

COVID 19: MISERY OF GARMENT WORKERS OF BANGLADESH

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ABSTRACT

This paper explains the situation or obstacles faced by the fashion industry workers in the COVID19 pandemic crisis. Workers who manufacture the products are the most susceptible ones in the global supply chain of the garments industry. The fashion industry is the one, which undoubtedly struck hard by the COVID 19 as it decreased the demand for clothes and closer of the shoppes in western countries. Buyer's cancellation of orders using inappropriate contract terms. Which caused laid off the workers without pay and closer to factories. That effects the workers living hood and lack of safety measures in the factory put the workers on the health risk. As Bangladesh is the second-largest garments exporting countries, and 80% export earning comes from the garments sector. The cancellation of orders from EU, USA and Canadian brands, directly affected the millions of workers human and labour rights. Brands/retailers need to perform more responsibly in the supply chain along with the factory owners and government.

Keywords: Bangladesh RMG Workers, COVID 19, Government, Factory Owners and Brands Response, Labour Union Role.

INTRODUCTION

The COVID-19 or coronavirus now it is the shared adversary to the entire world. It not simply troubling our wellbeing, this outbreak hit the worldwide economy, putting tread disruption to many industries. However, a number of the industry which produce clinical instruments and food industry are doing great right then and there. Since the start of the coronavirus in china, it has dropped the \$2.5trillion global fashion industry into a catastrophe with a massive number of businesses anticipated to go broke in the coming 18 months, placing millions of job opportunities at risk¹.

The global fashion industry is one dynamic model of the global supply chain, as it includes brands and retailers in the western world with the consumer market and production of products in many developing countries in Asia. In this pandemic condition, 60 to 70 million approximate garments workers around the world, who are in the bottom of the supply chain with low wages are the most vulnerable one. As coronavirus spread to the EU countries like Italy, Germany, and France etc., also in the US and UK. Where brands shoppes are temporarily closed due to government lockdown measures to protect the citizens. Many people lost their jobs, so peoples only incline to spend on the necessity, that dropped the demand for fashion products. For this reason, brands and retailers cancelled and postponed orders. For the cancellation of the order, many workers around the world already lost their jobs, especially in Asian countries like Bangladesh, India, Pakistan, Sri Lanka and Myanmar etc. The Majority of the workers are not getting their wages now for months, it hit their living hood as wages they earn, it somehow provides shelter and food to their families. They can't survive without the salary in the lockdown time.

If we picture the garments workers situation before and on the pandemic. It was always a do or die situation when factories got enough working order, they face in too much work pressure and others inconvenience like an unsafe workplace, inadequate health safety, physical and verbal abuse from the managers. After all this hindrance the garments workers only earn minimum wages, not living wages. When the situation is not favourable like a factory without order or cancellation of the order, delay in payment from the buyers. The suppliers lay off the workers or suspended the workers. These workers without social benefit facility in the

developing country like Bangladesh. Pushing the vulnerable group of workers to greater economic exposures.

On the other side of the picture, it was obvious that the coronavirus also affects the small and medium western brands and retailers in the supply chain too. But it was expected that employees or workers at the upper level of the supply chain at least will have a house to stay, food to survive in quarantine time and the company or social welfare system will help them to survive this crisis in developed countries.

Among the Asian manufacturing countries, Bangladesh is the second-largest garments manufacturing countries with 4.1 million workers. In this catastrophe Bangladesh workers economic, human and labour rights have been violated by the brand's irresponsible behaviours, push 1 million workers to unemployment till now. This vulnerable class of workers require to combine protection from the employers, buyers, and governments together with the legal protection in the national and international level.

In this paper in the first part will discuss the Bangladesh garments workers condition in COVID 19 pandemic. The second part on the Bangladesh government and Tread organization and labour unions response towards the workers. The third part on legal grounds for lay off the workers and owner's response. The fourth part on the brand's and retailer's response. The fifth part conclusion

COVID-19 PANDEMIC CATASTROPHE ON BANGLADESH RMG WORKERS

Bangladesh, is the world's second-largest garment exporter after China, is deeply dependent on top fashion brands. The industry employees more than 4.1 million people, mostly women, and accounts for more than 80% of its export productsⁱⁱ. Bangladesh economy was 80% dependent on the garment's exports and remittances from the migrant workers. As at the beginning on the year in early March COVID -19 outbreak in western and Middle East countries, many workers returned to Bangladesh for the fear of getting the virus and many lost their jobs due to closure of businesses. This cause a reduction in remittance earning.

In Bangladesh, fear of the outbreak of COVID 19 starts at the end of the February as many migrant workers from Italy and the Middle East came to Bangladesh. At the beginning of the March small number of COVID 19 case was identified. Subsequently, then the labour organizations demanded adequate health safety measures in the RMG industry as per WHO instruction. On 23rd March in a labour ministry meeting, labour activities and union leaders demanded the factory closer, to avoid the spread of the virus among the workers and their familiesⁱⁱⁱ.

Finally, to stop the outbreak of COVID 19, the government declared 10 days general holiday from 25th March to 4th April. From March to June Bangladesh went to step by step lockdown in a form of general holiday. On 1st April, the government declared that the closure will be extended until 11th April. subsequently 5th April 2020, the government again extended the continuing 'general holiday' for another three days, until April 14th and once more on April 10th the government extended the ongoing closure of all public and private offices until 25th April to control the spread of the coronavirus in the country^{iv}. By 11th April, it was communicated that all public transport services are going to be suspended until 25th April. This step by step closer to public and private sector offices created a confusing situation among the workers.

