety standards have been found to be lax. Some structural changes have followed major catastrophes. For example, after the Rana Plaza disaster of 2013, two initiatives - Accord¹⁵ and Alliance¹⁶ - were formed to improve factory conditions. Such initiatives by brands are welcome and needed, but it is important to look beyond structural safety and ensure that host governments enforce and improve upon existing laws and standards, to protect workers without formal contracts, to enable them to form unions, to establish grievance mechanisms, and to provide a safety net.

The pandemic has led to consolidation of brands and suppliers, and the industry in the future may have even fewer suppliers in partnership with global brands. Standards must improve and performance must be monitored and reported in a transparent manner.

The report concludes with recommendations to all key players.

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The pandemic has led to consolidation of brands and suppliers, and the industry in the future may have even fewer suppliers in partnership with global brands. Standards must improve and performance must be monitored and reported in a transparent manner.

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15 Accord on Fire and Building Safety in Bangladesh - <https://bangladeshaccord.org/>

16 The Alliance for Bangladesh Worker Safety wound itself up in 2018.

Recommendations to Key Actors

The **Bangladesh government** should strengthen social protection mechanisms, including health benefits and social security net, and provide resources through well-designed furlough regulations so that workers' wages are not reduced during a crisis. It should not reduce the minimum of what are already low wages and ensure that workers receive a living wage. It should also enable trade unions to function without restrictions.

Brands should ensure that their actions do not squeeze their suppliers. They should use their resources and leverage to ensure liquidity for the suppliers. They should oversee or supervise the factories so that international standards are met. They should also avoid cancelling contracts, and where they must, they should pay for raw materials already acquired and work already undertaken.

Suppliers, who bear direct responsibility for the well-being of the workers, should provide for the necessary infrastructure to ensure safe working conditions, and adhere to the disbursement wages as required by local laws.

Local unions and labour rights advocates should remain vigilant about the adherence to standards and work with their members to ensure that they comply with the new standards and minimize disruption.

International organisations should consider new initiatives in three areas: one, those that empower workers; two, which enable suppliers to cooperate so that they can collaborate and negotiate as equal partners with major brands; and three, which facilitate dialogue between brands and local unions. They should also explore the replicability of such ideas in other countries. Ultimately, the burden of future crises should not fall disproportionately on the most vulnerable link in this chain – the workers.

Consumers should inform themselves about work conditions at factories where their clothes are made and support more businesses that pay a living wage, ensure that factories in their supply chain adhere to international standards. In addition to shopping more mindfully, consumers can support campaigns for dedicated funds to contribute directly to the pension, social security, and health and safety of the workers.

Methodology



Methodology

The objective of this research study was to understand the actions, responsibilities, and constraints faced by the various stakeholders during the Covid-19 crisis in Bangladesh's garment industry because of the country's extreme dependency to this industry and the impact the industry has had on the country's economic development.

Interviews were conducted to understand how each group experienced the pandemic and how they responded, in order to recommend steps in the future to prevent the recurrence of adverse impacts during a future crisis.

As the impact of the pandemic was uneven, and responses of the RMG industry – global brands and Bangladeshi suppliers – were diverse and often decisions were made on a case-by-case basis, the IHRB and the Chowdhury Center decided to examine their individual responses and the impact on garment workers. In addition, we spoke to civil society organisations who had campaigned for improved labour rights and local labour leaders who had first-hand knowledge of the suffering faced by workers.

The universe of all entities is large, and this report is based on selected qualitative interviews intended to provide candid insight on the behaviour of these stakeholders, it does not claim to be comprehensive or representative of the entire stakeholder group. The interviews, conducted between October and December 2020, included ten international brands¹⁷; four Bangladeshi suppliers¹⁸ who produce garments for the international brands; four international civil society groups; and two Bangladeshi labour leaders.

Of the ten companies interviewed, nine had been sourcing from factories in Bangladesh for at least ten years, with the relationship as old as thirty years in some cases. One brand had stopped sourcing from Bangladesh a few years ago because of concerns over stability but shared its insights about operating in Bangladesh. The nine brands had contractual relationships with a large number of suppliers. Some suppliers had several factories supplying to many brands, and such factories per supplier ranged from 45 in one instance to more than 100 in another. The suppliers were Bangladeshi, although one had some foreign investment.¹⁹ The smallest factory had 800 workers and the largest supplier employed 225,000 workers, spread over several units. The majority of workers at each facility were women; the figures ranged from 53% to 80%.²⁰

The interviews, drawn from a discussion guide shared with the interviewees prior to the interview, were semi-structured and in-depth to ensure uniformity in areas addressed during the interviews, while providing opportunities to elaborate on the topics discussed during the interview. The interviews were often honest and frank and this study tries to capture some of the richness of the conversations through direct quotes that are presented throughout the report (with permission from the executives at the time of the interview). The views of the brands and suppliers are anonymous, however, so that we could encourage candid responses.

17 The terms 'brands' and 'retailers' are used interchangeably.

18 The terms 'suppliers' and 'local/Bangladeshi manufacturers' are used interchangeably.

19 Those investors were not from among the brands this report interviewed.

20 These are cumulative responses, drawn from the interviews with the brands.

All interviewees held senior positions within their organisations, and had at least five and sometimes more than 10 years' experience. Their portfolios included responsibility for sustainability, supply chain, labour rights, or human rights, including stakeholder engagement, which includes relationships with international organisations, trade unions, and non-governmental organisations. Their roles included leading global collaborative partnerships, arranging social audits, driving social and environmental performance, worker empowerment, developing living wage strategies, building capacity, sourcing and quality control, and evaluating community impacts.

Four Bangladeshi suppliers were interviewed for this report. These suppliers employ workers in large numbers, ranging from a few hundred to more than 10,000; brands interviewed for this report spoke of tens of thousands of workers employed by the Bangladeshi suppliers they work with.

This report draws its analysis of the labour movement in Bangladesh based on interviews with two leading female labour activists, Nazma Akter, Executive Director of the Awaj Foundation, and Kalpona Akter, founder of the Bangladesh Center for Workers Solidarity.

The analysis of civil society organisations was based on interviews with the heads or senior representatives of key organisations (Remake,²¹ Clean Clothes Campaign (CCC), Business and Human Rights Resource Centre (BHRRC), and Worker Rights Consortium (WRC)) that were instrumental in tracking corporate performance or lobbying to secure payment of contracts to pay workers and provide for benefits for workers during the COVID-19 pandemic.

The report addresses several key questions, such as:

- To what extent were brand responses consistent with their responsibility to respect human rights, under the UN Guiding Principles for Business and Human Rights?
- To what extent did the suppliers comply with their duty of care towards their employees?
- What strategies did the brands deploy?
- How effective were the campaigns organised by the international civil society?
- Did any of the steps make a material difference in the lives of the workers?

By analysing interviewee responses, matching them with their public pronouncements and other published data, and applying the human rights framework, this report identifies the protection gaps at all layers of the industry and suggests recommendations for all key actors.

²¹ Remake is a storytelling platform committed to building a conscious consumer movement. It focuses on transparency, education, and leadership development (as part of which Remake works with a community of change-makers, comprising of 612 young women around the world). Remake also works with other workers' groups and unions. During this campaign, they worked closely with the WRC and CCC, and other groups.

INSPECTION
AREA

PART 1

Background

1



Background

1

The RMG industry has grown exponentially over recent decades assisted by the seamless choreography of the supply chain, which has lowered costs and increased efficiency. The industry offers a wide range of products to suit rapidly shifting consumer tastes. To ensure profitability, it depends on just-in-time inventory management and a supply chain that must work like clockwork, relying on a hard-working labour force that will work long hours at low pay. The speed of transport and availability of inexpensive labour at distant locations has enabled major brands to sell clothing at rock-bottom prices in major markets. The industry is a part of an unbalanced global system, characterized by unequal power dynamics at all layers. This unequal distribution of power makes it difficult for workers to have their needs addressed during the best of times, and even more devastating during these unprecedented times.

Internationally the RMG industry is an important sector that has seen a significant shift in production from the industrialised north to the global south in the past few decades creating millions of jobs in the global south.²³ This has resulted in a significant rise in income levels in countries receiving investment (in Bangladesh, per capita income has gone up from \$100 to \$1500²⁴) and created millions of jobs, even if the gains may not be distributed evenly. In China, the world's largest exporter of RMGs, per capita income rose from \$959 in 2000 to \$10,216²⁵ in 2020. In Bangladesh, in the same period, it rose from \$418 to \$1,855.²⁶ The story is similar with other garment exporters.

Local labour organisers and international campaigns have targeted major brands and local manufacturers to improve factory practices. Factory conditions have improved over the years due to collaborative and voluntary efforts, as well as due to the establishment of new regulations and better enforcement of laws. But cataclysmic events, such a global pandemic, can devastate the sector.



COVID-19 has been likened to an x-ray, revealing fractures in the fragile skeleton of the societies we have built. It is exposing fallacies and falsehoods everywhere: The lie that free markets can deliver healthcare for all; The fiction that unpaid care work is not work; The delusion that we live in a post-racist world; The myth that we are all in the same boat. Because while we are all floating on the same sea, it's clear that some are in super yachts, while others are clinging to the drifting debris.



*Antonio Guterres, UN
Secretary General,
Nelson Mandela Lecture, 18 July 2020*



- 22 "Secretary-General's Nelson Mandela Lecture: "Tackling the Inequality Pandemic: A New Social Contract for a New Era" [as delivered]." United Nations Secretary-General, 18 July 2020, <https://www.un.org/sg/en/content/sg/statement/2020-07-18/secretary-generals-nelson-mandela-lecture-%E2%80%99tackling-the-inequality-pandemic-new-social-contract-for-new-era%E2%80%9D-delivered>
- 23 According to the ILO, in the twenty years from 1970 to 1990, the number of textiles, clothing, and footwear workers increased by 597% in Malaysia; 416% in Bangladesh; 385% in Sri Lanka; 334% in Indonesia; 271% in the Philippines; and 137% in Korea. China now employs 5.3 million workers, the most in the world, an increase of some 2 million workers since 1980. During the same 20-year period, employment in the developed world declined sharply. The number of TCF workers has decreased by 58% in Germany; United Kingdom - 55%; France - 49%; and the United States - 31%. The US still employs 1.6 million workers, down from 2.5 million in 1980. These figures have shown more dramatic increases in the decades since. https://www.ilo.org/global/about-the-ilo/newsroom/news/WCMS_008075/lang--en/index.htm
- 24 "Bangladesh shows development is the best resilience: World Bank CEO," [bdnews24.com](https://bdnews24.com/economy/2019/07/10/bangladesh-shows-development-is-the-best-resilience-builder-world-bank-ceo), July 9, 2019, <https://bdnews24.com/economy/2019/07/10/bangladesh-shows-development-is-the-best-resilience-builder-world-bank-ceo>. Accessed April 15, 2021.
- 25 World Bank. <https://data.worldbank.org/indicator/NY.GDP.PCAP.CD?locations=CN>
- 26 World Bank. <https://data.worldbank.org/indicator/NY.GDP.PCAP.CD?locations=BD>

Bangladesh in particular has made enormous strides in this sector. The export garment-manufacturing sector in Bangladesh began in the late 1970s following the establishment of the Multi-Fibre Arrangement (MFA) in 1974, which lasted for 40 years. This arrangement restricted garment and textile imports to the United States, Canada and the European Union (EU) by allocating quotas to countries throughout the developing world.²⁷

While Bangladesh lacks the natural resources for the industry (such as raw cotton)²⁸ and imports equipment needed for production, it has one abundant source: human capital. Bangladeshi entrepreneurs have set up thousands of factories and employed 4.4 million workers who clothe much of the world today. Initially, there were 12 manufacturers in Bangladesh, which rose to 450 independent companies in 1985 and close to 7,000 manufacturers and subcontractors who acted as suppliers to global brands by 2015.²⁹

In recent years there has been industry consolidation. By June 2018,³⁰ there were 5,271 factories, and by late 2020, the number dropped further. The Bangladesh Garment Manufacturers' and Exporters' Association has 4,500³¹ members, accounting for manufacturers who export (but which does not count those who produce solely for the domestic market or any of those factories in the unregulated subcontracting industry).³²

The factories vary in size. A sizeable proportion of the manufacturers are politically well-connected, being parliamentarians or having parliamentarians among their family members. While the industry is essentially in the private sector, such close ties raise the risk of regulatory capture, as this report will describe later. While the industry is regulated by the Bangladesh government, the negotiations over price and terms of trade between local suppliers and global brands are conducted individually and periodically, with no specific role for the government.

The RMG sector has experienced challenges in the past decade, such as concerns over factory safety. The Tazreen and Rana Plaza disasters led to the creation of Accord and the Alliance (the latter has since wound up), two major international initiatives to improve factory conditions and worker safety. Brands and suppliers knew how to deal with accidents and natural disasters such as flooding, the COVID-19 pandemic was a 'black swan' moment – unanticipated, with no known path of recovery.

The RMG sector was not prepared for the pandemic to respond appropriately, but then nor were any other sectors worldwide. COVID19 harmed everyone in the global supply chain – brands, middle agents, suppliers, factory workers - but those at the bottom of the chain were the most vulnerable, and there was no guidebook with standard operating procedures on how to protect them.

27 Saxena, SB. (2014). *Made in Bangladesh, Cambodia, and Sri Lanka: The Labour Behind the Global Garments and Textiles Industries*. New York: Cambria Press.

28 Bangladesh imports 7 million bales of cotton annually – its domestic production is barely 146,000 bales, thus the industry overwhelmingly depends on imported cotton. Most machinery is also bought from abroad. Furthermore, most of its market is abroad: \$35 billion exports go to the United States and the European Union.

29 Labowitz, S and Baumann-Pauly, D. (2015). "Beyond the Tip of the Iceberg: Bangladesh's Forgotten Apparel Workers." New York: NYU Stern Center for Business and Human Rights.

30 <https://www.bbc.com/news/world-asia-46349947>

31 <https://bgmea.com.bd/page/aboutus>

32 One reason for the statistical discrepancy is that many of the smaller factories are sub-contractors, who take on jobs passed on to them by larger contractors. While that has the potential of increasing employment, it also makes it harder for brands, and indeed inspectors, to examine and supervise safety standards so far down the supply chain. It becomes more difficult to ensure that the rights of workers employed by those sub-contractors are protected, or that those facilities are inspected properly and regularly, which are required under the agreements international brands have signed to ensure industrial safety, following the Rana Plaza disaster in 2013, when nearly 1,200 workers died as the building in which many factories operated collapsed.

COVID-19 started gaining media attention in January 2020, but at that time neither the government, industry, nor workers expected it to reach Bangladesh, like most other countries. As the director of a Bangladeshi factory explained it,³³ in the early days “we were looking at it and treating it like we did the SARS epidemic... this was not the first time that we'd encountered an epidemic and we thought it would be similar.” In early 2020, garment brands across Europe and the United States were proceeding with business as usual, placing new orders and accepting delivery of prior orders. Then everything changed in the second week of March. On 11 March 2020, the World Health Organization declared COVID-19 a pandemic³⁴ and countries began imposing lockdowns. The global garment industry came to a halt.³⁵

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Partly due to demand uncertainty and partly to ensure liquidity, leading brands began cancelling orders, creating severe existential problems for the Bangladeshi manufacturers.

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The Bangladesh government announced a 10-day nationwide lockdown beginning 26 March, and instituted a social distancing mandate in an attempt to contain the spread of the COVID-19 virus. All garment factories stopped work. Orders and financial payments got delayed, then stopped. There was no safeguard to protect the salaries of workers.

Many workers went back home to their villages. The factories reopened in a staggered phase a month later around the end of April or the beginning of May. There was some opposition to reopening; unions remained concerned about safety. Factory owners wanted to resume operations as they had their loan payments due and their cash flow had worsened, since they were not receiving payments.

Many workers, whose salaries had fallen by nearly a third, were willing to return to work, as long as it was safe inside the factory, because they needed the income. But for suppliers, there was considerable uncertainty, since many international brands had either suspended purchases, asked the factories to stop manufacturing until further notice, or stopped responding to inquiries.³⁶

Lockdowns in countries across the world had resulted in shops, boutiques, and malls having to close, which drastically reduced demand for new clothing, as people who worked in offices and could work from home had stopped going out, and with most places of entertainment and restaurants closed, demand for professional and fancier clothes too declined. With jobs disappearing, consumers conserved cash, which dampened demand further. Partly due to demand uncertainty and partly to ensure liquidity, leading brands began cancelling orders, creating severe existential problems for the Bangladeshi manufacturers.

