

March 2020

WORKER RIGHTS CONSORTIUM WHITE PAPER

WHO WILL BAIL OUT THE WORKERS THAT MAKE OUR CLOTHES?



WORKER RIGHTS
CONSORTIUM

5 Thomas Circle NW, Fifth Floor
Washington, DC 20005
(202) 387-4884 | www.workersrights.org

March 2020

Authors:

Scott Nova, Executive Director of the *Worker Rights Consortium*

Ineke Zeldenrust, International Coordinator at *Clean Clothes Campaign*

On the cover:

Photograph of a garment worker in Bangladesh

Credit: Ismail Ferdous/PRI

Worker Rights Consortium

5 Thomas Circle NW, Fifth Floor

Washington, DC 20005

(202) 387-4884 | www.workersrights.org

INTRODUCTION

The economic repercussions of the coronavirus pandemic are colossal in scale and global in scope. The world's wealthy countries are poised to spend trillions of dollars to shore up the income of their workers and to rescue their corporations. A vital question remains unanswered: who is going to rescue the workers who toil in the global supply chains of many of those corporations? These workers, like ones who make the clothes and shoes we wear, are among the hardest hit by the economic catastrophe of Covid-19.

The number of people who will be affected—as supply chain workers are terminated, *en masse*, with little or no compensation¹—is enormous. There are more than 150 million workers in lower-income countries producing goods for export to North America, Europe, and Japan and tens of millions more in service jobs linked to global corporations in wealthier countries.²

In apparel, textile, and footwear—a sector where workers will fare especially poorly—there are 50 million workers,³ many of them women who are their families' primary wage earner. Very few of these workers have ever been paid enough to accumulate any savings. In fact, chronically low wages have left many in debt. This paper focuses on the apparel sector, as it will be among the most severely affected by the Covid-19 crisis; however, to a substantial extent, the points made herein apply across sectors.

¹ Annie Kelly, "Garment workers face destitution as Covid-19 closes factories," *The Guardian*, March 19, 2020, <https://www.theguardian.com/global-development/2020/mar/19/garment-workers-face-destitution-as-covid-19-closes-factories>.

² Guillaume Delautre, "Decent work in global supply chains: An internal research review," ILO Working Paper No. 47, October 2019. <https://www.ilo.org/wcmsp5/groups/public/---dgreports/---inst/documents/publication/wcms723274.pdf>.

DRIVERS OF THE CRISIS

Several critical factors are lining up to produce catastrophic results for apparel supply chain workers and their families:

- By shutting down much of their nations' commerce in order to battle the pandemic, governments of wealthier nations are jamming the brakes on global demand for apparel to a degree never previously experienced; the logical response of brands and retailers is to move as rapidly as possible to halt production in their supply chains.⁴
- Global supply chains are designed to limit brands' obligations to the contracted factories ("suppliers") that make most of their products. For example, suppliers front the costs of production, including buying fabric and paying workers to sew the garments—brands do not pay for apparel until 60 or 90 days *after* it is delivered. As a result, when external events impose damaging costs in the supply chain, brands have the freedom and leverage to push the costs down the chain onto their suppliers. Brands are doing this now, by abruptly canceling orders to supplier factories across their production networks.⁵ In many cases, they are retroactively canceling, *and declining to pay for*, orders that suppliers are already manufacturing or have

³ Worker Rights Consortium estimate for all workers in apparel, yarn, textile, home textile, and footwear production facilities.

⁴ Tara Donaldson, "H&M, Zara Halt Production as COVID-19 Sinks Global Demand," *Sourcing Journal*, March 18, 2020, <https://sourcingjournal.com/topics/sourcing/hm-zara-halt-apparel-production-coronavirus-store-closures-201104/>.

