



# The Rise of Fast Fashion and The Lack of Protections in the Garment Worker Industry

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October 28, 2022

The rise of fast fashion, a term used to characterize inexpensive clothing produced rapidly by mass-market retailers in response to the latest trends, has permeated the modern-day ready-made garment industry. As production times have sped up and prices have gone down, this phenomenon has not only changed the way that consumers shop but also exacerbated unsafe labor practices in some countries. Low wages and long hours, coupled with a lack of regulatory oversight, have subjected workers in this industry to unimaginable working conditions while simultaneously allowing some of the largest fashion retailers to profit off low-cost labor and supply chain loopholes. This note examines the stark differences that exist between labor standards and regulations specifically in Bangladesh and the United States, as well as the implications they have on worker safety and wellbeing. Further, this note discusses proposals and improvements each country has made to workplace safety and the progress still to be made.

## I. Introduction

Fast fashion is an approach to the design, creation, and marketing of clothing with an emphasis on making trends quickly and cheaply available to consumers.<sup>2</sup> The term was coined by the New York Times in the early 2000s when describing Zara's mission to take a garment from the design stage to being sold in stores in just fifteen days.<sup>3</sup> The idea behind this phenomenon is to get the newest styles on the market as fast as possible so that consumers can get them at the height of their popularity.<sup>4</sup> Increased consumption in wealthy, first-world countries has driven the success of fast fashion and placed a significant strain on garment factories and their workers.<sup>5</sup> Because fashion is one of the most labor-dependent industries—as each piece of apparel must be handmade along a lengthy supply chain—brands have looked to outsource labor overseas to minimize costs and maximize profits.<sup>6</sup> The goal of outsourcing is to locate low-cost production sources in emerging economies, like Bangladesh, where input costs are low and productivity is high.<sup>7</sup> As retail prices have decreased and production prices have increased, there continues to be pressure on manufacturers' margins.<sup>8</sup> Because of this cycle, garment workers are often subjected to poor

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<sup>2</sup> *Fast Fashion*, MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/fast%20fashion> (last visited Oct. 11, 2022).

<sup>3</sup> Solene Rauturier, *What Is Fast Fashion and Why Is It So Bad?*, GOOD ON YOU (Apr. 1, 2022), <https://goodonyou.eco/what-is-fast-fashion/>.

<sup>4</sup> *Id.*

<sup>5</sup> *Made In Poverty: The True Price of Fashion*, OXFAM AUSTRALIA 6 (Feb. 2019), <https://www.oxfam.org.au/wp-content/uploads/2021/11/Made-in-Poverty-the-True-Price-of-Fashion-Oxfam-Australia.pdf>.

<sup>6</sup> Sesily Beridze, *Legislation Against Fast Fashion: Will the FABRIC Act Revolutionize the Industry?*, IMPAKTER (July 19, 2022), <https://impakter.com/legislation-against-fast-fashion-how-will-the-fabric-act-revolutionize-the-industry/#:~:text=Introduced%20by%20American%20Senator%20Kirsten,fashion%20companies%20accountable%20for%20malpractices.>

<sup>7</sup> Ian Taplin, *Who is to blame?: A re-examination of fast fashion after the 2013 factory disaster in Bangladesh*, 10 CRITICAL PERSPECTIVES ON INTERNATIONAL BUSINESS 72 (2014), [https://www.researchgate.net/publication/263406306\\_Who\\_is\\_to\\_blame\\_A\\_re-examination\\_of\\_fast\\_fashion\\_after\\_the\\_2013\\_factory\\_disaster\\_in\\_Bangladesh](https://www.researchgate.net/publication/263406306_Who_is_to_blame_A_re-examination_of_fast_fashion_after_the_2013_factory_disaster_in_Bangladesh).

<sup>8</sup> *Made In Poverty: The True Price of Fashion*, *supra* note 4 at 42.

employment conditions and factories are less able to invest in the improvement of labor conditions or increase workers' pay.<sup>9</sup>

For decades, brands have turned a blind eye to these key issues, continuing to profit off cheap, forced labor.<sup>10</sup> Zara, H&M, and Topshop were among the first companies to take looks and designs from top fashion houses and reproduce them quickly and cheaply.<sup>11</sup> Key characteristics of fast fashion brands include: (1) having thousands of styles, particularly those that touch on the latest trends; (2) extremely short turnaround times between when a trend is seen on the catwalk and when it hits the shelves; (3) offshore manufacturing where labor is cheap; (4) limited quantities of particular garments; and (5) cheap, low-quality materials.<sup>12</sup> This note will explore how the fast

prices.<sup>20</sup> The company then selects the factory that commits to the fastest turnaround time and the lowest price, effectively pushing down wages and worsening working conditions.<sup>21</sup> This perpetuates a skewed power dynamic where buyers dominate, as factories accept low prices for orders while remaining under pressure to maintain high product quality and productivity levels

meet their supply chain standards.<sup>35</sup> With a marketplace as large as Amazon's, this is clearly a problem as it keeps unsafe workplaces up and running.<sup>36</sup> While consumers may not currently be aware that the clothing they are buying originated in a factory where workers are subject to long hours and serious injuries, it is important that it is made known and steps are taken to end such practices.