In a survey conducted by the Center for Global Workers' Rights (CGWR) in association with the WRC between 21 and 25 March 2020, it was discovered that 45.8% of suppliers reported that ‘a lot’ to ‘most’ of their nearly completed or entirely completed orders were cancelled by their buyers; 5.9% had all of their orders cancelled.³⁷ Bangladeshi factories were blindsided by the sudden cancellations, and in an extraordinary public plea for support, the then president of the Bangladesh Garment Manufacturers and Exporters Association (BGMEA), Rubana Huq, turned to YouTube³⁸ to ask international buyers and brands to stand by their commitments to the Bangladesh RMG industry and support its workers. It is

33 Unless otherwise stated, all direct quotes are from individuals interviewed as part of this research.

34 WHO - <https://www.who.int/news/item/27-04-2020-who-timeline---COVID-19>

35 ILO ‘The supply chain ripple effect: How COVID-19 is affecting garment workers and factories in Asia and the Pacific’ (ILO October 2020) https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/briefingnote/wcms_758626.pdf

36 Interviews with suppliers.

37 Anner, Mark. “Abandoned? The Impact of COVID-19 on Workers and Businesses at the Bottom of Global Garment Supply Chains.”

38 YouTube - https://www.youtube.com/watch?v=xIS3IRDYBJw&feature=emb_logo

important to note that some brands did behave responsibly, communicating with factories transparently about what they could or could not do for them, and honouring contracts.

While factories reopened, order cancellations and price cuts left factories faced with the difficult decision of laying off workers, cutting their hours or delaying wage payments. Factories had to be redesigned: it meant reshaping the factory floor to ensure social distancing, providing workers with sanitisers and personal protective equipment such as gloves, and building washing areas. All the suppliers and brands consulted for this study acknowledge that expenses for the personal protection equipment (PPE) sanitisers, temperature checks, additional washing stations, etc. had come entirely from the suppliers. As Nazma Akter puts it: *"The brands didn't put in even a penny."* Factories both large and small, found that they lacked financial savings and business continuity plans capable of addressing a crisis of this scale. To exacerbate the issue, the results of a survey by the Centre for Policy Dialogue (conducted between October and November 2020) found that only 44% of factories claimed to have certainty in orders looking forward for the six months of November 2020 to April 2021.³⁹ The pandemic led to the closure of some factories, a consequence of the cataclysmic changes the industry has experienced in the past year. According to one report,⁴⁰ exports fell by \$6 billion.

Workers, who have suffered disproportionately from the volatility in the garment industry, were once again the most vulnerable victims of the pandemic. The impact of brands' response to the pandemic on the 4.4 million garment workers in Bangladesh cannot be overstated. Although the government mandate that furloughed workers be paid 65% of their salary for the first three months of the pandemic, union representatives claimed that many workers did not get paid as promised.

The CGWR study found that 72% of furloughed workers had been sent home without pay. It also found that 98% of buyers — many of them big global clients — had refused to contribute to the cost of partial wages for furloughed employees, which was required under Bangladeshi law.⁴¹ A result of being paid extremely low wages meant that these workers had no savings to cover expenses while they waited for factories to reopen and government stimulus payments to be disbursed. This had adverse effects on several human rights – food, health, housing, even life.

Kalpona Akter, a labour activist and founder of the Bangladesh Center for Workers Solidarity, stressed the level of devastation experienced by workers, saying, *"If we tell you stories, you would cry three days in a row [after hearing about] the kind of food crisis that our workers faced."*

Domestic and international organisations responded by making public the behaviour of the brands and calling on them to 'PayUp' for the orders they had placed. Through the rapid and effective collaboration of resources, the plight of the workers in Bangladesh became international news. BGMEA provided data on order cancellations directly to researchers at WRC and the Clean Clothes Campaign (CCC), which was then leveraged by activist groups, such as Remake, to educate their networks and raise awareness about the issue. WRC and CCC came out with a COVID-19 Tracker⁴² which disclosed the brands who committed to pay in full for orders completed and in production, and those who made no commitment of this kind. Activists used this list for "naming and shaming" campaigns, urging consumers to reach out to brands

39 Dr. Khondaker Golam Moassem. Draft Slides for "Vulnerability, Resilience and Recovery in the RMG Sector in view of COVID Pandemic: Findings from the Enterprise Survey."

40 <https://www.reuters.com/article/health-COVID-19-bangladesh-exports/garment-exporter-bangladesh-faces-6-billion-hit-as-top-retailers-cancel-idUKKBN21I2R9>

41 Anner, Mark. "Abandoned? The Impact of COVID-19 on Workers and Businesses at the Bottom of Global Garment Supply Chains."

42 <https://www.workersrights.org/issues/COVID-19/tracker/>

that were on the “no commitment” list and ask them to fulfil the contracts that were in place prior to the pandemic (to PayUp).

The Tracker, along with interviews with Bangladeshi workers and factory owners, and research reports, provided journalists with the timely and verifiable data necessary to facilitate publication of workers' stories in news media. Many brands responded to the pressure by reinstating orders, and it is estimated that of the \$40 billion in cancelled orders, approximately \$20 billion had been recovered as of November 2020,⁴³ however, new orders remain significantly lower than the pre-pandemic phase – although it must be noted that there has been a global fall in demand for many products, including clothing. How the sector will recover, given the structural shifts in the global economy and the second wave in Bangladesh which has led to the government declaring another lockdown in April during the holy month of Ramsan, remains to be seen.



43 Eco-age - <https://eco-age.com/resources/remake-ayesha-barenblat-seven-actions-holding-fast-fashion-accountable/>

Figure 1. EVOLUTION AND IMPACT OF THE COVID-19 PANDEMIC AND BANGLADESH RESPONSE 2020-21

- **7 January 2020** – The disease is identified by Chinese authorities as a new type of COVID-19, novel COVID-19, or nCoV
- **March 9** – The first COVID-19 case is found in Bangladesh
- **March 9** – Factory owners report starting to receive notices from brands to delay shipment of orders
- **March 11** – WHO declares COVID-19 a pandemic
- **March 18** – COVID-19 escalates into a global problem
- **March 23** – BGMEA President posts plea to international buyers and brands, asking them to stay with Bangladesh ready-made garment industry
- **March 26** – Government mandated social distancing and 10-day holiday begins
- **April 25 to May 2** – Factories start reopening gradually
- **By April 31** – \$3.2 billion USD worth of orders suspended or revoked
- **March to May** – Bangladeshi workers lose nearly 30% of their wages, estimated at \$502 million. \$4.6 billion dollars lost in total for the industry.
- **June** – Export orders had fallen by 40-45% compared to 2019. Bangladesh lost \$724 million in apparel exports to the United States.
- **May to October** – Apparel market begins to stabilise and brands resume transactions with suppliers.
- **November** – Europe, which accounts for 60% of Bangladesh's exports, goes back into a lockdown
- **April 2021** – Bangladesh declares lockdown in two phases, on 5 April and stricter measures from 14 April. Factories to remain open but workers would have to be provided with transport. Offices to remain closed.



Photo: UN Women/Fahad Abdullah Kaizer

The Global Industry Structure

Global supply chains are complex, linking thousands of factories across multiple cultural and political boundaries. It has transferred technology and created jobs in the global south and given local manufacturers access to international markets.

The dispersion of manufacturing across multiple countries has created new sites of production, which has been made possible by abundant availability of workers who are willing to work at salaries considerably below the wage levels in the developed world. Rapidly declining shipping costs, the development of leaner distribution networks, and efficiencies in inventory management, have hastened the dispersion of manufacturing. At the same time, it has exposed workers at the bottom of the supply chain to additional vulnerabilities. They often work in precarious conditions, toiling for long hours for minimal pay that adversely affect their mental and physical health, and in some cases, even cost lives.

The new production sites, being in locations beyond the jurisdiction of the governments of the global North, often escape not only their regulatory framework, but also lack adequate social protections for the workers. This is largely because of the lack of adherence to international standards and weak social safety nets in the production countries.

This situation often results in many factories falling into a “regulatory void” where decent working conditions are not in place, labour rights have deteriorated, and workers lack basic benefits. COVID-19, according to K. Akter, has only heightened what has already been in places for so many decades, “... all these years, business has only given us empty promises, nothing more than that. They're always [focused] on their profit sheet, their closing reports. When we needed them most, they just left us in a starving situation. They did not take on responsibility. They could have stepped up to create a fund to help these workers during this crisis. This is how business should be run. It is high time we face that there should be a due diligence law in the sourcing countries that tells the brands and retailers and business, regardless of the type of business, how they should treat their workers in the supply chain.”

Global supply chains today show hyper flexibility, lack of transparency, and unequal power dynamics,⁴⁴ which are seen as essential features for these complex networks to function. International brands, for the most part, accept these characteristics and value some of the characteristics. One brand executive believes the global supply chains won't disappear, but they can be managed effectively and responsibly. “I don't think the global complexity, the fragmentation, necessarily means diminished responsibility,” he said.

However, these characteristics are not necessarily likely to promote – and may in fact undermine – respect for human rights and labour laws. For decades, many global brands and buyers have been able to use the unequal distribution of bargaining power within these supply chains to require their suppliers to meet the competitive pressures within the industry by producing smaller batches of increasing varieties of products more rapidly and at decreasing prices. The emergence of ‘fast fashion’, cheap clothing produced quickly and distributed rapidly around the world capturing every swift change in fashion trends, accentuated some of these inherent problems. During the time of a global crisis such as the Covid-19 pandemic, these already difficult conditions have been made even more precarious for

44 Reinecke, J., Donaghey, J., Bocken, N. & Lauriano, L. “Business Models and Labour Standards: Making the Connection.” Ethical Trading Initiative. 2019. https://www.ethicaltrade.org/sites/default/files/shared_resources/Business%20models%20%26%20labour%20standards.pdf

the millions who depend on these jobs for their livelihoods. The pandemic has put a spotlight on many of the inequalities and unequal power dynamics that were always present in the system.

The lack of transparency inherent in these global supply chains creates a large disconnect between corporate actions and policies (which are often drawn from international standards and are well-intended and well-meaning) and the reality faced by workers in countries throughout the world. This is highlighted, for example, by the very different perceptions of the handling of the COVID-19 by international brands, domestic suppliers, and the reality on the ground as lived by workers and worker advocates. N. Akter highlights the power imbalance at all levels of the supply chain: *"Buyers saying we won't cancel orders, then they do. They go back on their word. The same attitude that they have with their suppliers is the same attitude suppliers have towards their workers."*

Lack of transparency is also an issue for Bangladeshi suppliers who often don't know how a buyer will behave or whether they will be treated fairly because they do not have any effective way or mechanism to assess brand-vendor relationship, according to one supplier. Decades of compliance programmes worldwide have actually done relatively little to change the root causes of poor working conditions, which stem from a business model based on producing large quantities of goods with extremely quick turnaround and as cheaply as possible; as well as competition among countries seeking investments which leads to weakened regulation, poor enforcement, insufficient inspection, allegations of corruption, inadequate audits, disempowered unions, and lack of adherence to international norms. Many of the problems faced in global supply chains cannot simply be attributed to unethical factory executives in need of capacity building, auditing or policing. Much of it is due to the pressures on reducing costs and requirement of adherence to rules, as part of policies implemented by global brands pursuing the logic of market efficiency and profit maximisation while minimising risks and lowering costs in order to meet consumer demands in a timely manner.

The current structure of global apparel supply chains relies on accurate forecasting to identify demand and fulfilment of products. Brands place orders based on those forecasts and factories are responsible for buying the fabric and hiring the workers to produce the products. Factories aren't paid until the brand accepts receipt of the goods, and critics note that the terms for acceptance are overwhelmingly in favour of the brands. This means suppliers can be left assuming the cost and responsibility for producing custom-ordered goods (which often cannot be resold to another brand), regardless of whether brand projections were accurate.

According to the Clean Clothes Campaign, the brands really dictate pricing and payment terms, and that power imbalance is a major problem. Most brands are well-resourced, with access to global capital and in a position to play suppliers against one another during negotiations, whereas suppliers are keen to present themselves as more efficient than their rivals. Host governments, being

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Everyone wants to use the workers for profit; nobody wants to look after them. I tell the companies, give the salaries; you have prospered for so many years (because of the workers' hard work). I have yelled at meetings. The executives can sit at home and work, but workers are the ones in factories (getting exposed). If workers can't work, their business can't survive either"

—
N. Akter⁴⁷

”

45 Nazma Akter's interviews have been translated from Bangla

economically weaker, often grant freedoms to investors so that they will invest, as well as create jobs. Home governments cite lack of jurisdiction as well as sovereignty concerns for not interfering in monitoring the performance of companies from their jurisdiction operating overseas. Furthermore, since these transactions do not involve direct investment, but trading relationships, home governments have limited authority to enforce rules, unless there are grave violations of peremptory norms, or if companies are breaking sanctions. The competition among suppliers is also so severe that they do not cooperate with one another and present a collective face in negotiating with the brands. Were they to do so, they could likely secure better terms. But where cost factors prevail over others, not all suppliers have similar incentives, and larger suppliers may benefit at the cost of smaller suppliers, because they enjoy economies of scale. While this may lead to some alteration in the terms of trade between the brands and suppliers, whether that would benefit the workers is a different question. State intervention may be an option, but it would be effective only if the state uses its convening power towards fulfilment of the workers' rights.

Power Imbalance

Brands choose to base their supply chains in countries with low wages and weak social protections. As workers, unions, and civil society groups have long argued, global supply chains are defined by an acute power imbalance between brands at the top of supply chains and workers employed in factories. Brands' economic power allows them to dictate how profits are made and distributed along their supply chains, including the ever-smaller share available for suppliers to pay their workers decent wages, ensure safe and healthy working conditions, or provide workers with legally mandated benefits upon termination.⁴⁶

– Clean Clothes Campaign

46 Barradas, S., et al. "Un(der)paid in the pandemic. An estimate of what the garment industry owes its workers." Clean Clothes Campaign & Worker Rights Consortium. August 2020. <https://cleanclothes.org/file-repository/underpaid-in-the-pandemic.pdf/view>

The Structure of the RMG Industry in Bangladesh

China is the world's leading exporter of clothing, followed by Bangladesh, Vietnam and India, with between 60 million⁴⁷ and 75 million⁴⁸ workers employed in the RMG sector around the world. Of these, a little under 10% - 4.4 million workers - directly work in factories and another 9.6 million are indirectly involved in the RMG sector in Bangladesh. These jobs have changed Bangladesh's social dynamic - according to United Nations data, some 80%⁴⁹ of these workers are women.

Women in the workforce: The role of women in Bangladesh's RMG industry cannot be overstated. On average, women constitute approximately 80% of workers in factories. Employment of women in paid workforce is a major achievement for Bangladesh, as it has contributed towards women's economic empowerment. By the 1990s, women accounted for more than 90% of the almost four million workers and, in 2018-19, the garment industry accounted for 84% of Bangladesh's exports and 11.17% of its GDP.⁵⁰ This has enabled Bangladesh to have a significantly superior rate of female participation in labour force, compared to its major South Asian neighbours.

Outsourcing: Foreign buyers' focus on "CM" (cut and make) orders and a strategy of producing basic garments (e.g. T-shirts) quickly made Bangladesh South Asia's "success" story.⁵¹ This success came in many forms: increased gross domestic product (GDP), improved development opportunities, and women's economic empowerment.⁵² The economic achievement in Bangladesh, however, also came with a very real price, one that resulted in an industry where low-cost garments are made in hazardous conditions with low wages in unregulated factories by workers whose physical and mental health is tested on a daily basis. Thus, in order to maximise profits, in effect, Western brands have not only outsourced production, but actively sought out locations where they no longer bore direct responsibility for working conditions. Such outsourcing led to labour exploitation and in some instances environmental degradation even as the prices remained low, although there is growing awareness in Bangladesh of the need to improve performance.

Factory conditions: Another recurring challenge in Bangladesh has been the concern over unsafe condition of factories. More than 500 workers died between 2005 and 2012 in fires and building collapses in factories throughout the country, but as previously discussed, it took the Rana Plaza disaster to marshal the industry into action.⁵³

47 <http://www.ilo.org/global/industries-and-sectors/textiles-clothing-leather-footwear/lang--ja/index.htm>

48 <http://www.fashionunited.com/global-fashion-industry-statistics-international-apparel>

49 <https://www.reuters.com/article/us-bangladesh-workers-education-trfn/garment-workers-to-graduates-bangladeshi-women-aim-to-shake-up-textile-sector-idUSKCN24S002>

50 BGMEA

51 Saxena, SB. *Made in Bangladesh, Cambodia, and Sri Lanka: The Labour Behind the Global Garments and Textiles Industries*. New York: Cambria Press, 2014.