⁵ Tara Donaldson, "Brands Cancel \$100 Million in Bangladesh Orders—Putting Thousands of Jobs at Risk," *Sourcing Journal*, March 20, 2020, <https://sourcingjournal.com/topics/sourcing/coronavirus-us-bangladesh-factories-order-cancellations-garment->

completed.⁶ These are orders on which suppliers have already paid for fabric and labor, outlays they cannot recoup when brands refuse to pay. Many brands are citing *force majeure* to justify these actions, even though many of their contracts with suppliers do not appear to allow for cancellation on the basis of a global health crisis.⁷ In the end, it won't matter what the contracts say: few suppliers can afford to sue a customer whose business they hope to someday recapture and even a supplier that wants to sue is unlikely to possess the money and time to do it successfully. Notably, many brands have self-proclaimed "responsible exit" policies that would theoretically preclude pulling orders without notice, regardless of contractual terms;⁸ however, like all such "corporate social responsibility" policies, these standards are voluntary, giving brands the ability to ignore them at will.

- Most factory owners operate on thin margins and lack sufficient cash reserves and access to credit to survive the kind of economic shock the crisis, and the brands' response, is producing.⁹ Their best bet for

survival in the face of the mass, retroactive cancellation of orders will be to (1) shed workers fast and pay those workers as little in compensation as possible and (2) for any orders that remain, keep the necessary workers on the production lines, regardless of the health risks.

- While most exporting countries have some legal protections for workers who lose their jobs—partial wage continuation in case of temporary suspension, severance in case of termination, and in some cases unemployment insurance schemes—governments do not fund the benefits themselves but rather obligate the employer to provide these benefits. But enforcement is minimal. Where employers are left strapped for cash—and in debt, due to buyers' order cancellations—they have both the incentive and the power (due to this weak enforcement) to forego payment. There are also millions of garment workers who are informally employed or classified as temporary workers (sometimes in violation of the law) and who, as a result, have little or no right to benefits.¹⁰

[workers-201541/](#); Mark Bain, "Coronavirus threatens the livelihoods of garment workers around the world," Quartz, March 20, 2020, <https://qz.com/1821511/coronavirus-threatens-jobs-of-garment-workers-in-southeast-asia/>; Rachel Cernansky, "As coronavirus spreads, supply chain workers face layoffs," Vogue Business, March 19, 2020, <https://www.voguebusiness.com/sustainability/coronavirus-causes-closures-and-layoffs-for-workers-bangladesh-india>.

⁶ Naimul Karim, "Job cut fears as fashion brands slash orders in Bangladesh with coronavirus," Reuters, March 19, 2020, <https://www.reuters.com/article/us-health-coronavirus-bangladesh-jobs-tr/job-cut-fears-as-fashion-brands-slash-orders-in-bangladesh-with-coronavirus-idUSKBN2163QJ>; Jon Emont, "Retailers Cancel Orders From Asian Factories, Threatening Millions of Jobs," Wall Street Journal, March 25, 2020, <https://www.wsj.com/articles/as-the-west-shutters-stores-retailers-cancel-orders-from-asian-factories-11585134455>.

⁷ Vicki M. Young, "Thinking About Canceling on Your Factory? Here's What You Need to Know," Sourcing Journal, March 23, 2020, <https://sourcingjournal.com>

[/topics/sourcing/coronavirus-cancel-factory-production-orders-gary-wassner-hildun-anchin-kearny-201478/](#).

⁸ See, for example: PVH, "Corporate Responsibility Supply Chain Guidelines," p. 143, <https://responsibility.pvh.com/wp-content/themes/twentytwentyone/static-pages/static/resources/pvh-cr-supplier-guidelines.pdf>; GAP, "2018 Global Sustainability Report," p.30, <https://www.gapinc.com/sites/default/files/Gap%20Inc%20Report%202018.pdf>.

⁹ Mark Anner, "Binding Power: The Sourcing Squeeze, Workers' Rights, and Building Safety in Bangladesh Since Rana Plaza," Research Report, Center for Global Workers' Rights, March 22, 2018, https://ler.la.psu.edu/gwr/documents/copy_of_CGWR2017ResearchReportBindingPower.pdf.