### **III. Development and Problems**

#### **A. Absence of Worker Protections in the Garment Industries**

Stark contrasts exist between garment workers' rights in countries like the U.S. and Bangladesh.<sup>37</sup> While workers in the U.S. have protection under the Fair Labor Standards Act (FLSA) and through regulatory oversight, Bangladesh lacks a well-functioning labor inspection system or enforcement mechanisms.<sup>38</sup> Moreover, because supply chains are organizationally fragmented and geographically dispersed, it becomes difficult for garment workers to unionize and fight for change.<sup>39</sup>

##### *1. Minimum Wage*

A living wage is the lowest wage paid to a full-time worker—earned in no more than forty-eight hours per week—need2.025 4800912 0 612 792Span ~~MCID 8/L~~to a fulneed2.025 4800912 0 612 792Span ~~M~~

targets, absence, late attendance, poor quality, product mistakes, or refusing to do overtime or night duty.<sup>47</sup> In order to make ends meet, parents often remove their children from school to start working in garment factories—some as young as eleven years old.<sup>48</sup>

The problem with these extremely low wages is that it makes workers more susceptible to exploitation and more willing to tolerate abuse as



USD per month to make 500 pieces of clothing per day, and have their first month's pay withheld from them.<sup>72</sup> They work up to eighteen-hour days, are only given one day off per month, and are penalized two-thirds of their daily wage if they make a mistake on a clothing item.<sup>73</sup> Shein told Business Insider that, "any non-compliance with [China's labor laws] is dealt with swiftly, and [they] will terminate partnerships that do not meet [their] standards," which is ironically what they have said in previous years when accused of illegal labor practices.<sup>74</sup> The fact that this report was published in 2022 is a clear indication that these abusive, unsafe labor practices are still happening.

#### A. Change on the Bangladeshi Horizon

With eighty-four percent of Bangladesh's exports coming from the ready-made garment sector, it was clear that labor reform for garment workers was necessary.<sup>75</sup> Following the incidents of 2013, the country has made strides in improving conditions for the nearly four million garment workers, including establishing initiatives like the Accord in Fire and Building Safety in Bangladesh, the Alliance for Bangladesh Worker Safety, and the RMG Sustainability Council.<sup>76</sup> Notably, the International Finance Corporation (IFC) both established a \$40 million credit facility that enabled local banks to help factories upgrade their structural, electrical, and fire safety standards, and also worked with the Bangladesh government to design and implement policies, laws, and regulations to streamline those processes.<sup>77</sup> Over the last several years, the International Labor Organization (ILO) has reported that 1,690 factories in Bangladesh are complying with fire and building safety standards, and 655 factories are complying with worker safety standards.<sup>78</sup> Authorities have shut down fifty-nine manufacturing units that failed to comply with the new, post-Rana Plaza regulations.<sup>79</sup>

Bangladesh has worked to strengthen initiatives and accelerate implementation of procedures to create a sound base of labor rights.<sup>80</sup> Specifically, after the Rana Plaza tragedy, the Bangladesh government and other global leaders established a tripartite policy level committee on Employment Injury Insurance.<sup>81</sup> Although the consultation meeting was conducted in November 2017, it took the Bangladesh government until June 2022 to launch the first employment injury scheme pilot in

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<sup>72</sup> *Id.*

<sup>73</sup> *Id.*

<sup>74</sup> *Id.*

<sup>75</sup> See Achim Berg et al., *What's next for Bangladesh's garment industry, after a decade of growth?*, MCKINSEY & COMPANY (Mar. 25, 2021), <https://www.mckinsey.com/industries/retail/our-insights/whats-next-for-bangladeshs-garment-industry-after-a-decade-of-growth>.