52 Feldman, S and Hossain, J. (2020). "The Longue Durée and the Promise of Export-Led Development: Readymade Garment Manufacturing in Bangladesh." in Saxena, S.B. (ed), (2020). *Labour, Global Supply Chains, and the Garment Industry in South Asia: Bangladesh After Rana Plaza*. Oxon: Routledgeit

53 Bair, Jennifer; Anner, Mark; Blasi, Jeremy. (2017). "Sweatshops and the Search for Solutions, Yesterday and Today." *Unmaking the Global Sweatshop: Health and Safety of the World's Garment Workers*. Philadelphia, PA: University of Pennsylvania Press. DOI: <https://doi.org/10.9783/9780812294316-003>

THE RANA PLAZA DISASTER⁵⁴

On 24 April 2013, more than 1,125 people died and 2,000 were injured when an eight-story building in the outskirts of the capital of Bangladesh, Rana Plaza, collapsed. The building, which was originally constructed as a shopping complex and not meant to serve as a garment factory, was filled to capacity with more than 3,000 workers and their machines. Four stories had been added to the building without proper permits or documentation. Large cracks in the building had appeared the day before the disaster, and other than the garment factory, all other parts of the building were closed that day. When garment workers pointed out the cracks to their supervisors, they were reprimanded and told to go back to work, otherwise they would lose their jobs.⁵⁵



Wages: Low wages has been a chronic issue affecting the RMG sector worldwide, and Bangladesh is not an exception. After the Rana Plaza disaster in 2013, Bangladesh increased the minimum wage⁵⁶ to 5,300 taka (\$68 at the prevailing exchange rate of 77 taka to a US dollar) per month, a 77% increase, and in 2019 it was further increased⁵⁷ to 8,000 taka (about \$93 at the 2019 rate of about taka 86 per US dollar) per month. Jobs in the garment sector, while poorly-paid by international standards, are an important step up for people in Bangladesh, to rise from extreme poverty and enter the waged economy. These wages are nonetheless below what is commonly considered to be a living wage,⁵⁸ but the jobs are better paying than the wage levels in several other sectors in Bangladesh. According to the Asian Development Bank,⁵⁹ in 2018, a little over one-fifth of Bangladeshis lived below the national poverty line, an improvement from one-fourth in 2016. In 2019, 9.2% lived below the international poverty line of \$1.9 per day, a drop from 14.8% in 2016.

Ownership: The nature of ownership represents specific challenges. Bangladeshi factories are privately-owned by Bangladeshi business groups. Some of these factories are part of larger conglomerates with interests in many other businesses. Some exporters occupy specific niches, even if they are small in scale. Larger suppliers employ thousands of employees and operate from several locations, and smaller suppliers may have as few as 200 employees. A significant number of entrepreneurs who own the

54 <https://www.ihrb.org/news-events/news-events/beyond-rana-plaza-reflections-over-the-last-five-years>

55 Saxena, SB (ed.). (2020). Labour, Global Supply Chains, and the Garment Industry in South Asia: Bangladesh After Rana Plaza, Routledge, Oxon.

56 Devnath, Arun, 'Bangladesh Raises Minimum Wages for Garment Workers after Unrest', Bloomberg Business (13 November 2013) Google Scholar, <http://www.bloomberg.co/ew/article/013-11-1/bangladesh-garment-factories-to-stay-shut-amid-worker-protests> (accessed 14 August 2015).

57 <https://www.theguardian.com/business/2019/jan/21/low-wages-garment-workers-bangladesh-analysis>

58 "Wage theft and pandemic profits: The Right to a Living Wage for Garment Workers." Business and Human Rights Resource Center, March 2021, https://media.business-humanrights.org/media/documents/Unpaid_wages_v9.pdf

59 <https://www.adb.org/countries/bangladesh/poverty>

factories are politically connected with one of Bangladesh's two main political parties; some of them are Members of Parliament. While reliable indicators are not available, estimates say between a third and one half of parliamentarians have business interest in the garment sector.⁶⁰

The political connection has two consequences. Entrepreneurs are able to rely on simpler processes and reduced bureaucratic hurdles (for example, in importing machinery), as politicians are more receptive to business needs. There are incentives for importing machinery. But some critics have argued that such benefits should be distributed more widely, and not only to a few industry sectors so that Bangladesh has a more balanced economic profile. There is also concern over regulatory capture by the RMG sector, which may distort investment priorities.

Besides, the RMG industry can rapidly move to other countries. While most suppliers are Bangladeshi entrepreneurs, one supplier mentioned that their business has expanded by setting up manufacturing facilities in Africa. That is the longer term risk of relying on a sector like RMG, where other countries with lower wages and available workforce may be able to replicate the Bangladesh model and attract foreign investment.

Another result of this structure is that parliamentarians do not necessarily pressure the government to place the workers' interests foremost, and have little incentive to raise wages or call for more frequent factory inspections. This was reflected in the reopening of the garment industry which showed limited regard to how workers would be impacted. *"Who said that they would not get infected?"* asked K. Akter during an interview. She went on to say that the compulsion to keep the factories open was economic, adding that the garment manufacturers were able to convince the government that if they didn't continue operations, they would have severe consequences and the brands won't help them.

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International civil society groups which tracked and monitored brand responses and launched campaigns say that the brands began responding meaningfully only after the first few weeks, and their responses were uneven.

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Bangladesh will continue to make economic progress if it lifts more people out of poverty. For that, employment is crucial, and a stable business environment is vital. While Bangladesh has emerged as a major player in the garment sector, its entrepreneurs have been able to build this industry primarily because they are able to import the raw materials and capital equipment relatively easily, and are able to capitalise on the country's one homegrown competitive advantage: its industrious, hard-working, disciplined, and skilled workforce. Individual women working in Bangladesh's garment industry have gained opportunities in a society where opportunities for women's employment are otherwise limited. That the majority of the workers are women has huge sociological benefits in a conservative society, as it leads to the economic empowerment⁶¹ of women. As more women are a part of the workforce, they are able to exercise their 'power to choose,'⁶² as they have access to income and resources. However, their ability

60 <https://www.reuters.com/article/us-bangladesh-garments-special-report/special-report-how-textile-kings-weave-a-hold-on-bangladesh-idUSBRE9411CX20130502>

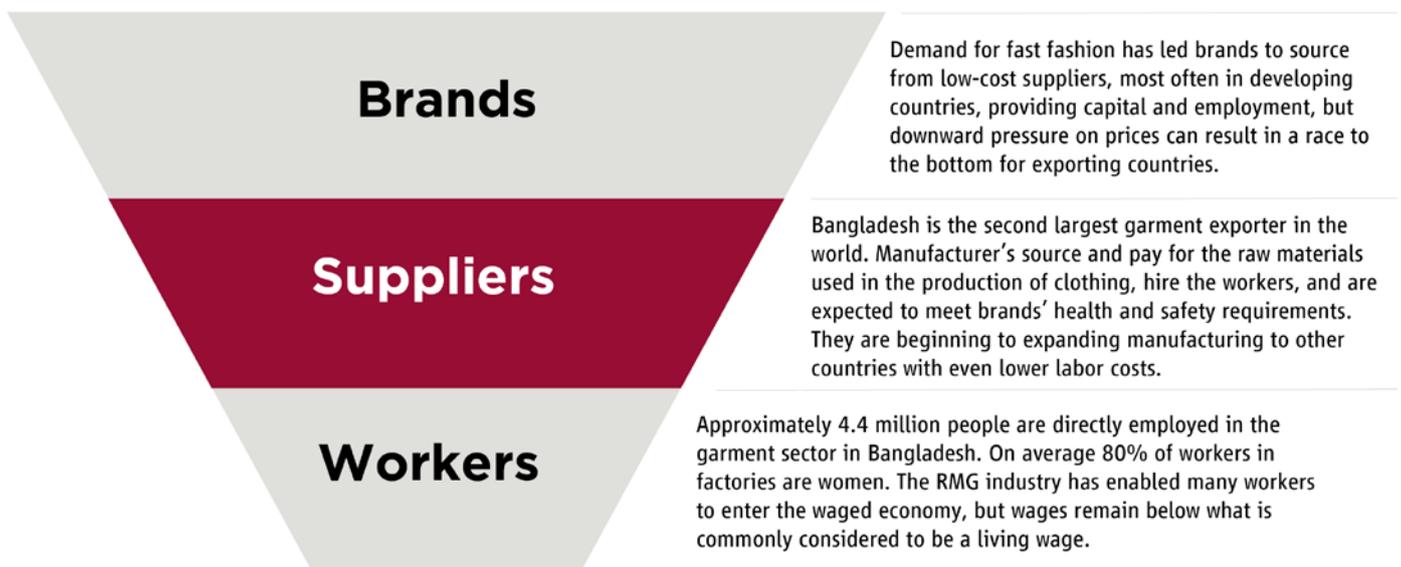
61 <https://www.worldbank.org/en/news/feature/2017/02/07/in-bangladesh-empowering-and-employing-women-in-the-garments-sector>

62 Kabeer Naila *The Power To Choose: Bangladeshi Garment Workers in London and Dhaka* (Verso, 2002)

to organise collectively is undermined because of politicised trade unions⁶³ which are often hierarchical and dominated by men, though Bangladesh has many examples of female led labour movements outside of the formal union structure which have made improvements in the industry over the last several decades. Nevertheless, structural inequalities continue to persist in Bangladeshi society which limit women's voice in many other aspects of their lives.

Many Bangladeshi garment workers involved in setting up trade unions — a fundamental right protected by the Bangladesh constitution — face violence, intimidation, threats, and loss of employment.⁶⁴ International organisations have pointed out the links between weak unions and poor industrial safety in the RMG sector.⁶⁵

Figure 2. RMG INDUSTRY FUNNEL



63 Taher, Md. Abu. "Politicisation of Trade Unions: Issues and Challenges in Bangladesh Perspective." *Indian Journal of Industrial Relations* 34, no. 4 (1999): 403-20. Accessed March 8, 2021. <http://www.jstor.org/stable/27767614>.

64 "Whoever Raises their Head Suffers the Most." *Workers' Rights in Bangladesh's Garment Factories.* HRW, April 2014, Pg. 30, Dina Siddiqi

65 International Labour Organization Trade Unions in Bangladesh: Promoting Safe and Healthy Workplaces in the Readymade Garment (RMG) Sector (https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-dhaka/documents/publication/wcms_615874.pdf). A staff report for the US Senate Foreign Relations Committee too noted concerns in a report in 2013: <https://www.govinfo.gov/content/pkg/CPRT-113SPRT85633/html/CPRT-113SPRT85633.htm>

The Business and Human Rights Framework

The UN Guiding Principles for Business and Human Rights (UNGPs) are a set of guidelines consisting of 31 principles implementing the United Nations' "Protect, Respect and Remedy" framework for human rights and transnational corporations and other business enterprises.

Under the UNGPs, the responsibility to protect human rights rests with the state. Business has the responsibility to respect human rights, and in the case of the human rights of the workers in Bangladesh's garment factories, that responsibility is shared, with suppliers bearing direct responsibility and brands having indirect responsibility.

States have a legal duty to respect, protect, and fulfil human rights. Bangladesh has ratified seven of the eight core conventions⁶⁶ and several other conventions of the ILO. It has passed enabling legislation in some areas, but international critiques of labour rights in Bangladesh, compiled by unions and human rights groups, show that Bangladesh's performance has been uneven. Workers have had to struggle to form or join independent unions.⁶⁷ There have been tragic incidents of violence, including some instances of violence against union leaders⁶⁸ and sometimes, murder.⁶⁹ High unemployment has created a lopsided situation where demand for jobs is high, which weakens workers' bargaining power. Bangladesh has had several glaring examples of health and safety violations which led to disastrous outcomes, including deaths. Factory inspections do take place – both from the state and from auditors appointed by the brands - but their effectiveness has been questioned. If Bangladesh were to implement its existing laws, the situation could show improvement, and in some areas, immediately so.

The UNGPs on Business and Human Rights affirm that all companies have an independent responsibility to respect human rights and to demonstrate that they do so through ongoing human rights due diligence processes. As direct employers, companies have duty-of-care obligations, which includes health and safety at workplace, and as such, they are responsible to ensure that workers are safe and not exposed to the pandemic. And should workers fall sick, they have certain legal obligations, including offering sick leave and pay, access to healthcare, and safe return to work when the workers are fit and able to do so.

This idea of duty of care is defined differently in different jurisdictions, but its core principles include:

- defining the job clearly and assessing risks, including health risks;
- ensuring that the work environment is safe;
- providing training;

66 The core conventions are: Freedom of Association (Convention 87), Right to organise and collective bargaining (Convention 98), Forced labour convention (Convention 29), Abolition of forced labour (Convention 105), Minimum Age Convention (Convention 138), Worst forms of child labour (Convention 182), Equal Remuneration (Convention 100), and Discrimination (Convention 111).

67 Human Rights Watch: 'Bangladesh: Garment Workers' Union Rights Bleak' (21 April 2016) <https://www.hrw.org/news/2016/04/21/bangladesh-garment-workers-union-rights-bleak#>

68 Greenhouse Steven 'Union leaders attacked at Bangladesh factories, investigations show' (The New York Times, 22 December 2014) <https://www.nytimes.com/2014/12/23/business/international/attacks-on-union-leaders-at-asim-factories-in-bangladesh-are-documented.html>

69 Human Rights Watch: 'Bangladesh: Five years on, no justice for Aminul Islam' (3 April 2017) <https://www.hrw.org/news/2017/04/04/bangladesh-5-years-no-justice-aminul-islam>

- ensuring that workers don't work excessive hours;
- ensuring time and areas for rest and relaxation; protecting staff from bullying and harassment;
- protecting workers from discrimination; ensuring communication channels for feedback; and,
- consulting workers on issues that affect them.

Bangladeshi suppliers interviewed for this report said they took great care to protect their workers. They closed factories when required to do so, and reopened factories when instructed to do so when it was safe to do so. They also said they had made sure that they had redesigned the factory floor, creating adequate space between various machines to ensure social distancing; measured workers' temperature, sometimes several times in a day; built washing facilities; made working hours flexible; installed curtains between machines; and provided sanitisers, and personal protection equipment. They also paid the legally-mandated 65% of the salary to workers during the closure.

The UNGPs apply to all businesses – large and small, privately-held or publicly-listed, operating in one country or many, and regardless of whether their ownership rests with private entities or if the state has a stake. Guiding Principle 15 requires a business enterprise to 'have in place policies and processes appropriate to their size and circumstances, including:

- a. A policy commitment to meet their responsibility to respect human rights;
- b. A human rights due diligence process to identify, prevent, mitigate and account for how they address their impacts on human rights;
- c. Processes to enable the remediation of any adverse human rights impacts they cause or to which they contribute.

That notion – *cause* and *contribute* – is crucial to our understanding. The UNGPs are clear in stating that the responsibility to respect human rights requires companies to have policies and processes in place to prevent and mitigate any risk of *causing* or *contributing* to adverse human rights impacts. Many brands have their own codes of conduct which are drawn from a variety of international standards, including the UNGPs. Brands set their requirements based on those codes of conduct. To monitor implementation, they appoint auditors. While such audits are necessary, critics have questioned the auditors'⁷⁰ effectiveness. If the brands have identified risks and it can be reasonably concluded that they are responsible for either causing or contributing to adverse impacts, then they are to provide for or cooperate in remediating the harm. The remediation may be judicial – in which case companies should cooperate with the due process, or agree to non-judicial mechanisms such as dialogue or mediation to reach an effective remedy.

Another crucial term is *direct linkage*. If a company's operations, products or services are directly linked to an adverse impact due to business relationships, it has to use its leverage to identify what can be reasonably done to address the impact and explore options to prevent or mitigate the adverse impact. Principles 17 to 21 elaborate on what due diligence means – assessing impacts, integrating and acting upon the findings, tracking responses, and communicating how the impacts are being addressed. While

70 Terwindt Carolijne 'Social Audits in the Textile Industry: How to control the controllers?' (Business and Human Rights Resource Centre, 4 February 2019) <https://www.business-humanrights.org/en/blog/social-audits-in-the-textile-industry-how-to-control-the-controllers/>

the principles acknowledge that the responsibility might vary depending on the size and complexity of the operations, the exercise has to be ongoing. Companies are expected to have meaningful consultations with appropriate stakeholders as part of their due diligence process.

These are subjective terms, and interpretation can vary. As this report shows, in spite of Bangladesh's unique characteristics – a history of catastrophic incidents and the lessons derived from them, and ongoing social audit programmes –the companies, both brands and suppliers, were stunned by the magnitude of the pandemic. But they had some standard operating procedures in place to respond.

Bangladesh has trade unions, some of which are independent, but conversations with union leaders show that they did not believe the suppliers took sufficient steps to protect workers, and brands did not pay sufficient attention to the situation. International civil society groups which tracked and monitored brand responses and launched campaigns say that the brands began responding meaningfully only after the first few weeks, and their responses were uneven. There are no clear rules about what constitutes meaningful consultation, and opinions will differ about their effectiveness.

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Advocacy campaigns target brands because they have higher visibility, but the extent to which the brands can make meaningful changes on the ground varies.

The rights-holders in this case, are the Bangladeshi garment workers. They are employed by Bangladeshi suppliers. To that extent, the suppliers bear direct responsibility for their well-being. They are responsible for paying them wages and they bear the direct duty of care responsibility. Brands are not direct employers of the workers. Their responsibility is indirect, and their actions can contribute to the impacts the workers face, and they are indirectly linked to the workers.