¹⁰ See, for example: Human Rights Watch, "Work Faster or Get Out' Labor Rights Abuses in Cambodia's Garment Industry," March 11, 2015, <https://www.hrw.org/report/2015/03/11/work-faster-or-get-out/labor-rights-abuses-cambodias-garment-industry>; "Non-Standard Employment Around the World,"

- For obvious reasons, many workers would prefer *not* to go to work at present but cannot afford to forego work without compensation. Where workers choose not to work, out of fear of becoming infected (and bringing the infection home), the legal right to compensation is forfeited—unless governments are imposing ad hoc policies to mandate such compensation. At factories where there is still substantial production ongoing, most workers will come to work, despite health fears. While the information available at present is anecdotal, there are reasons to believe that many factory owners are failing to take meaningful steps to protect worker health, via social distancing and appropriate personal protective equipment.¹¹ This endangers both workers and broader societal efforts to control the pandemic.
- Given the magnitude of the Covid-19-induced global crisis, public intervention is essential to prevent economic and social catastrophe, which is why governments in wealthier countries are preparing unprecedented levels of fiscal stimulus and financial rescue for domestic businesses. However, most major apparel exporting countries (China being an important exception) lack sufficient public resources to follow suit; these countries will be hard-pressed just to meet the immediate health costs of the pandemic. They will not be able to pay months of

wages to millions of garment workers and keep thousands of foundering businesses afloat. Some will try, but support is likely to be too small and short-term to provide adequate protection. And, while supply chains are globalized, social support systems are not. Governments of wealthier nations have not, so far, written workers in their corporations' global supply chains into their economic rescue packages.

THE GRIM CONSEQUENCES FACING SUPPLY CHAIN WORKERS

These realities augur a grim outcome: millions of workers suspended or terminated with little or no compensation and others forced to go to work in unsafe factories because it is the only way to avoid destitution.

To their credit, some governments in garment exporting countries have announced short-term income support for workers or have asked factories to close for brief periods—two weeks in most cases—while maintaining the better part of workers' wages.¹² Unfortunately, most governments and many factory owners will be financially unable to maintain this approach when two weeks turn into two months or longer.

The precipitous drop in demand for apparel is real, and many brands are facing huge financial challenges;¹³ the brands' drive to

International Labour Organization, 2016, https://www.ilo.org/wcmsp5/groups/public/---dgreports/---dcomm/---publ/documents/publication/wcms_534326.pdf.

¹¹ WRC interviews with apparel union leaders in Bangladesh.

¹² Clean Clothes Campaign, "Live-blog: How the Coronavirus influences garment workers in supply chains," 2020, <https://cleanclothes.org/news/2020/live-blog-on-how-the-coronavirus-influences-workers-in-supply-chains>; "Employers asked to pay workers' salaries," *Dawn*, March 26, 2020, <https://www.dawn.com/news/1543735/employers->

[asked-to-pay-workers-salaries](#); "Impact of coronavirus: PM announces Tk 5,000cr stimulus package for export-oriented industries," *The Daily Star*, March 25, 2020, <https://www.thedailystar.net/coronavirus-deadly-new-threat/news/pm-announces-tk-5000cr-stimulus-package-export-oriented-industries-1885813>.

¹³ Jon Emont, "Retailers Cancel Orders"; "Timeline – How coronavirus is impacting the global apparel industry," *Just-Style*, 2020, https://www.just-style.com/news/timeline-how-coronavirus-is-impacting-the-global-apparel-industry-free-to-read_id138313.aspx.

hold onto cash and minimize inventory is a rational response by companies to defend their businesses from a crisis no one anticipated. Urgent circumstances, however, do not eliminate the obligation to act responsibly. Power relations in the garment industry have tempted brands to respond to the crisis in a manner that will visit disproportionate damage on suppliers and workers. It is important to bear in mind that global brands and retailers have benefited for years from producing in countries with weak regulations and social protections and are better equipped financially to weather the present storm than most of their suppliers.