<sup>76</sup> *Id.*

<sup>77</sup> Nazila Fathi, *Safety First: Bangladesh Garment Industry Rebounds*, INTERNATIONAL FINANCE 612 792 reWñBT/F1 8 Tf1 0 0 1 428.67 189.0.



the garment sector.<sup>82</sup> The pilot is the country's first ever social security scheme focused on income protection and medical care for work-related injuries.<sup>83</sup> Deemed a milestone in establishing decent work and economic growth in the country, the scheme covers all ready-made garment workers and will compensate injured workers and their dependents in case of accidents leading to permanent disability or death.<sup>84</sup> The program was born out of clear necessity for labor sector regulation.

In 2018, the Bangladesh government amended the 2006 Labour Act to encompass all employment issues and rights ranging from labor recruitment, labor-employer relationships, minimum wages, incidental costs, occupational hazards, dispute resolution, workplace environment, and prescribed that workers had the right to join trade unions.<sup>85</sup> Further, Bangladesh Labor Rules were introduced in 2015, and amended in September 2022, to empower trade unions and prevent sexual harassment in the workplace.<sup>86</sup> The amended rules mandate that a participation committee is no longer required in any establishment where there is a trade union.<sup>87</sup> This amendment followed a longstanding demand from both the ILO and local labor rights groups that participation committees should not be considered an alternative to trade unions in a factory.<sup>88</sup> The amendments also prohibit indecent and abusive behavior towards women employees in any establishment.<sup>89</sup>

In terms of compliance, factory and occupational safety, and transparency, the Bangladesh garment sector has shown improvement over time as factory buildings have become safer and the country now has more green garment factories than any other country, although their share of the country's apparel export remains low.<sup>90</sup>

#### **B. Change on the American Horizon**

As a group, American garment workers suffer the second-highest rate of wage theft of all workers in the U.S.<sup>91</sup> While some earn a middle-class living, others earn as little as \$2.68 an hour, which is far below the federal minimum wage.<sup>92</sup> This is, in part, due to long-standing piece-

continue to get contracts from the same brands.<sup>95</sup> This is indicative of the supply chain loopholes previously discussed.<sup>96</sup> Fortunately, in 2021, California passed the Garment Worker Protection Act (S.B. 62), to prohibit the piece-rate compensation system and make brands jointly liable for workers' wages.<sup>97</sup> While the bill is a step in the right direction for the state of California, it speaks only to the practices of one state—not the entire U.S.<sup>98</sup>

The Fashioning Accountability and Building Real Institutional Change Act (FABRIC Act), an amendment to the Fair Labor Standards Act of 1938, has been proposed in the U.S. Congress to prohibit these practices—namely to protect workers' rights, end abusive pay rates, and ensure equitable compensation for garment workers—on a federal level.<sup>99</sup> If passed, the Act would mandate a federal minimum wage for garment worker employees, institute a thirty percent tax credit for businesses that relocate production back to the U.S., require garment manufacturers and contractors to register with the Department of Labor, create a new Undersecretary of the Garment Industry within the Department of Labor, and allow fines up to \$50 million for any violations of the Act.<sup>100</sup> The intention behind creating the Act was to end wage theft for garment workers on a federal level, establish brand accountability, and incentivize the return of garment production to the U.S.<sup>101</sup> Sponsors of the bill claim it is the first piece of federal legislation in congressional history explicitly aimed at the fashion, garment, and clothing industries, rather than a bill aimed at businesses at large, which just happen to include such industries.<sup>102</sup>

The FABRIC Act would be a monumental step toward eradicating unfair labor practices along fashion supply chains.<sup>103</sup> For example, a provision of the bill would allow for any brand guarantor who contracts with an employer for the performance of services in the garment industry to be held jointly and severally liable for any violations of the Act.<sup>104</sup> Importantly, the Act defines such an employer to include any person who subcontracts with another employer for the performance of such services.<sup>105</sup> This would be a major step in the right direction, in an effort to eradicate forced labor and fix supply chain loopholes, because it would force brands to inspect the factories they are receiving garments from so as to not be held liable for poor conditions and labor practices.<sup>106</sup>

Another crucial part of the Act is the thirty percent tax credit offered to companies who relocate their production to the U.S.<sup>107</sup> Currently, more than ninety-five percent of clothing sold in the U.S. is made elsewhere.<sup>108</sup> Not only would the tax credit incentivize companies to do business in the U.S. and generate revenue for the economy, but it would also work to eliminate egregious labor

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<sup>95</sup> *Id.*

<sup>96</sup> *Supra*

conditions as the U.S. has some of the most strenuous and comprehensive labor regulations.<sup>109</sup> By providing oversight into garment production, the government could ensure that workers are paid a minimum hourly wage and factories are up to building and labor (t)7(i)7(u)1G.3d7( c)7(oul)7(d e3 .9m)7(u)-2