The brands took one or more of the following actions at the onset and during the pandemic:

- Providing information about best practices
- Intervening on behalf of suppliers to enable liquidity for their operations
- Negotiating with suppliers to understand their situation
- Accepting goods that they had contracted to buy
- Paying the suppliers for goods they had contracted to buy
- Monitoring and auditing the situation in factories

Their performance, as seen in this report, was mixed. Most brands provided the information and guidance about known best practices in preventing the spread of the pandemic as well as guidance of international standards on hygiene and use of protective equipment, including the protocols that are recommended by international organisations. A few brands intervened with financial institutions to enable lines of credit for suppliers. With a few exceptions, most of the brands initially asked for suspension of shipments but responded to suppliers once pressure mounted with media coverage and activism and the economic situation became clearer to them, renewing negotiations for shipments and payments. Most brands also did not invoke the *force majeure* provisions in their contracts, even though about half of those interviewed had delayed accepting products or delayed payment. No brand could carry out direct inspections, mainly because travel was not possible.

None of the brands could assure suppliers at the outset that they would honour all contracts, or that they would pay suppliers on schedule. No brand interviewed for this report provided any material or financial assistance or cash relief, nor provided grants to suppliers to acquire personal protection equipment, redesign factories, install wash areas, or provide sanitisers. They all saw these as the suppliers' responsibilities.

The brands' actions may not have violated any law. But the effect of those actions (including inaction, such as delayed payment) contributed to adverse impacts on workers' rights. UN Guiding Principle 19 calls upon business enterprises to integrate the findings of their assessments and take appropriate action. Such integration requires assigning responsibility at appropriate levels within the organisation and allocating resources and developing oversight processes to enable effective responses. The UNGPs do not specify what actions to take; they expect business enterprises to act to mitigate harm if they have caused, contributed to, or are directly linked with the harm, and in so doing, use their leverage.

Brands certainly had the leverage – the fact that some brands intervened with financial institutions to extend credit to suppliers reveals that. While they did not specifically cause harm, their decision to delay payments or suspend orders (in some instances cancelling them, though this does not apply to the brands interviewed) did contribute to adverse impacts on workers' livelihoods. Brands had executives authorised to have meaningful consultations with suppliers, stakeholders, and investors. How effective they were internally, in shaping and influencing corporate response, which includes legal, finance, and marketing teams, varied.

It is apparent that only a few brands acted in ways that showed that they truly absorbed the full extent of the impact and committed early to pay in full for existing orders. This is noteworthy, since the workers are the employees of the *local* suppliers, and not directly of the *international* brands.

It is beyond the scope of this report to speculate if the brands had sufficient information to predict what kind of resources would be needed to ensure that the most vulnerable people in the chain, the workers, would not be left helpless, because nobody knew how long the pandemic would last and what its impact would be on the economy, markets, and consumer preferences. It is also worth noting that the views within each brand were not necessarily unanimous. Some executives wanted to preserve cash; some wanted to adhere to the letter of the contract; and those interacting with the civil society wanted an approach more consistent with human rights. Arguably, advocacy groups' lobbying and adverse media publicity spurred reputation-conscious brands to act, as executives within the brands who wanted to take an approach more aligned with the brands' human rights responsibilities felt emboldened to do so.

Brand executives were unanimous in saying that they acted responsibly under extremely difficult circumstances. Suppliers were critical of brands in general, but they too said that some brands did act responsibly, although a few did not. It should also be noted that the financial impacts on brands were real: some companies did eventually go bankrupt.

However, Bangladeshi labour groups remain unconvinced; they believe that between the suppliers and brands there were sufficient resources to protect the workers. This shows a clear need for transparent communication from suppliers and brands about their roles, responsibilities, and actions undertaken to mitigate adverse impacts on workers. Transparency is the basis of UN Guiding Principle 21, which calls on business enterprises to provide information in an accessible format frequently, without undermining commercial confidentiality.

In the ultimate analysis, while many companies can state that they identified the risks and impacts, the extent to which they prevented and mitigated harm varied, and their actions, including order

cancellation, or delaying payment – regardless of their intent – had hard knock-on effects through the supply chain, impacting workers adversely.

The brands have described what they have done during an extraordinary crisis. They acknowledged that the workers faced hardships, but they said they understood their contractual commitments and the limits of their obligations. When payments are delayed because of circumstances beyond the control of the brand or the supplier, and the impact of which is felt by those least able to protect themselves, there is a clear need for a financial mechanism to protect the vulnerable. How to develop these mechanisms is a challenge and requires a systemic response.

Bangladeshi suppliers do bear greater responsibility, since the workers are directly employed by them, but they say their hands are tied by the terms of their contracts. While consumers are familiar with brands, only a small minority, if any at all, can name even the largest supplier. Advocacy campaigns target brands because they have higher visibility, but the extent to which the brands can make meaningful changes on the ground varies. And yet, just as companies in other industries have zero tolerance policies to ensure that high standards are maintained to ensure and protect consumer and product safety, failing which there may be significant financial liabilities, brands too need to explore and examine similar approaches when workers further down in their supply chain face grave risks. High-end retail shops that sell diamonds and jewellery do not directly employ the workers who work in the mines or cut and polish the diamonds. And yet, laws and regulations governing conflict minerals have created certification schemes and other mechanisms that require due diligence and accountability from the high-end retailers. To be effective, advocacy organisations should develop similar approaches towards the RMG industry.

Finally, it is worth examining why the Bangladesh government stipulated a furlough pay rate which was, in effect, a 35% pay cut for workers during the lockdown, given how low the wages already are. Was the downturn so steep that the suppliers could not pay the unpaid wages – approximately \$136.4 million, assuming \$31 per worker for the 4.4 million workers over the monthlong lockdown?

The government cannot assume that the suppliers would cover the residual amount from its stimulus package. And the suppliers said they did not have sufficient reserves to cover the gap. As Bangladesh enters another lockdown in April 2021 at the time of writing, clearer policies and directives are needed to prevent the recurrence of the past. Even if the government does not have a direct role in the negotiations between brands and suppliers, it has an obligation to ensure social protection, so that in the event of brands and suppliers being unwilling or unable to protect workers, there is a safety net.

PART 2

Responses to the Pandemic



Responses to the Pandemic

2

Brands

Corporate responses to dealing with the COVID-19 crisis were varied. Several brands acted in ways that had positive impacts throughout their supply chain. In some instances, the actions were “business as usual” and not a departure from the past. But according to civil society monitors, the actions of many brands were extremely detrimental to their suppliers and ultimately for the workers at the bottom of the chain.

The pandemic was unprecedented and unanticipated. There are however unique characteristics in the Bangladeshi RMG sector that prepare the brands and suppliers for the unexpected, given that the country that has had to cope with natural disasters such as cyclones and flooding, political unrest including extended periods of *hortal*, or strikes, and industrial accidents.⁷¹ As one executive put it: “Disruptions are not unique to Bangladesh, because of flooding, power outages, rolling blackouts.” Most brands interviewed for this report had long experience of working in Bangladesh and understood the practical realities of how the country operated.

This has meant that both international companies and local manufacturers have some idea of how to respond to an unexpected crisis, although nobody could have predicted the scale of the COVID-19 pandemic and its global ramifications. No brand interviewed for this report had anticipated a crisis of global proportions. While international brands as well as local companies experienced a downturn during the SARS epidemic of 2002, one executive said:

“It is extremely difficult to compare the situation created by COVID-19 pandemic to any other crisis we have faced before, since for as long as our company has existed, we have not faced a global crisis where the entire global value chain is paralysed.” Another executive said: *“I don’t think really anyone has been caught up in a dual, intertwined series of global crises of this magnitude with this speed of onset: a global health crisis that in turn precipitated a shock to the global financial system, and then shut down related systems.”*

Businesses had learned valuable lessons from the Rana Plaza disaster. *“This is not first crisis we have been managing at the industry level around health and safety, however, never did we manage it on a global level. All the experience we have come from country-specific context, which still helped us in navigating the COVID-19 crisis to some extent,”* one executive said. What the Rana Plaza experience taught brands was the need to collaborate with other brands and suppliers as well as NGOs, which had created two initiatives, the Accord and the Alliance.⁷² One executive noted that following Rana Plaza

71 As one executive told us: “But, in Bangladesh specifically, the collapse at Rana Plaza and the fire at the Tazreen Fashions factory, was a pretty significant wake up call for the whole industry.”

72 Accord on Fire and Building Safety in Bangladesh (<https://bangladeshaccord.org/>).

the company established a social sustainability team as a core team, dedicated to improving worker conditions and rights, and drawing on sustainable development goals and women empowerment principles.⁷³ *"You can't win the battle if you are alone,"* the executive added, *"so it is really time to collaborate with other brands, unions, employer associations, relevant NGOs and governments."*

In hindsight, collaboration could have made a difference if there had been better systems for communication prior to the precipitous drop in demand that began in early 2020. In the United States alone, nearly \$100 billion in retail spending disappeared in March 2020, and apparel retailers were receiving projections indicating that they should expect a 79% decrease, or \$17 billion less revenue in April 2020 compared to April 2019. A special report, *The State of Fashion 2020: COVID-19 Update* published by the Business of Fashion and McKinsey in April 2020 projected that if stores remained closed for two months, 80% of publicly listed fashion companies in Europe and North America would be in financial distress.⁷⁴ In response, many brands started cancelling orders with suppliers in an attempt to protect their balance sheet and their employees. According to a *Better Buying Special Report*,⁷⁵ 93% of Bangladeshi suppliers reported reductions in expected orders, more than in any other country.

BGMEA started collecting data from individual factories in early 2020 and reported the total value of cancelled orders to be around \$3.7 Billion by April 2020. Of the buyers fully or partially cancelling or putting their orders on hold, about 470 were from the US, 280 from the UK, 180 from Italy, 170 from Canada, followed Germany and France, with approximately 150 and 140 buyers, respectively.⁷⁶ By 20 May 2020 many of the largest brands had reinstated up to 58% of their initial cancellation.⁷⁷ In addition to cancellations, many suppliers were pressured into accepting discounts or longer payment terms. Suppliers indicated that they had no other alternatives but to accept lower prices for the orders that had already been placed and often times completed. In response, Bangladeshi suppliers were forced to adjust their production capacity and either fire workers, reduce their hours, or switch to hiring on a contract-basis.

Some factories redesigned their plants to ensure social distancing between workers by moving machinery or keeping alternate machines unoccupied, while others placed plastic or cloth curtains between individual units. Though union leaders say that in the early phase of the pandemic social distance was maintained, conditions were relaxed as the months passed.

Given the power equations in the global supply chain mentioned earlier, the brands were able to dictate terms initially, such as asking the manufacturers to stop producing until further notice, and in some cases, even to cancel contracts. Those cancellations hurt Bangladeshi manufacturers and workers deeply – some factories had to consolidate and close down, and others had to drop entire lines of manufacture or think of selling products at a discount in domestic markets or elsewhere. The brands said they had little choice but to pause, since nobody knew how long the lockdowns would last, when malls and boutiques would reopen, and what kind of protocol would be established to resume commerce. Online commerce took off, but it took some time, since even the shipping companies were in the process of revising their operations.

73 <https://www.weeps.org/>

74 Amed, I., et al. *The State of Fashion 2020: COVID-19 Update*. BoF and McKinsey. 1 April 2020.

75 "Better Buying Special Report: Guidelines for Better Purchasing Practices Amidst the Coronavirus Crisis and Recovery." Better Buying Institute, 02 April 2020, <https://betterbuying.org/wp-content/uploads/2020/04/Better-Buying-Special-Report-COVID-19-Guidance-for-Brands-and-Retailers.pdf>

76 Sushmita S. Preetha and Zyma Islam. *Is foul play the new normal?*. 30 June 2020. The Daily Star. Sourced from: <https://www.thedailystar.net/business/news/you-suffer-we-survive-1920733>

77 *ibid*

Within brands there were different opinions. Some executives were keen to ensure that the company remained solvent and wanted to protect corporate liquidity by delaying payments or cancelling contracts. Other executives, with regular contact with Bangladeshi suppliers, unions and international stakeholders, viewed the issue bearing in mind the company's long-term interests and argued internally to safeguard relationships and protect workers' rights. Some of them have worked on sustainability issues for years, and a few have been former labour rights activists. In discussions with his senior executives, one executive emphasized the human dimension and impacts of decisions being made. It was not an easy issue to discuss, he was aware, but he nonetheless appealed that the company look beyond its interests. While some international brands did suffer financially, and a few declared bankruptcy, some that had pleaded their inability to honour contracts eventually declared profits during the year⁷⁸ and paid dividends to their shareholders, which has contributed to the suspicion and resentment all brands have faced.

Besides, when a brand goes bankrupt, the problem becomes acute for suppliers, because they are considered unsecured creditors. That means they get paid after secured creditors – lenders and banks – are paid. This often leaves them with significantly less money than what they are owed. This cascades down, and ultimately, the cost of the bankruptcy is borne by the poorly-paid workers at supplier factories. Usually, it means they lose their jobs.

The Use of *Force Majeure* Clause

Most companies have contract provisions specifying circumstances under which contracts can be cancelled. Called *force majeure*, the clause in the contract aims to cover circumstances beyond anyone's control, such as an unforeseen natural disaster, a global crisis, severe political unrest, the outbreak of a war, and so on. A pandemic certainly qualifies as one such 'act of God'. Most executives at brands interviewed for this report were either unaware or unwilling to state the precise language of such contracts. One executive said that all contracts have such 'boiler-plate' language to cover unforeseen circumstances. One of the brands admitted they had invoked the clause in late March, only to rescind it in June, once normalcy returned.

While most brands may not have specifically invoked the clause, they did cancel or put some orders on hold. But all brands interviewed said that eventually they paid for everything that was contracted for. However, one company not only refused to invoke the clause; it publicly stated its commitment to honour contracts, for which civil society groups praised the company.

The comments of various executives are illustrative of why enforcing force majeure clauses was not in a brand's best interest:

- "We wanted a win-win solution. Suppliers are our partners."
- "It is important that our suppliers are still there once we recover from the crisis and we have a better idea of the consumer demand."
- "We were driven by a long-term vision and partnership."
- "You have to find solutions that are actually going to benefit the manufacturer as well as ourselves."
- "We cannot kill our supply chain."

⁷⁸ According to the Business and Human Rights Resource Centre, which maintained a tracker measuring brand promises and performance, some two-thirds of international brands declared profits at the end of the year.

Relying exclusively on contractual language can destroy relationships. Once the economy regained a semblance of normalcy, the brands said they resumed normal practices. The executive of the company that had cancelled contracts said: *"We had one-on-one discussions with every supplier to understand the impacts that the force majeure had on them (to understand) the granularity."*

As business and human rights experts Anna Triponel and John Sherman have argued: *"In order to keep their social licenses after the pandemic, companies should consider the ability of their suppliers to survive a force majeure provision being triggered. Companies should assess the pre-existing vulnerability of supply chain workers who would be laid off, and whether they will have an adequate social safety net and benefit from tailored fiscal support. And they should advocate collectively with their peers to press governments to strengthen that safety net."*⁷⁹

During the interviews several brands said that they were committed to paying for finished products. If they had to cancel orders, they honoured their contracts and paid for what was already produced. Retailers who honoured their suppliers' commitments usually had direct relationships with their suppliers or were consolidating their supplier base to deepen relationships. Research has shown that retailers with direct supplier relationships can deal with crises better than those with traditional transactional relationships.⁸⁰

Notably, H&M announced on 29 March 2020, that it would take delivery of already produced garments as well as goods in production,⁸¹ becoming one of the first large companies to commit publicly that it would honour contracts. H&M sources orders worth \$4 billion from more than 230 Bangladeshi factories. Brands such as Adidas, Fast Retailing, New Balance, Nike, Patagonia, and Under Armour also publicly stated their commitment to uphold supplier contracts by paying for finished products, and products where work had already begun.⁸² Further, a few brands that had originally cancelled orders changed course and ultimately decided to pay for all orders.⁸³ The section on 'Countervailing Campaigns' in this report goes into further detail on specific brand responses.

A few brands partnered with the International Finance Corporation (IFC)'s global supply trade finance programme so that the suppliers would get paid faster. Maintaining liquidity was the key to ensure that the supplier survives beyond the crisis. Other international institutions were also brought in to provide credit or ensure ways the suppliers could get prompt payment for letters of credit. According to one executive, they needed to understand supplier viability, as well as what other brands were asking them to do:

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There were people who would continue to take deliveries of those goods, even when their shops were closed. There were people who did not revise their payment terms, even though they were not selling. They were people who continued to place orders, even though they knew that they would not be able to sell those goods

—
Bangladeshi Supplier

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79 https://www.hks.harvard.edu/sites/default/files/centers/mrcbg/files/TriponelSherman_ForceMajeureArticle_31March2020_Final_O.pdf

80 Reinecke, J., Donaghey, J., Bocken, N. & Lauriano, L. "Business Models and Labour Standards: Making the Connection." Ethical Trading Initiative. 2019. https://www.ethicaltrade.org/sites/default/files/shared_resources/Business%20models%20%26%20labour%20standards.pdf; Saxena S. and Baumann-Pauly, D. "Off the radar: subcontracting in Bangladesh's RMG industry." In Saxena, SB (ed.). Labour, Global Supply Chains, and the Garment Industry in South Asia: Bangladesh After Rana Plaza, Routledge, Oxon. 2020.