AVERTING DISASTER: BRAND ACCOUNTABILITY AND A COLLECTIVE INTERNATIONAL RESPONSE

Averting a catastrophic outcome for supply chain workers requires concerted efforts to (1) hold brands and retailers accountable to their own labor standards, which include commitments to “responsible exit” and to ensuring that suppliers pay legally mandated benefits to suspended and terminated workers and (2) mobilize a collective response by international financial institutions, inter-governmental bodies, and/or governments of wealthier nations to maintain workers’ income during the crisis.

Brands can—and should—take a more equitable approach to sharing the financial burden of the crisis, rather than sloughing all costs onto suppliers and, in turn, workers. Canceling orders already in production or completed and waiting to be shipped, without even making an effort to determine whether suppliers have the wherewithal to survive the damage, is not a responsible approach. Nor is ignoring contractual terms that obligate

brands to pay for goods produced. While brands face their own very serious financial challenges, resource allocation is a matter of priorities. If brands place fulfillment of their obligations to suppliers and workers among their priorities as they navigate the crisis, and allocate even modest resources toward this end, it will mean the difference between survival and failure for many factories. Conversely, brands also have substantial leverage to press those suppliers that are still able to do so to pay legally mandated benefits.

Even assuming some success in eliciting more equitable burden-sharing from brands, public resources—brought to bear through a collective international effort—will be essential to provide adequate income support for workers in countries that lack the resources to do it on their own. Everyone is scrambling for lifeboats amidst the rising tide of crisis; it is imperative to make sure there are enough to go around. Wealthy countries are about to mobilize trillions of dollars to stanch the domestic economic damage from Covid-19.¹⁴ If international financial commitments can be secured that are equivalent to a tiny fraction of those amounts, this will be enough to provide vital assistance across manufacturing supply chains—keeping tens of millions of workers, hundreds of millions of their family members, and tens of thousands of businesses afloat.

Such support should be contingent on:

- Commitments, from the countries where workers will receive funds, to establish adequate social protection systems, as soon as the crisis abates, that will protect the income of garment workers in the context of mass job loss in the future; and

¹⁴ Emily Cochrane and Nicholas Fandos, “Senate Approves \$2 Trillion Stimulus After Bipartisan Deal,” *New York Times*, March 26, 2020,

<https://www.nytimes.com/2020/03/25/us/politics/coronavirus-senate-deal.html>.

- Brands' acceptance of contractually enforceable obligations, to take effect after market conditions stabilize, to permanently reflect, in the prices they pay to suppliers, the cost of those systems going forward.

MOVING AWAY FROM A FAILED SUPPLY CHAIN MODEL

The flaws in the supply chain model that leave tens of millions of workers largely unprotected against the economic ravages of the pandemic are not new. Workers, unions, and civil society groups have long argued that worker vulnerability is written into the DNA of global supply chains. The existing model is defined by:

- Prices paid to factories that do not reflect the true cost of labor, including decent wages that allow workers to save and the cost to suppliers of maintaining reserves that enable them to pay benefits due to workers upon termination;
- A power imbalance between buyers and suppliers so severe that it allows the former to push costs and burdens onto suppliers while claiming a disproportionate share of the gains;
- A lack of brand accountability through legally mandated human rights due diligence and reliance, instead, on voluntary brand labor standards that cannot be enforced by workers and unions.

Understanding how supply chain structures have exacerbated the present economic catastrophe will increase the chances that the supply chains that emerge when the Covid-19 crisis abates will be more equitable, rational, and resilient.

THE NEED FOR IMMEDIATE ACTION

Just as legislators in the wealthier countries are fashioning their massive economic rescue plans with extraordinary speed, it is imperative that action to protect supply chain workers be crafted and executed in a matter of weeks, not months. Supply chains do not stop at national borders; the ethos that 'we must watch out for each other' during this unprecedented calamity should not stop at the border either.