81 Sushmita S. Preetha and Zyma Islam. Is foul play the new normal?. 30 June 2020. The Daily Star. Sourced from: <https://www.thedailystar.net/business/news/you-suffer-we-survive-1920733>

82 BHRRC - <https://www.business-humanrights.org/en/blog/resilient-workers-in-fragile-supply-chains-fla-call-for-international-action/>

83 "Major fashion brands record profits while vulnerable workers languish in poverty." Business and Human Rights Resource Center. 11 November 2020. Retrieved from <https://www.business-humanrights.org/en/from-us/media-centre/major-fashion-brands-record-profits-while-vulnerable-workers-languish-in-poverty/>

"We paid for 100% of our cancelled goods during that early time where no one really knew what was going to happen. We worked with our suppliers to figure out how we could be flexible on delivery times after the reopening and really focused on our purchasing practices, and tried to put [in place] realistic timelines, and work with our suppliers so that we were delivering goods in a way that allowed those factories to operate safely... We also wanted to understand what they [the suppliers] were being asked to do for others and make sure that we weren't only thinking about the impact of our orders."

In addition to financial support, retailers' interactions with suppliers on COVID-19 included health precautions and modified business processes. Executives interviewed for this report said their companies had provided factories with advice drawn from credible international standards (to avoid duplication) on worker safety, information on social distancing, cleaning and disinfecting protocols, tracing COVID-19 positive workers and isolating those who were unwell. One brand even came up with a creative way of disseminating health related information:

*"We recognized, through our teams on the ground and our local partners, the role that stigma and misinformation was playing. In Bangladesh our local team created an audio drama called *sustha thakuna*, which means 'stay healthy' [in Bengali]. We've found that drama with a bit of comedy and a bit of lively music really helps. So our team, while in lockdown, recorded this brilliant drama set in a factory... We worked with the factories to play that drama over their PA system, because we know that it's a really effective way of reaching workers."* One brand took the unique approach of donating directly to local hospitals. The brand executive explained the reasoning behind that decision by saying that in doing so they were reaching out to more people than only the employees of their suppliers.

Of course, the brands' advice needed to be implemented at the factory level and some factories in Bangladesh made every attempt to do so. As one supplier mentioned, this included using the month of closure for sterilizing the factory, spraying ionized water, establishing washing bins for easy access for workers, monitoring workers' temperature at the factory gate and upon entering the work floor, providing surgical masks to all workers, and granting leave with pay to pregnant workers. This factory had three doctors on call at the factory and those who were infected were sent home or to the local hospital.

Other brands mentioned working on refining their purchasing practices during the pandemic with the help of ACT (Action Collaboration Transformation),⁸⁴ an agreement between 21 global brands and IndustriALL⁸⁵ (the global union that represents garment, textile, and footwear workers), to achieve a living wage for workers through collective bargaining, linked to purchasing practices. Some companies also endorsed the *Call to Action*, an initiative by the International Labour Organization (ILO) and the International Organisation of Employers (IOE). They also accepted orders without invoking contractual penalties so that, according to one brand, *"the factories didn't continue their operations as usual (pre-pandemic) just to keep up with deadlines, but respected the Occupational Health and Safety (OHS) regulations set by the government; even if it meant delay in order shipment."* Even when production slowed down, some brands did not cancel orders. One brand paid for the cost of fabric in advance and put into place a vendor finance scheme. *"I didn't have a single supplier come back saying that they couldn't pay their workers. That they could not pay on time, and stuff like that,"* the executive said.

Historically, responsibility for promoting appropriate labour standards and factory improvements has always been at the locus of production. This is evidenced by the long history of third party monitoring

84 ACT members can be found here: <https://actonlivingwages.com/members/>

85 The BHRRC tracker monitors these 21 brands.

and corporate social responsibility (CSR) initiatives and the interventions after the 2013 Rana Plaza disaster. All of these initiatives hold suppliers in the Global south accountable for both the labour rights violations that occur and for the strategies to mitigate them. Similarly, the responsibility for managing this crisis was primarily on the suppliers, rather than the retailers: *"When the guidelines had been given, how the manufacturers reacted to it, how the workers reacted to it, responded to it, was absolutely a beauty to look at. The factories came up with their own creative solutions,"* said an executive. And yet, in all cases, the costs for any changes or upgrades or "creative solutions" were borne completely by the suppliers.⁸⁶ According to a brand executive, *"Suppliers bore the cost of addressing COVID-19, but this is typically the case for any type of emergency response. Brands only provide guidance. The guidance provided was considered "very comprehensive" by suppliers and helped them prepare."*

At least one supplier saw the guidance provided as a "tick box" exercise that brands engaged in, without providing necessary support, sharing that: *"I had one customer literally asking me every month, 'when are you going to pay your salaries this month, are you doing this, are you doing that.' But none have helped at all, with the salaries or anything else, and yet they're making me feel guilty that my salary is two days late. We couldn't pay the salaries [of the workers] by the seventh of every month but we were paying them every single month. They were checking that their suppliers were compliant. However, in this case, no one [customer/brand] offered extra help. It didn't even occur to them that they have to take any responsibility for even the materials payment or the worker salaries. They [the brands] were following up with me and I was feeling guilty... 'My god, we're five days late this month.' But they're doing it so that they can check their boxes, so that their registered suppliers are compliant, but they don't seem to have a headache about how you're actually going to pay."*

While the brands interviewed for this report said they eventually paid their suppliers, there were instances documented by civil society groups and alluded to by suppliers, where other brands asked for large discounts or rebates⁸⁷ in exchange for agreeing to take these orders. The pressure on suppliers became so acute that the end result was that local factories were forced to lay off garment workers around the world. Ultimately, the ones who bore the burden were the most vulnerable and least capable of shouldering the cost of the pandemic.

These actions have been devastating for many Bangladeshi suppliers, as one explained: *"There are some cases, and I won't name the brand, where about 150,000 yards of fabric was imported, the order was placed, and afterward [the fabric arrived] the brand said, 'sorry. I will not take this order.' Now, look at my situation because I have imported this fabric. Now I have to return it because it was duty free. What will the factory do?"* This impacted their ability to pay their workers, *"Buyers have the freedom to say, 'I will take it after two months.' But what about the entrepreneurs? Can they say to their workers, 'sorry, this month I cannot pay you?'"*

86 Saxena, SB (ed.). (2020) makes a similar point in "Labour, Global Supply Chains, and the Garment Industry in South Asia: Bangladesh After Rana Plaza," regarding the lack of financial support by global retailers for improvements in Bangladesh's factories post-Rana Plaza.

87 Anner, et. al (2020) finds evidence of large retroactive discounts demanded by retailers: "Since prices reflected in the trade data involve orders placed—and prices contractually agreed—before the pandemic's primary effects were felt in the US in March, the only means through which the reductions in unit price apparent in the data could have been achieved is the imposition by brands and retailers of retroactive discounts—below the agreed contract price for the goods in question. This is consistent with reports from suppliers, corroborated in some cases by buyer correspondence, that some brands and retailers demanded retroactive discounts of suppliers, beginning in March."

Figure 3. IMPACT ON SUPPLIERS⁸⁸

- 65% of suppliers reported that buyers have demanded price cuts on new orders that are bigger than the year-over-year reductions buyers usually ask for.
- As a result, 56% of suppliers have been forced to accept some orders below cost, and the majority anticipate having to continue to do so.
- On average, suppliers surveyed will have to wait 77 days after they complete and ship customers' new orders, to receive payment. Before the pandemic, the average was 43 days.
- A majority of suppliers said they have less than half the order volume now relative to the same period last year, and 57% reported that, if current patterns continue, it is extremely likely or somewhat likely that they will be forced out of business.
- 75% of suppliers reported that they have had to cut workers' hours as a result of buyer purchasing practices during the pandemic, with approximately one quarter of suppliers cutting working time by over 25%.
- On average, suppliers have let go 10% of their workers. They anticipate letting go another 35% of their workers if current trends (order volume and price reductions; delayed payments) continue.
- 34% of suppliers reported that buyers have given them no shipment date flexibility to allow for needed social distancing adjustments within factories. Another 51% said buyers have showed some flexibility, but not enough.
- Suppliers reported that when the pandemic disruptions first hit earlier in the year, 77% had at least some of their orders cancelled without payment from buyers. Currently, only 27% of these same suppliers say all or most of their orders have been paid in full.



K. Akter also described other actions that retailers took, even though they may not have directly cancelled orders:

"What they are doing is asking the factory to send the goods, so the factory gets the clearance from the brand, and the brand communicates with the shipping company... the shipping company then says they can't ship the order in the three months... so the factory cannot ship the product. On the other end the brand is saying that if the factory doesn't send the product now, then it will miss the season and they can't do anything with the product. It is a way of cancelling, but doing it in a different way by putting the shipping company in between. They say, 'that it is not my problem, it is the shipping company who is not able to ship because they do have more risks or they have less employment.'"

88 Anner, Mark. "Leveraging Desperation: Apparel Brands' Purchasing Practices during Covid-19." Center for Global Workers' Rights in Association with the Worker Rights Consortium, 16 October 2020, <https://www.workersrights.org/wp-content/uploads/2020/10/Leveraging-Desperation.pdf>

Suppliers

Suppliers, or local manufacturers interviewed for this report, said that the SARS epidemic of the past decade and the global financial crisis of 2008 had prepared them to deal with temporary interruptions. From the third week of March to early May there was no industrial activity – the longest shutdown in Bangladesh's history.

Manufacturers were acutely worried that the brands would declare *force majeure*. One supplier whose company employs fewer than a thousand employees, 85% of them being women, explained how some of the companies to which the company supplied simply cancelled contracts, stopping all conversation. "We had produced all the goods and they cancelled. Another buyer said – stop right now; we will tell you when to start. It was like seeing water coming up from a tsunami and not knowing when it was going to come down," the supplier said. In the case of this company, its fabric suppliers wanted prompt payment, which squeezed them further. The company had paid for its fabric and taken loans against expected revenues, and the buyers stalled. Letters of credit ceased to have any meaning, with the buyers not accepting their orders. "You have no leverage. You have to do what the others are doing. We were told to keep the material and not cut any material to begin making clothes. We'll see what we can take, they said," the supplier added.

“

Everybody loves their workers, otherwise we cannot survive. We want to keep them in good condition, physically, mentally, and financially. But for that you need money. Without it, even if you have the desire, you cannot do many things. Buyers have the freedom to say, 'We will take (the goods) after two months.' But can we tell our workers, sorry, this month we cannot pay you?

—
Bangladeshi Executive

”

With the onset of the European summer, orders began to resume. But some brands delayed accepting orders and deployed tough bargaining tactics to delay payment, or paid less, claiming the shipments were delayed.⁸⁹ In one instance, a Bangladeshi supplier was stuck with the unsold stock and they had to sell it to another buyer at one-quarter the price.

This financial exposure was compounded by the fact that when a company declares bankruptcy, the supplier is not considered to be a secured creditor. In other words, if a brand went bankrupt, and its assets were being liquidated, the supplier would often be at the end of the queue to be paid back, while secure creditors, such as banks, getting a higher priority. With the bankruptcies of some marquee brands – Edinburgh Woollen Mills, JC Penney, and Debenhams – the suppliers contracted with them suffered. H&M and Primark were singled out by some of interviewees for doing their best to abide by their contracts. "There were companies which continued to take deliveries of goods even when their shops were closed. These people did not revise their payment terms, even though they were not selling," one executive said.

⁸⁹ The BGMEA took up some of the cases involving two brands (one of which declared bankruptcy). In that instance, the retail group and a trade organisation which represents some of its Bangladesh-based suppliers locked horns after the organisation alleged that the firm had £27 million in unpaid debts to businesses which are members of the organisation. Source: <https://www.retailgazette.co.uk/blog/2020/10/peacocks-sale-at-threat-as-edinburgh-woollen-mill-faces-allegations-of-unpaid-bills/>

One union leader said, *"We have to single out H&M, they did great. They were the first to say they would pay for all the orders placed and they took everything in."*

Eventually, while the Bangladesh government required the factories to pay the workers 65% of their salary, the companies had to do so from their own resources, and did not receive any direct financial assistance from the brands. The government offered finance at a concessional 2% interest rate, lower than the prevailing market rate for corporate borrowing (the prevailing interest rate in March 2021 was 4.75%). The loan had to be used to pay wages, and the wages had to be distributed using electronic banking, which spurred the shift from face-to-face banking to online banking, necessitated by the pandemic. Bangladeshi suppliers say even incremental increases in worker salaries add up. An increase of \$10 per month, in a factory of 9,000 workers adds up to more than \$1 million per year – a cost the factory has to bear, since there is constant downward pressure from the brands to lower their costs.

One Bangladeshi executive believes the consumer should reflect on the economics of the industry and bear some responsibility. *"If they buy an item of clothing for \$29.90, would they mind spending another ten cents? That will not change their decision, but [when multiplied] those ten cents can change the lives of many workers; it can change our industry,"* he said. Though unrealised, the Nobel Laureate Muhammad Yunus had proposed the establishment of a so-called "T-Shirt Tax" after the Rana Plaza disaster, where consumers pay a small additional cost on the price of clothes to fund a garment workers' fund.⁹⁰

While the brands won't say so explicitly, adverse publicity generated by campaigning organisations naming companies that were cancelling orders or were delaying payments partly influenced their decision to act more responsibly. Once shipping resumed, business returned and frozen liquidity began to thaw. Brands could plan again. And lobbying by civil society groups goaded them into action. A combination of factors – greater clarity and understanding of the market, a sense of responsibility towards the supply chain, awareness of reputational damage, and persistent campaigning by international organisations – led to the industry regaining some normalcy. The following section on Countervailing Campaigns discusses how these campaigns came together.

90 "Yunus wants a 50-cent supplement on the price of clothes made in Bangladesh, to be paid into a garment workers' welfare trust." <https://www.theguardian.com/world/2013/may/12/muhammad-yunus-bangladesh-appeal>

The Impact on Workers

The impacts of COVID-19 on the garment sector⁹¹ inevitably had catastrophic consequences for some of the most vulnerable and poor workers in global supply chains. In March 2020, the statistics related to worker compensation were shocking:

Figure 4. IMPACT OF THE CRISIS ON WORKERS

98.1%

of suppliers indicated that buyers did not agree to assist suppliers with the cost of furloughing workers.⁹²

97.3%

of suppliers responded that buyers did not agree to assist suppliers with severance pay costs when workers were dismissed as a result of buyer in-process order cancellations.⁹³

72.4%

of furloughed workers were sent home without pay.⁹⁴

80.4%

of dismissed workers were sent home without their severance pay.⁹⁵

According to union representatives, in response to the pandemic, several brands asked to shave half the price off goods already produced, and workers' salaries were already cut by a third. Pregnant women were often singled out for layoffs, the consequence of which was that companies did not have to pay maternity benefits to the women.

To understand this impact on workers, a UC Berkeley-BRAC study interviewed 1,057 workers in Bangladesh in mid-2020. Findings from the survey⁹⁶ demonstrate how detrimental the COVID-19 pandemic has been to workers' physical and mental health and on their livelihoods: 87% said their factory had introduced new precautions against the COVID-19 disease, including giving workers new protective equipment (91%), encouraging more hygiene measures (77%), sending workers with symptoms home (66%), encouraging distance between workers (75%).

91 See Business As Usual is Not an Option (NYU - https://www.stern.nyu.edu/sites/default/files/assets/documents/con_047408.pdf)

92 Anner, Mark. "Abandoned? The Impact of Covid-19 on Workers and Businesses at the Bottom of Global Garment Supply Chains." Worker Rights Consortium, 27 March 2020, <https://www.workersrights.org/wp-content/uploads/2020/03/Abandoned-Penn-State-WRC-Report-March-27-2020.pdf>

93 ibid

94 Barradas, S., et al. "Un(der)paid in the pandemic. An estimate of what the garment industry owes its workers." Clean Clothes Campaign & Worker Rights Consortium. August 2020. <https://cleanclothes.org/file-repository/underpaid-in-the-pandemic.pdf/view>

95 ibid

96 Rabbani, A, Saxena, SB & Islam, MF. (2020), 'The Impact of COVID-19 on the Lives of Workers in the Bangladesh Garment Industry', Research Brief, Brac University Centre for Entrepreneurship Development, https://chowdhurycenter.berkeley.edu/sites/default/files/shared/docs/CC-BRAC_Covid.pdf

Even though many factories that supply to major brands had some preventive measures in place to protect workers' health, workers were still afraid of contracting the virus. 59% of the workers felt they are 'somewhat likely' or 'very likely' to get infected in their factory, whereas only 29% think they will contract it at home. One garment worker told the BBC, "I'm going to work every day and I'm full of fear... In my factory, there are so many of us working in such a small place, which increases the risk of COVID-19 infection. I'm scared for my life."⁹⁷

Protective measures are necessary, but the practicality of instituting measures to limit the transmission of a contagious virus is difficult, and probably even impossible, in high-density factory settings. According to K. Akter the COVID-19 protocols were quite short lived:

*"For one week they maintained some of those [safety protocols], but keeping distance in the factory is a real joke. It's practically impossible... First of all, they decided to restart the factories with 30% of workers, so they can maintain the distance and then gradually they will increase that, but they didn't keep that promise. One or two factories added the heavy plastic curtain between the workers. Some of them kept one machine empty in between two workers, but that lasted for only a week or so, and then everything went back to normal."*⁹⁸

Nearly half of the workers said they would not be able to self-isolate at home if they contracted the virus, even though 66% said the factory will send workers home if they show symptoms. Even more concerning is that 86% of respondents in a survey by the Manusher Jonno Foundation in Bangladesh in October 2020⁹⁹ said that they had suffered from symptoms of the virus (chills, sneezing, fever), but none of them said that they had visited a doctor. This is further evidence of the stigma associated with contracting the virus, the fear of reporting it, and the lack of provisions for workers, such as paid sick leave, if they do in fact get sick.

A labour activist noted that workers who coughed or were running a temperature were told by executives to go home and return to work only if they could show a report indicating they had tested negative. However, there was a shortage of polymerase chain reaction (PCR) tests, which medical practitioners use to determine if an individual has the COVID-19, and many workers were turned away when they came to get tested. It was also alleged that some reports were fabricated.

In the UC Berkeley-BRAC study, 82% of the Bangladeshi workers interviewed said the income they had in April-May 2020 was less than the income in February 2020.

“
These are poverty wages jobs, low paid jobs, but they can't afford to lose them. They walk 150 kilometres with their small children to come to the city so that they don't lose their jobs. Some came on cattle boats, they had to cross rivers, they had to change up to 10 different kinds of transport, and then walk, and they had to spend all their savings, whatever they had, just to pay the transportation to come to the city and save their jobs. And only once they've returned do they find out that the factory is closed for another three weeks. How can you [government and factory owners] be that irresponsible? The citizens and journalists, everyone was criticising them, saying that this is not how you should treat your people. But they did.

—
K. Akter

97 <https://www.bbc.com/news/world-asia-52417822>

98 While unions have spoken about this, workers may have been reluctant to speak openly, for fear of losing jobs.

99 Manusher Jonno Foundation . Initiative of Manusher Jonno Foundation Survey Period; 2020. Violence against Women and Children: COVID 19 a Telephone Survey. June 2020. <http://www.manusherjonno.org/wp-content/uploads/2020/03/Final-Report-of-Telephone-Survey-on-VAW-June-2020.pdf>

Some 77% said it was difficult to feed everyone in their household¹⁰⁰ and 69% of the workers ate less protein-intensive foods (meat, fish, eggs, and milk) from February to May. The reduction in protein consumption was noted in one study.¹⁰¹ Another study found that the average basic salary of 7,200 takas per month, while higher than the prevailing minimum wage (5,300 Taka that was set in 2016), is nonetheless low, as it is at “53% of the ‘living wage’ estimated by the Global Living Wage Coalition (13,620 Takas) and just 20% of the 36,385 takas estimated by the Asia Floor Wage.”¹⁰²

Less than half (45%) of the workers believed that they received a ‘fair wage.’” The issue of adequate wages for workers, while it has been a priority among workers’ organisations for over decades in this sector, is considered to be an “internal” matter by international labour rights organisations and global brands. Years of only incremental changes to wages, without reaching a fair or adequate wage, created extreme vulnerabilities for workers in Bangladesh during normal times. During an unprecedented economic shock, like the COVID-19 pandemic, low wages have resulted in serious compromises in consumption and asset depletion.

These vulnerabilities are further exacerbated when we analyse the salary figures by tenure and position; operator and helper roles (entry level positions in the factory) are the lowest paid and such jobs are primarily held by women. In the UC Berkeley-BRAC survey, 70% of operators and 82% of helpers were women. The gender pay gap is around 1,000 Taka per month. Women are also more likely to be responsible for the well-being of their children and families and face more anxiety and stress when they cannot provide for or feed their families.¹⁰³

When asked how they have coped during this period, 65% of women and 55% of men said they don’t save or use their savings to pay for food. Not being able to save puts workers at even greater risk for not being able to mitigate future economic or health crises that may occur. Some 92% said they reduce other expenses in order to cope. Workers may be cutting costs in other essential areas like health care, again putting them at great risk.

The dire situation of workers is further aggravated by the fact that there are very limited safety nets and social protections in Bangladesh. A report published by the United Nations Regional Bureau of Asia Pacific (RBAP)¹⁰⁴, broke down “social protection” into eight categories:

1. measures to boost affordable healthcare
2. sickness benefits ensuring income security during sick leave
3. unemployment protection, preventing job losses and supporting those who lost their jobs

100 Preetha Sushmita ‘The Sound and the Fury’ (The Daily Star 24 July 2020, cites studies which discuss how much workers need to spend to meet their mandated nutritional intake: “Another survey of 200 workers conducted in 2018 by Bangladesh Garment Sromik Samhati, a Dhaka-based labour-rights group, found that an average garment worker has the ability to spend BDT 1110 (USD 13) per person per month on food. However, the study found that a worker must spend at least BDT 3270 (USD 39) per month to meet the calorific needs, as determined by the Institute of Nutrition and Food Science at Dhaka University. This caloric requirement excludes food with higher nutritional value, like meat or fruits.” <https://www.thedailystar.net/opinion/the-sound-and-the-fury/news/ethical-business-not-one-way-street-1935149>

101 Khan, F., Misha, F., Murshid, N., Rabbani, A., & Talukdar, B. (2020). “The wellbeing of garment workers in Bangladesh during Covid-19- does gender matter?” Unpublished manuscript.

102 Schüßler, Elke, et al. “Garment Supply Chains since Rana Plaza: Governance and Worker Outcomes.” 13 August 2019, DOI: 10.13140/RG.2.2.26932.19842.

103 Khan, F., Misha, F., Murshid, N., Rabbani, A., & Talukdar, B. (2020). “The wellbeing of garment workers in Bangladesh during Covid-19- does gender matter?” Unpublished manuscript.

104 <https://www.undp.org/content/undp/en/home/librarypage/crisis-prevention-and-recovery/the-social-and-economic-impact-of-covid-19-in-asia-pacific.html>

4. old age, survivor and disability benefits
5. providing income support (i.e., social assistance, cash transfers)
6. family leave and care policies
7. modifying the payment of social security contributions and tax payments for enterprises; and,
8. an unspecified category called 'other measures'

According to the report, Bangladesh guaranteed only one (income support, or social assistance) of these eight recommended protections. Bangladesh's record in ratifying the conventions of the ILO has been mixed. Of the eight fundamental conventions, Bangladesh has ratified seven (it has not ratified Convention 138, on minimum age). Of the four governance conventions (which are considered as priority conventions) it has ratified two. And of the 178 technical conventions, it has ratified 26. Of the 35 conventions Bangladesh has ratified, 30 are in force, two have been denounced, and three abrogated.¹⁰⁵ Ratification of a convention is the first step; even after legislation is enacted, implementation may be uneven.

Workers keen to form independent unions have found it hard to do so, for example, and violent reprisals against workers are international trade unions have expressed grave concerns over lack of rights¹⁰⁶ and remedies and human rights groups have protested against persecution of unions and garment workers.¹⁰⁷ There have also been cases of violence against union leaders, though mercifully infrequent.¹⁰⁸

The focus on worker safety during the pandemic should not just be about trying to shield the workers from the virus. Safety also encompasses a sense of security to help workers deal with medical expenses, food expenses, and the risk of unemployment, among other things. For many garment workers during the pandemic, the choice came down to one between their own health and not being able to provide for their family, as there simply were not any other options to fall back on. As one garment worker put it, *"We are afraid of COVID-19 and heard a lot of people are dying of this disease. But we don't have any choice. We are starving. If we stay at home, we may save ourselves from the virus. But who will save us from starvation?"*¹⁰⁹

Workers faced critical challenges to their mental health and overall emotional wellbeing. 82% said they felt afraid that something awful might happen (in the last several days to nearly every day) and 71% said they felt down, depressed, or hopeless (in the last several days to nearly every day). The study, "The wellbeing of garment workers in Bangladesh during Covid-19- does gender matter?" by Khan¹¹⁰ found that garment workers overall and female workers in particular were worse off in terms of mental health scores, compared to their male counterparts.¹¹¹ The same study¹¹² finds that, "female RMG workers scored lower on the anxiety and depression scales, reported greater negative income shock

105 https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:103500#:-:text=Out%20of%2035%20Conventions%20ratified.in%20the%20past%2012%20months

106 <https://survey.ituc-csi.org/Bangladesh.html?lang=en>

107 <https://www.hrw.org/news/2017/02/15/bangladesh-stop-persecuting-unions-garment-workers>

108 See the case of Aminul Islam in IHRB's report 'Searching for the Common Ground' (2015, pgs 31-34) <https://www.ihrb.org/pdf/2015-12-Human-Rights-Defenders-and-Business.pdf>

109 Sakamoto, Maiko; Begum, Salma; Ahmed, Tofayel. "Vulnerabilities to COVID-19 in Bangladesh and a Reconsideration of Sustainable Development Goals." Sustainability, 30 June 2020, no.12: 5296, <https://doi.org/10.3390/su12135296>

110 Khan, F., Misha, F., Murshid, N., Rabbani, A., & Talukdar, B. (2020). "The wellbeing of garment workers in Bangladesh during Covid-19- does gender matter?" Unpublished manuscript.

111 *ibid*

112 *ibid*

compared to men, and higher levels of reduction in food consumption and the dietary diversity... Women appeared to be more worried both about the pandemic and their financial futures. The women, in particular, articulated greater worry about providing for their families, feeding them, and caring for their children.”

In the survey, 62% replied with a ‘6’ or higher (on a scale of 1 to 10), for how worried they were about not being able to feed everyone in their household because of lack of money. An Oxfam report¹¹³ describes the case of one worker in a garment factory in Bangladesh who lost her job last April. She was eight months pregnant, but did not get any of the maternity benefits to which she was legally entitled. She said at the time: “With the pregnancy, fear of the virus, unemployment, lack of payment of benefits ... sometimes I feel I will lose my mind.” Thus, in all these various ways, workers – and female workers in particular – have disproportionately borne the brunt of the economic hardship during the pandemic.



Photo: FLICKR/ Gerry Popplestone

113 Berkhout, Esmé; Galasso, Nick; Lawson, Max; Andrés Rivero Morales, Pablo; Taneja, Anjela; Alejo Vázquez Pimentel, Diego. “The Inequality Virus.” Oxfam, January 2021, <https://www.oxfam.org/en/research/inequality-virus>

Countervailing Campaigns

The cancellation of contracts due to the pandemic enabled a unique alliance between Bangladeshi manufacturers and international civil society groups. Such groups have often taken a critical view of Bangladeshi manufacturers for the low wages they pay and the safety standards and work practices they maintain, including their discouragement of independent unions.

But in this case Bangladeshi unions, Bangladeshi manufacturers, and international campaigners saw common cause in seeking to ensure that factories survived in Bangladesh. To do that, it was important to get the international brands to agree to pay for what they had contracted for.

Four such groups were interviewed for this report: Worker Rights Consortium (WRC),¹¹⁴ the Clean Clothes Campaign,¹¹⁵ and Remake's #PayUp campaign,¹¹⁶ which actively pressured brands through social media and consumer activism to honour their commitments. The Business and Human Rights Resource Centre developed the COVID-19 apparel action tracker,¹¹⁷ which monitoring company performance.

The global nature of the garment industry means that campaigns focused on promoting corporate responsibility are often international in scope. Brands source production from multiple factories and from multiple countries across the world. Given Bangladesh's importance as a major producer of RMGs, and the impact of the sector on Bangladesh workers, it was one of the countries that received significant attention from campaigners when the supply chain started shutting down due to the pandemic.

One campaign representative interviewed for this report started attending earnings calls (a periodic conversation companies have with investors) to understand how publicly-listed companies were explaining their actions to their investors. She shared that on one call the Chief Financial Officer of an international brand had told investors that the company was shoring up its balance sheet based on supply chain savings. In this instance, the company had pushed its payment schedule from 60 days to 90 days, in an industry that already operates on 'razor-thin margins.' Reassuring investors of financial stability is a reasonable goal, but such tactics show misaligned priorities – where reporting improved quarterly earnings is more important than worker welfare and supply chain stability.

While companies cite their codes of conduct to explain their actions, Ayesha Barenblat, founder and CEO of the campaigning group Remake noted: *"COVID-19 has illustrated to us the inequities and fragilities of the supply chain; how none of the monitoring and codes of conduct and decades of work has made any sizeable impact."* The collaborative work by campaigners such as Remake was effective because several brands began negotiating with suppliers and some began paying back. The relationship between a campaign and a subsequent corporate action is difficult to establish. Brands say they acted on their

114 The WRC, in collaboration with the Center for Global Workers' Rights (CGWR), launched the COVID-19 tracker webpage with regular updates on buyers who were not honouring their contracts

115 The Clean Clothes Campaign contacted 100 apparel companies since June 2020, demanding that workers receive the wages, benefits, and back pay that they are owed.

116 In October 2020, the #PayUp campaign resulted in the next phase of PayUp Fashion, described as, "a campaign to overhaul the apparel industry, pass much-needed laws and regulations, fight for better wages, purchasing orders, and contracts — and above all put workers at the center of a stronger, more equitably fashion industry." See <https://remake.world/stories/news/introducing-payup-fashion-why-the-future-of-any-fashion-sustainability-efforts-must-be-worker-centric/>, Retrieved October 25, 2020

117 <https://covid19.business-humanrights.org/en/tracker/>

own once the market situation stabilised. Campaigning organisations assert that the brand response shows that their strategies were effective. The fact is that the garment sector is sensitive to consumer pressure, and campaigns that target brands do compel the brands to react, because the market is competitive and consumers can switch brands easily. Brands too want to be seen as responsible and progressive, particularly to attract idealistic, younger consumers. This does not mean external pressure is always or singularly effective, but that consumer-facing brands are more sensitive to such campaigns.

In another case, the Netherlands-based Clean Clothes Campaign (CCC) worked with the Worker Rights Consortium (WRC) to monitor and track corporate commitment and outcome. CCC is a coalition of 236 unions and NGOs across the world, whereas WRC is a monitoring organisation that does factory-level assessment primarily for universities. Scott Nova of the WRC explained that the devastating consequences of the crisis were apparent immediately because garment workers are often working in countries with limited social safety nets and without the resources to mobilise large-scale rescue packages. *"The cost to support garment workers' wages through the crisis across the supply chain would have been a minuscule fraction of the value of the rescue packages in the rich countries."* These workers are essential part of the global supply chain of the same US and European companies that are benefiting from the rescue packages, but as Nova added, *"these workers are excluded and left to their own devices,"* he said.

Most campaigners believe brands had sufficient cash and capital to pay their bills and fulfil their legal obligations to their suppliers. But they were either being too cautious or were confident that delaying payments wouldn't be a problem. Nova said: *"We asked them [global retailers] off the record why they extended payment terms on existing contracts if they clearly didn't have a cash flow problem, and the answer was (and I'm paraphrasing), 'because we could.'"*

Indeed, it defied economic sense that suppliers, whose revenues amount to tens of millions of dollars, were supporting, or in effect subsidising, larger businesses whose revenues exceeded billions of dollars. *"It only exists because of the power structure in the supply chain,"* according to Nova.

"It would make much more sense for the brands to pay the majority of the cost up front and then pay for the rest rapidly to minimize the carrying cost for the suppliers for the remainder of the debt." But the suppliers do not stick together, and the brands are able to exert their power. He further noted: *"No one in the company was even willing to talk about any approach other than just refusing to pay. So, we worked together to begin to publicise this issue of the refusal of brands and retailers to pay suppliers for the work they were doing, and had done, and they got nervous very quickly it made sense in retrospect because it wasn't defensible. How does a \$10 billion corporation defend responding to this crisis by refusing to pay its bills to a \$7 million apparel supplier, who as a result is going to have to fire 1,000 workers who have no savings?"*

The plethora of CSR initiatives as well as some international mandates such as the ILO *Call for Action* are also confusing for labour groups. Labour leaders interviewed for this report said that company initiatives and the ILO programme had limited effectiveness. The PayUp campaign was seen as 'very effective.' *"We haven't seen any positive impact on workers,"* said N. Akter.

"Many of those involved talk internationally but don't do anything locally. You need transparency at all levels. All the commitments rarely reach the workers. Capitalism and corporatisation have resulted in a new form of slavery for the workers. After they leave the industry, no one cares about them. No one follows up with them to see where they have gone, what they are doing. They are in their prime, their youth, and this period of their lives are ruined by companies."

There are real concerns that the power imbalance will continue. A senior representative of BHRRC noted: *"There is research to show that suppliers are being pressured to accept lower prices than ever before and brands are leveraging the desperation of suppliers, using the crisis to get even cheaper prices, which is really alarming, and it is causing further issues in terms of suppliers' cash flow, and that has a knock-on effect on the workers, even in terms of affecting the suppliers' ability to be compliant with labour standards."*

“

At the end of the day what really pushed them was to see the brands on the “good side” of the tracker and as that list started to get bigger there’s internal conversations about, “hey, why are we on this side and not that side.” So, the tracker as a visual tool was very important. But I also think that brands live inside of a hall of mirrors, to a certain extent, where a lot of them are under the impression that they really are this incredibly, deeply socially responsible company. And that was one of the reasons why the campaign really got under their skin, because we revealed that that just wasn’t true in this instance.

—
Ayesha Barenblat of Remake and the #PayUp campaign

”

realised a demand for such stories. What struck a nerve was the overall sense of inequity and injustice, that the executives and shareholders would be fine but workers would suffer, according to civil society groups. Various campaigns and the subsequent media coverage resulted in \$20 billion being paid to suppliers in Bangladesh,¹²⁰ that otherwise probably would not have: *"Most of the brands who stepped up did so after the naming and shaming. Before that no one stepped up. No, none of them. This is the brand behaviour, which really needs to change. Business policies need to be rewritten,"* says K. Akter.

As stores and malls were closed, online sales became more important, therefore online campaigns targeting the brands carried some traction. Civil society groups believe any online campaigning targeting brand reputations would resonate more. Civil society groups began triangulating information drawn from various sources to cross-check data, so that no organisation was acting on partial information. Brands would try using social media platforms to advertise sales, and campaigners would turn up, asking the brands to pay up. For brands, it rapidly became a reputation management issue.

International media reported the dire situation facing Bangladeshi workers extensively between March-May 2020 partly due to the transnational initiative mainly through social media activism via the hashtag #PayUp (in association with the Worker Rights Consortium's Brand Tracker), which was successful in applying pressure on some corporations¹¹⁸ to honour their original contracts.¹¹⁹

Civil society groups believe that the tracker compelled some brands to examine their role and actions. As some brands showed improvement, Barenblat said, there were internal conversations in companies why they were on one side of the tracker, and not the other. She said: *"Brands live inside of a hall of mirrors, to a certain extent, where a lot of them are under the impression that they really are this incredibly, deeply socially responsible company. And that was one of the reasons why the campaign really got under their skin."*

Media too began reporting on purchasing practices – a relatively arcane topic that did not get much attention earlier. Fashion magazines such as *Vogue*

118 Cline Elizabeth L. 'Levi's Agrees to #PayUp as Advocates Demand more for Garment Workers' (Forbes, 6 July 2020. <https://www.forbes.com/sites/elizabethcline/2020/07/06/levis-agrees-to-payup-as-advocates-demand-more-for-garment-workers/?sh=2dcc8b1a2100>)

119 https://gija.georgetown.edu/2020/09/03/what-the-pandemic-reveals-workers-rights-in-bangladesh/?fbclid=IwARiFBwD7iGl-in_S3WbwQR7Rh8Maz7U2clvOK-IG2pgVmBaLPgmT8hLlktk

120 Eco-age - <https://eco-age.com/resources/remake-ayesha-barenblat-seven-actions-holding-fast-fashion-accountable/>

Strategy of the Campaigns

All four organisations targeted different aspects of brand behaviour that was detrimental to workers and employed various strategies to highlight and change it. The strategies complemented each other and were coordinated with one another to check facts about any changes in actions taken by the brands. The trackers created an incentive for brands to improve their performance. The BHRRC representative said: *"The brands wanted to make sure that they were being represented in a positive way. We see that as a good impact from the tracker, and obviously the work of other labour groups and worker-led movements that were campaigning."*

Nova said the WRC brand tracker was set up as *'a purely Manichaeian structure.... We've said to brands and retailers that in order to be on the right side you need to be paying in full and on time or, if you're not paying on time, providing low cost financing to the suppliers, and if you're not doing that for 100% of your orders, then you're over here.'* This, he argued, was more effective than a graded rating scale. It incentivised some companies to pay their dues.

The BHRRC focused on emphasising not just whether brands were paying in full, but other business decisions that they were making at that time that would have an effect on suppliers, and in turn, workers: for example, extending payment terms, delaying payments to suppliers, not paying for orders in production, and whether they had endorsed the ILO *Call to Action*. They also covered all the brands that signed up to the ACT initiative¹²¹ on living wage, because it allowed comparison between brands' commitment to living wage and business decisions impacting wages.

The BHRRC sent out a survey initially to 35 fashion brands and retailers around the world with a set of publicly-available questions asking them about their response to the pandemic. Twenty-six companies replied. In November 2020, the BHRRC conducted a follow up survey, by which time many months had passed since the initial disruption and many brands had changed their stance and agreed to pay for orders. The BHRRC now coordinates with WRC and other labour groups on the questions to ask, and has extended the number of brands to 51.

Figure 5. BHRRC COMPANY DASHBOARDS SUMMARY

Figure 5 displays below some of the information publicly available on BHRRC's tracker for companies interviewed for this report. The information on this tracker is primarily based on company commitments and adherence to public statements that have not been verified.

(Source: BHRRC COVID-19 Apparel Action Tracker)¹²²

121 <https://actonlivingwages.com>

122 Source: <https://www.business-humanrights.org/en/from-us/covid-19-action-tracker/>

Figure 5. BHRRC COMPANY DASHBOARDS SUMMARY | COVID-19 ACTIONS AS OF DECEMBER 10, 2020

COMPANY	Extended payment times	Supporting suppliers to access finance	Payment terms prior to pandemic	Pandemic policy on discriminatory dismissals	Recorded profits since the pandemic	Endorsed ILO Call to Action	Paying for all in-production & completed orders	Requested retroactive discounts	Monitoring wage & severance payment	Pandemic policy on price reductions
Company A	Yes 90 days	Yes	45 days	Yes ! Covered in pre-existing policy	No	No	Yes	No	Yes	No
Company B	Yes Up to 120 days	Yes	40 days	Yes ! Covered in pre-existing policy	Yes	Yes	No	Yes	Yes	No
Company C	No	Yes	45 days	Yes ! Covered in pre-existing policy	Yes	No	Yes	No	Yes	No
Company D	No	Yes	NA	NA	Yes	No	Yes	No	Yes	No
Company E	No	Yes	30 days	Yes ! Covered in pre-existing policy	Yes	Yes	Yes	No	Yes	No
Company F	No Initially extended to 180 but have since returned to 30 days	Yes	30 days	Yes ! Covered in pre-existing policy	Yes	Yes	Yes	No	Yes	No
Company G	Yes	Yes	NA	Yes ! Covered in pre-existing policy	Yes	No	Yes	No	Yes	No
Company H	Yes 120 days	Yes	75 days	Yes ! Covered in pre-existing policy	Yes	Yes	Yes	No	Yes	No
Company I	Yes Max 90 days	Yes	45 days	Yes	Yes	Yes	Yes	N/A	Yes	No

- **Green** signals a 'positive' action
- **Red** signals a 'negative' action
- **Blue** signals a 'neutral' action that we have assess neither as 'positive' or 'negative'
- **!** indicates that there is a 'condition' on a response that is not straightforward.
- Further contextual information is available on the BHRRC website.

Note: One of the companies interviewed for this report was not surveyed by BHRRC

Leveraging networks: The organisations also leveraged the networks they had built over the years. CCC, discussed in the previous section, has built its network over a quarter century with established, functional channels of communication making it easy to set up international working groups. The Internet has also enabled such collaboration, and civil society groups now use secure communication networks to coordinate and align messages.

Workers and suppliers on the same 'side': Another unique feature was the coming together of Bangladeshi suppliers and workers, at least initially. They had a common interest – in ensuring the flow of funds to the suppliers so that workers would get paid. “Here power holders for once were themselves being ‘victims’ and being very vocal about it,” said CCC’s Ineke Zeldenrust. The challenge for advocacy groups is to shift the power asymmetry.

Clear message: All campaigns had a clear and focused message: they were asking brands to comply with basic business practices. Raw materials had been ordered; cloth had been cut; workers had prepared clothes; shipments were waiting to be loaded. The business operates on debt, and if the suppliers don’t get paid, nor would the workers, who would bear the burden of the industry and suffer the most. *“People were always like, ‘let’s make fashion a force for good.’ We’ve been chanting that forever, but what does that mean? The PayUp campaign just made that really tangible and easily shareable. This is not about fashion; this is about specific companies that owe a specific amount of money to their very specific workforce. It was very clear what we were asking for from the beginning,”* said Barenblat.

Moving from a general critique to the specific, with concrete data, was an important step.



Corporate Profit Growth

As early as March 2020, clothing sales had already declined by 34% worldwide. In 2020, several retailers declared bankruptcy¹²³ and the list may be growing¹²⁴ as demand for clothing has plummeted and many brick-and-mortar stores have closed.

According to Imran Ahmed, the founder and CEO of The Business of Fashion, a leading industry website: "It has led to a real existential crisis for the fashion industry...This is an industry which is still almost entirely dependent on physical retail. More than 80% of transactions in the fashion industry still happen in physical stores...Added to that, many consumers simply aren't interested in buying clothes right now."¹²⁵

The uncertainty in the market resulted in brands justifying a whole host of actions that reduced their risk, but often at the detriment of suppliers and workers throughout the world. Several brands have subsequently shown significant profits, including by making mergers and acquisitions. Others have developed deeper partnerships, explored new channels of distribution (such as online) and streamlined processes. Some CEOs have earned bonuses and the net worth of some founders has grown. Of the world's top 20 most profitable fashion brands, 11 have billionaire CEOs, founders or chairmen, according to PayUp Fashion.

To be sure, their wealth is accumulated over time, and their net worth reflects the current market value of their shareholding which may fluctuate. And in the case of owners, their wealth may be from other businesses unrelated to the RMG sector. But the contrast of such wealth with the low wages of garment workers is striking.

The majority of the brands on the BHRRC tracker recorded profits. And according to a senior representative of BHRRC, while the brands did suffer initially, "we found...that the majority of the brands included on our tracker are recording profits." Causal link – if any – between those profits and wage losses is tenuous, but such outcomes reinforce the view among unions and civil society organisations that the burden of the crisis has fallen disproportionately on those who are least able to afford it, and lack the resources to face the storm.

Nova argues that for most brands and retailers, they had sufficient cash on hand and sufficient access to capital to pay their bills and to fulfil their legal obligations to suppliers, and the power imbalance between brands and suppliers gave the brands the latitude to cancel orders or delay payments.

Civil society groups which have studied the earnings reports of the brands believe that the brands chose not to pay in spring even if they could. The goods were being manufactured or had been manufactured, and costs had been incurred and someone needed to pay. Suppliers had paid for their materials and were now either unable to ship their orders or not receiving payment, trapping them in a liquidity crisis. Barenblat said: *"Most of these brands that told us at the beginning of the year, 'we were so worried' (but they) still managed to handsomely pay their shareholders and their executives and make*

123 <https://www.retaildive.com/news/the-running-list-of-2020-retail-bankruptcies/571159/>

124 <https://www.retaildive.com/news/17-retailers-that-could-go-bankrupt-as-the-COVID-19-era-wears-on/586264/>

125 <https://www.retaildive.com/news/the-running-list-of-2020-retail-bankruptcies/571159/>

pandemic profit. The big question is, why is it that risk is always put to the most vulnerable people in the supply chain?" Some brands, like Arcadia Group,¹²⁶ did go bankrupt. But Barenblat believes that for a lot of them it was just about stabilising share prices. "It was about the fact that they had the option to push the financial fallout onto their factories. In an industry where there is a balance of power between supplier and buyer, that would not have even crossed their minds," she added.



¹²⁶ Arcadia was struggling even before the pandemic. In 2019 "Arcadia entered into a company voluntary arrangement, a type of agreement insolvent companies can come to with creditors and keep operating. It closed more than 80 stores and renegotiated rents of others. It also filed for bankruptcy in the United States and closed all of its stores there." <https://www.nytimes.com/2020/11/30/business/british-retailer-arcadia-group-owner-of-topshop-files-for-bankruptcy.html>

PART 3

Looking Forward

3



Looking Forward

3

The Future

Brands say that the global supply chain, as currently constructed, serves a purpose. It has kept costs low, it has ensured delivery of garments in a timely manner in far-flung markets at a price consumers can afford, and it has created jobs that earlier did not exist in countries where jobs are scarce. Such a perspective sidesteps the fact that even though the workers have jobs, they do not earn a living wage. The system is efficient but it does not necessarily respect workers' rights.

To be sure, the alternative to jobs in the RMG supply chain may be jobs with even fewer protection and lower wages. And yet, it does not mean that a worker's wages should be below a level at which she can live with dignity. As the ruthless and relentless logic of markets compels many suppliers to take short cuts and reduce costs, the burden falls on the entity that has the least power: the workers, as repeated audit reports have shown.

Workers' rights get undermined when workers are not allowed to form unions, or are intimidated to prevent them from join unions, or forced to join unions that are amenable to the management or the government. Work conditions too need significant improvement. And in some instances, superficial supervision by government inspectors, whether because the state lacks resources or because of regulatory capture, further erodes worker protections.

However, the COVID-19 crisis has forced some rethinking within the industry, including reducing the number of suppliers to build a few strategic relationships, as well as the idea of reshoring (discussed later), which could move factories closer to the market. This can have profound impacts in the global south, making workers' jobs more precarious.

What will the "new normal" look like going forward? Will it be a new paradigm?

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When people talk about relief, it irritates me. We don't want relief programmes, we don't need any training, we just want dignified wages. We just want the laws to be implemented and protect us. Brands can easily do that by working with our governments and adding more money with every garment they are sourcing. It is that easy. It is not complicated.

—
K. Akter

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Strategic Relationships

Companies that realise the importance of longer-term strategic partnership note that there is an emerging discussion about changing the nature of the brand-supplier relationship: *"COVID-19 has put a light on the importance of resilience and partnerships. If you can't be a good partner to a supplier in times of crisis, how will you convince the supplier in the long-term to do sustainable investments?"* said one senior brand executive interviewed for this report.

Direct or strategic relationships enable a closer dialogue with suppliers, and other stakeholders including international organisations as well as domestic and international trade unions. A partnership model is a big shift away from the current transactional relationship, which tends to sharpen competition and raise insecurity among suppliers, as described by one executive:

"Who are our strategic suppliers and talk about long-term planning together, so that you're making investments together, you're thinking about business together, instead of what has historically been more transactional?...How do you engage for the long-term together so that you're making decisions jointly, more so than in a lateral, combative, or negotiating kind of way? How do you do that in a more collaborative [way]?"

Bangladeshi suppliers recognise the importance of these closer relationships as being better for their own business. One supplier noted:

"I think it definitely helps to have a good direct relationship. With some of the new customers now, I have a direct relationship with the owner and it's definitely been better. For example, during this whole time one of the buyers that kept us going was an Australian catalogue buyer that I've known for a long time. Their goods came in just before we all shut down at the beginning of April, so their goods were a bit late, but we could talk it through and discuss exactly which ones they needed first. There was no middleman, which really helped. It has definitely helped having less people in the middle, because quite often you really don't know what the buyer wants. All customers are rethinking and consolidating their supply base, what people did realise, through this crisis, is that every company has come to some extent to understand that close cooperation and partnership, partnership not in the sense of sharing liabilities, but at least in communication, in channels, in transparency, is going to be essential for dealing with the next crisis."

However, there is a risk with the consolidation of the industry that the competition among Bangladeshi suppliers for international business, which is already fierce, will increase even more because as one supplier argues:

"The [Bangladesh garment] industry itself has just become so ridiculous. The way we've cut each other down... the prices are so low... even though the brand can pay more, and is paying more in other places, but because they know in Bangladesh factories are cutthroat and will cut each other out (because they're so desperate to book their factories up) that they will give these [low] prices. In the end, even though the buying agent is getting the order at a reasonable price, they know they can get a [lower] price in the market here because Bangladeshi factory owners are cutting each other out. That's the danger of this consolidation, because you have a few factories with big capacities to fail, so they will just take the orders, even though you can't work it out"

Increased Collaboration

The Rana Plaza disaster in Bangladesh in 2013 created an environment for collaboration among retailers. Many brands interviewed indicated that the experience of the Rana Plaza tragedy had established health and safety measures and emergency response mechanisms that prepared them for COVID-19. This helped enforce preventive safety protocols in supplier factories. The years since the tragedy have created an environment that necessitated collaboration between brands.

However, brands warned that ensuring cooperation among the various global competitors will not be easy given the diversity of operational approaches and lack of common assessment tools for working conditions. There is a role here for brands and suppliers to work together, perhaps convened by organisations like the BGMEA as well as international organisations, to ensure human rights due diligence, and aligning business practices with the UNGPs and other applicable international standards.

Full cooperation among retailers is still some ways away. The COVID-19 crisis has set the stage for the industry to re-examine its practices. It will have to move towards collective and collaborative solutions which can include agreement on pre-competitive cooperation, such as common standards for safety, security, including social security and healthcare. It should also include the recognition of the right to form unions and collective bargaining. Together with these, it should lead to closer, continuous engagement with stakeholders and unions on non-competitive matters.

Social Protections

The COVID-19 pandemic and its aftermath brought the lack of social protections for many workers to the forefront. As K. Akter notes:

"In most of the [garment production] countries we don't have the social protections for our workers. We don't have unemployment insurance. So the brand should be contributing to all of this. They should work with our governments to set up social protection for our workers. I know it is absolutely the government's responsibility to set up social protection for their citizens, but I wanted to bring the brand into this as well because we are making profit for them, so they should take [some] responsibility. They [brands] should work with the governments in the production countries because their voice will be heard. This governments and the manufacturers aren't afraid of God, but they are afraid of these brands, so they will listen to them."

Many global retailers agreed that this would need to be the focus of the industry and governments going forward: *"The social protection part, which I think is really something that we need to address better going forward as an industry. This has been a conversation in Bangladesh since Rana Plaza, and it is the conversation that needs to be taken going forward,"* one brand executive said. With the Bangladesh government reluctant to continue ad hoc mechanisms such as Accord to continue, the

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But, at the end of the day we know that what we really need are enforceable contracts and legal reform. This is a largely deregulated industry, and we have found ourselves back here where, regardless of the size of this industry, somehow the people who power this industry continues to be living in poverty wages.

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A Barenblat

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concept of multistakeholder initiatives should be examined and dialogue should take place, to ensure social protection. The international community has a role to play.

For many years, the Clean Clothes Campaign tried to push global brands on social security improvements for workers in many countries in the global south. This may be a critical time because, as CCC's Zeldenrust put it:

"... there is for the first time a real interest in social protection mechanisms, and how that ties together with resilience or building back better...The fact that things are such a mess right now also hurts companies. I think some of them realise, 'we're better off with more transparency and less pandemic-sensitive supply chains.' We've tried to translate that into concrete proposals, so we have a very concrete proposal on a severance guarantee, which could be a legally binding contract between brands, employers and unions that would put severance money as a premium on FOB (free-on-board price of a shipment). A small premium would be sufficient to put a lot of money into a severance guarantee fund, and you could leverage that money and as a country build up the institutional capacity to do that themselves, especially in the case of bankrupt employers or employers that can't be compelled to pay, then the premium will get lowered down."

Potential for Reshoring

The supply chain was designed to ensure quick delivery from producers of raw materials to locations where the clothes could be stitched and made, and transported quickly to markets. That choreography had little space for slack, and costs were squeezed, such that consumers got clothes at prices they were willing to pay.

But the burden has fallen disproportionately on workers, mainly in developing countries, who have no choice but to work at low wages, because alternatives to those jobs are few or less attractive. However, the economic downturn due to the pandemic, as well as rising economic nationalism in the United States and Europe, has led many politicians to speak of bringing jobs in some sectors home, closer to the markets. The supply chain makes sense if goods can travel smoothly – but if the links are broken, or slowed down, would it not make more sense to make garments in Europe and the United States?

Not so fast, say Bangladeshi manufacturers, and the brands too agree. The RMG sector is unlikely to get 'reshored', despite periodic appeals by union leaders and some politicians to buy locally. According to one Bangladeshi supplier, the infrastructure necessary for recreating a textile industry no longer exists in the developed countries. He said: *"In the United Kingdom, for example, large scale production ended sometime in the mid-1980s. You can't reinvent this entire industry there. There is some production in Bulgaria, Romania, and places like that. But nothing significant."*

While that is true in the immediate and medium term, there is now a movement in Europe among some communities to buy locally, bearing in mind environmental concerns and labour rights. But those are local or regional initiatives, and the scale is small. Transfer of jobs on a mass scale is not feasible.

If 'fast fashion' loses its appeal, its impact will fall on the RMG sector in the global south. With more countries requiring mandatory human rights due diligence (as in the EU) the pressure on Bangladesh and other host countries to improve and maintain standards will increase.

Brands too are rethinking and consolidating their supply base, and have figured out that closer cooperation and partnerships with fewer suppliers and building long term relationships is the way forward. *"Better communication and transparency are going to be essential,"* one Bangladeshi supplier

said. *"You usually have a massive curve with a very long tail and a big bell in the middle. That's the majority. It is this long tail of small suppliers that all customers (brands) are trying to cut off. If you are a small player who supplies a niche product, then you are safe. So size is not necessarily the issue. But if you are a small player in a commodity product, then you are in trouble – but then you were in trouble anyway,"* he added. Consolidation of suppliers by brands was inevitable; that process will now hasten, and fewer manufacturers will have greater volume of business.

The reverse can also happen. As a senior representative of BHRRC pointed out, after the experience of BooHoo¹²⁷ and the media exposure over allegations of work conditions at its plant in Leicester, the company is now sourcing from elsewhere. *"Brands are wary of producing in Europe,"* she said. But some reshoring may take place, and monitoring organisations are keeping a close eye on these developments, and there is going to be more focus on new thematic areas.¹²⁸

Decisions to redesign the supply chain will inevitably be made by companies individually, and be driven by shifts in consumer demand. Brands that operate on a mass scale for the mass market remain sceptical of the likelihood of shifting production bases in a significant manner. Brands are aware that managing the application of international standards, particularly with regard to occupational health and safety and freedom of association, as well as wages and retrenchment, are harder to implement internationally where factories are widespread. So some consolidation is inevitable, but it is likely to occur within countries. Several companies said they hadn't even contemplated it in internal discussions.

Where relocating of businesses has been considered, it is purely from the perspective of business priorities, and not driven by the pandemic. *"COVID-19 is an amplifier; it is acting like a magnifying glass to issues that we knew were already there,"* one executive said. One company is scaling up its operations in Turkey. Even if politicians and commentators call for shifting manufacturing back to developed countries, countries like Bangladesh, Indonesia, Cambodia, Sri Lanka, and Vietnam will continue to play an important role in the industry. The executive from the company scaling up its Turkish operations said that the company has a risk assessment map. *"We need to make sure we have enough flexibility to responsibly move our sourcing if the climate in any given country becomes impossible to operate,"* he added. Echoing the views of the Bangladeshi manufacturer, another brand executive said: *"If you tried to bring something close to home, it is going to take years to build that infrastructure and get things done. So, I really don't think that's even sustainable."*

It should be noted, however, that for most brands, these decisions involve several teams, and not only the supply chain and sustainability teams. It would include sourcing, production, design, finance, legal, and other executive teams. In making these decisions, the three crucial factors are the *price* when the goods are shipped, the *speed* at which they can reach the market, and the *risks* posed in the supply chain. One executive said that human rights and labour rights form two-thirds of the company's risk matrix, and sustainability executives do have a voice in the decisions.

127 An independent review for fashion retailer Boohoo found many failings in its English supply chain after allegations about working conditions and low pay. The company laid out six steps it was taking to improve governance, including appointing new independent directors to its board, making supply chain compliance a standing item at board meetings and the formation of two committees to oversee risks to the business and its supply chain compliance. <https://www.reuters.com/article/us-britain-boohoo-group-suppliers/boohoo-to-tackle-failings-in-leicester-supply-chain-idUSKCN26G0UQ>

128 <https://www.fibre2fashion.com/news/apparel-press-release-news/iaf-publishes-its-priority-issues-2021--271899-newsdetails.htm>



PART 4

Recommendations

Recommendations

4

Given the scale of the pandemic, and the number of lives lost worldwide in its first year, the impact on Bangladesh has been less severe than what was initially feared. But by April 2021, Bangladesh is going into another lockdown, with cases rising, hospitals packed with patients, and the weaknesses that were seen in 2020 may recur. It is critical that Bangladesh is better prepared in addressing the crisis.

According to the database maintained at the Johns Hopkins University, active cases have been falling since the peak of August 2020, and on April 27 2021, the number of Bangladeshis infected by the virus stood at 751,659, and 11,228 people had died. By that day, some 5.79 million people had received one dose of the vaccine (2.15 million had received both doses), accounting for 1.3% of the population being fully vaccinated.

However, it does not mean that there is any room for complacency. Variants of the virus are proliferating, and eternal vigilance will be essential. Bangladesh is a long way from vaccinating its entire population and there is a shortage of vaccines. Various countries are experiencing periodic bouts of lockdowns, and further lockdowns, which may interrupt manufacturing, cannot be ruled out.

The first lockdown has provided many lessons for the industry – brands and suppliers – as well as for governments. To prevent some of the most vulnerable workers from experiencing further fragility, it is important for businesses and governments to act in a coordinated way.

As Bangladesh enters its second lockdown, it is important that crucial lessons from the first lockdown are learned: place the worker first; ensure worker safety; establish protection mechanism for the workers in case of job losses; create financial mechanisms to ensure that liquidity is maintained; intervene early and act proactively to establish meaningful dialogue between affected parties. All parties – Bangladesh government, international agencies, brands, suppliers, and unions – have a role to play.

The responsibility to mitigate human rights harms to the workers is shared, between the government, companies – Bangladeshi and foreign – and the international community. The following recommendations offer only a top-line presentation of the actions that all relevant actors need to take to address the challenges facing the garment industry in Bangladesh, which the COVID-19 pandemic has brought into sharper focus.

The Government of Bangladesh

The Government of Bangladesh bears the primary responsibility to protect human rights. It should take immediate steps to ensure that the impact of the latest lockdown is minimal on the garment workers. The government has announced that businesses will continue to operate. In such circumstances the government must:

- Ensure that workers have easy access to their place of work and home, and that they are offered transport that follow the rules of social distancing.
- Provide financial resources to create prompt payment to workers who may be unable to work due to sickness, or who have been furloughed over suspected infection.
- Ensure that workers are paid a living wage. Ensure that lockdown pay matches the last drawn salary, and not reduced by 35% as had been the case during the previous lockdown.
- Enable sufficient liquidity for Bangladeshi manufacturers so that they can pay the full salary to their workers.
- Disseminate clear guidance to factories about health standards and norms to which they should adhere and undertake periodic inspections to oversee implementation.
- Facilitate the payments to be made electronically to workers' accounts to minimize their exposure to infection by having to visit banks.
- Establish welfare measures such as basic income scheme, or social security system to ensure that workers do not slide into poverty.
- Assist local companies in their negotiations with brands to ensure that negotiations do not create conditions which lead to a reduction in workers' pay or benefits.
- Allow workers the freedom to form or join independent unions and abide by Bangladesh's commitments under the ILO.

International Brands

International brands have a major role and responsibility, even though they are not the direct employers of the workers. The UNGPs explicitly state that companies should assess the human rights harms that might result from their activities, and they should pay particular attention to the harms their actions cause, to which they contribute, or to which they are linked. Even though they are not direct employers of the workers, their negotiations may lead to circumstances under which Bangladeshi suppliers are compelled to reduce their workforce or otherwise take actions that undermine the workers' rights.

Towards that end, brands should:

- Undertake human rights due diligence as per the UNGPs to identify adverse impacts and take steps to mitigate harm, in instances where their own conduct causes or contributes to the adverse impact.
- Comply with international standards so that their suppliers are able to maintain their facilities as per applicable norms, in particular norms governing health and hygiene and other relevant labour rights protections.

- Work with governments, both host and home, to ease the conditions for workers, in particular by cooperating with the governments establishing social protection mechanisms.
- Honour the contracts they have signed and accept the shipment of goods already manufactured as per contractual obligations or which are under production, even if the delivery may have to be delayed.
- Promote internal cohesion of policies so that if the company must decide to delay or suspend contracts or downsize operations, these are made as the last resort and are made bearing in mind the company's broader responsibilities, including towards the workforce at the supply chain.
- Maintain transparent, verifiable accounts and make these available to suppliers and other appropriate stakeholders so that the money owed to suppliers is paid within a reasonable time.
- Disseminate information, including own policies and international best practices, for protection of workers' health.
- Require that suppliers recognise the right of the workers to form or join independent unions and take part in collective bargaining, and encourage suppliers to be in regular consultation with recognised unions.
- Take every possible step to avoid invoking *force majeure* to ensure that the suppliers, who are unsecured creditors, are paid promptly.
- Use the brand's leverage with international financial institutions and banks to ensure that letters of credit are honoured.
- Make suppliers' compliance with standards of health, safety, and sustainability critical criteria for selecting them.
- Rethink negotiation strategies so that price is not the primary criterion in awarding contracts, to prevent downward pressure on variable costs, such as wages.
- Work with suppliers, other brands, and international civil society groups, in partnership with local unions, to raise standards of social audits and work towards reducing multiplicity of audits.
- Enshrine commitment to living wage as the building block of price.
- Educate consumers of the true cost of fast fashion.

Bangladeshi Suppliers

While international brands are at least one step removed from the workers, Bangladeshi suppliers bear direct responsibility for their rights at work.

Towards that end, local suppliers should:

- Examine the possibility of a collective approach with other suppliers in negotiations with brands, possibly with the support of the host government and in collaboration with the unions, to ensure that workers' rights are guaranteed and a living wage is ensured in negotiations with international brands.
- Establish a shareable database where brands are evaluated about their relationships with suppliers.

Ideally this should be done by neutral third parties, such as civil society groups, which monitor performance; and UNDP or ILO should consider supporting the creation of such a database.

- Work closely with unions to reassure them of the firms' commitment to health and safety standards and undertake to invest in processes and systems to ensure that those rights are protected.
- Permit workers to form or join unions of their choice and negotiate in good faith with legitimate representatives of the unions.
- Undertake to pay workers promptly once the companies have received emergency loans and grants from the government or other international agencies to ensure liquidity.
- Invest in personal protection equipment, including masks, overalls, and gloves as appropriate, and in other facilities necessary to ensure a healthy work environment, including redesigning the floor plan and ventilation.
- Provide healthcare to workers who contract COVID-19 or require sick leave, and assure them that they will be able to return to work. Also take steps to ensure access to paramedics and experts in mental health for on-the-spot assistance and counselling to workers feeling anxiety.
- Monitor employee health, in particular their nutritional needs.
- Ensure that women's rights are respected, including their reproductive rights, their right to maternity, and ability to return to work when they wish as per the contract, and provide support against bullying and harassment, including sexual harassment. Where possible, provide childcare support or otherwise alleviate their caregiving responsibility and offer protection should they face the risk of domestic violence.

International Community and Donor Governments

While Bangladesh will soon emerge out of the least-developed-country status, it remains a developing country reliant on donor assistance. Towards that end, the international community, including donor governments should:

- Provide support to brands located in their jurisdiction, if necessary, so that they can meet their contractual obligations to their suppliers.
- Suspend loan repayments from governments grappling with the pandemic so that those governments can devote their maximum possible resources to addressing the crisis.
- Enable processes to readjust the power imbalance between brands and suppliers with the aim of ensuring that the rights of workers are protected. Any increase in payments to suppliers should see commensurate benefits for workers as well.
- Facilitate dialogue between brands, suppliers, and unions to collectively call for the Bangladesh government to create social protection mechanisms. Donor governments should direct their aid efforts for such projects.
- Facilitate the creation of a severance guarantee scheme, which could be a legally binding contract between brands, employers and unions that would put severance money as a premium on FOB (free-on-board price of a shipment). Such money could build the institutional capacity in the event of corporate bankruptcies.

Consumers

Finally, there is a role for consumers. It is important that consumers inform themselves about work conditions at factories where their clothes are made. If consumers no longer show their appetite for 'fast fashion,' this could be the ideal time to acknowledge the power and think about a more ethical and sustainable business model that could disrupt the existing unequal power relationships between global brands, suppliers and workers.

This will require more education and transparency so that consumers understand the cost of fast fashion. That the cost of cheap jeans and T-shirts that consumers buy is borne by workers in countries such as Bangladesh. With this knowledge they should begin to support more businesses that pay a living wage and ensure that the factories in their supply chain adhere to international standards and support campaigns for dedicated funds that can contribute directly to pension, social security, and health and safety of the workers.



APPENDIX

Participants interviewed for this report

Brands:

- BESTSELLER
- H&M
- Levi Strauss
- Marks & Spencer
- Nike
- Primark
- PVH
- Target
- Under Armour
- One company prefers complete anonymity

Suppliers:

- Bitopi Group
- DBL Group
- Natural Denims Ltd
- Sidko Group

Civil Society: Business and Human Rights Resource Centre, Clean Clothes Campaign, Worker Rights Coalition and Remake.

Labour: AWAJ Foundation and Bangladesh Center for Workers Solidarity.



The readymade garment industry employs millions of workers in Bangladesh and has contributed to the nation's development. The COVID-19 pandemic has had a devastating impact on the sector as malls and factories had to close, and still today workers continue to face uncertain futures.

This report evaluates global retailers' response to the pandemic and its effect on Bangladesh garment workers through in-depth interviews with major international brands, Bangladeshi suppliers, local labour leaders, and international civil society and provides recommendations that may help avert future crises.