Before the starting of the general holiday from 26th March, until 23rd March it was reported that 1,089 Bangladesh garment factories, \$1.5 billion garment export order has been cancelled which employees almost one million workers^v. Many workers have laid off without any wages and they went home without February's salary. According to news reports, many workers protested in front of the factory and owner's houses for their wages, as owners gave the reason for the cancellation of orders.^{vi} Many workers came back to the capital, fear of losing their jobs if they do not come for work on 5th April, later they discover that the closing would continue until 12th April^{vii}. As for lockdown, all the public transports were closed, the workers came on feet 100 kilolitres and by any mode of transport available to them breaking the social distance measure. This put them in a risk of getting the virus. These caused a lot of frustration. Later, the closer of the factory extended to more days until 14th April. Until the 6th April confusion between the tread organization like Bangladesh Export Processing Zone Authority (**BEPZA**), Bangladesh Export Processing Zone Authority (**BEPZA**) and Bangladesh Knitwear Manufacturers and Exporters Association, (**BKMEA**) and government, clear instruction of

closing the factories were not informed to the workers. Others wise this unexpected situation can be avoided^{viii}. **BGMEA** Reported until 7th April international retailer's and brand's cancelled orders worth \$3.04 billion^{ix}. Many factories were found in the industrial area, and lead chaotic situation works demanding factory close from the spread of the virus and payment of wages. On 12th April around 11 factories in Hemayetpur, Olail, Fulbaria, Rajason and different areas of Ashlie (industrial area in Dhaka) protested on the road and demanded the unpaid wages^x

During the 1st month of government general holiday, reported by a newspaper in six industrial zones Ashulia, Gazipur, Chattogram, Narayanganj, Khulna and Mymensingh under industrial police total of 7,602 factories, 546 industrial units, including 98 textile and garments were which are open. Out of these 546 industries, 54 are registered with the **BGMEA**, 10 with the **BKMEA** and 34 with the **BTMA**. Which did not follow the general holiday rule. The tread bodies stated that only factories making personal protective equipment (**PPE**) and have urgent shipments target are continuing operations after complying with health and safety requirements in discussion with the police and the government Department of Inspection for Factories and Establishments (**DIFE**).

After the declaration of the general holiday, many workers went back home without February and March salary. As per request by the commerce minister to clear the salary of the workers by 16th April. According to the industrial police report, the following table states the number of factories paid the salary of March.

Table 1

Tread bodies	Total number of factories registered	Number of factories paid the salary of march
BGMEA	1,882	186
BKMEA	1,101	57
BTMA	388	47
BEPZs	364	121

According to the industrial police 3867 non-textile factories under their management 614 paid salary of March^{xi}.

The workers, hundreds in number, according to locals and newspaper, rode pickups, auto-rickshaws, and other modes of transport after midnight to reach their workplaces after being denied passage by the police throughout as finally, factory open on 26th April. Inside this 1 month almost every worker protested in different cities in the country for the wages. The situation describes the misery the Bangladesh garments workers. The opening of the factories exposed the workers in the risk of getting the virus which is the violation of health and safety rights and violation of economic rights by not getting the due wages.

Bangladesh Government Response to RMG Workers:

Bangladesh earns 60% of exports from the garments industry. The pandemic of COVID 19 along with the whole world also hit hard Bangladesh too. The government to protect the citizens took the lockdown Measures closed all the schools, colleges, universities, and public and private offices closer from 26th March to 5th May. During this period some the garments industry remains open within this lockdown, which is producing personal protection equipment (PPE), to supply to the many countries. To protect this garment sector and its workers the Bangladesh government to some steps. One that has some positive and adverse effect on the workers. On 25th March, a stimulus package of Tk 5,000 crore (EUR 5.3 billion), was declared by Prime “Minister Sheikh Hasina”. For export-oriented industries to alleviate the impact of the coronavirus on the country’s economy. The premier stated that the money from the stimulus package only is distributed in the form of salaries or wages for employees or workers of those industries.^{xii}

On 3rd April Bangladesh Bank (BB) the central bank of Bangladesh published its terms and condition to apply for loans under Tk 5000 crore stimulus. According to the BB notice the factory owner must apply for lone to their prospective bank by 20th April. It is an interest-free loan only with 2% of service charge, which will use for payment of salary of the workers only for 3 months from April to June. With loan repayment period of two years, plus a grace period for six months from July to December this year. The owner will have to pay off the loans in 18 monthly instalments from January 2021 to June 2022^{xiii}. To qualify for the loan the owner needs to submit December 2019 to February 2020 factory workers list and salary sheet to the

bank and need to write permission from the **BGMEA**. Bank will release the fund in three-phase and salary will go directly to the workers mobile banking account or bank account. No fund will be transferred to the factory account. But the problem arises as many of the workers did not have a mobile bank account and bank account. The BB on 7th April instructed to factory owners to open the mobile bank account for the workers.^{xiv} The government also declared that the factories which layoff the workers within this pandemic will not qualify for the stimulation.

State Minister of Labour and Employment “Munnujan Sufian” has ordered all industry owners to pay the salary of March to their workers within April 16. "Legal action will be taken if an owner fails to follow the order," she said on 12th April. And the Labour Ministry has formed crisis management committees, aiming to ensure the security of workers and employees of industries and keep labour situation viable during the coronavirus outbreak. The committees have been formed with the field level officials of Department of Labour and the Department of Inspection for Factories and Establishments (**DIFE**) and concerned areas' industries owners and workers' representatives. The committees must secure payment of wages of the workers, inspection of factories in case of labour unrest by arbitration, make sure that workers are following corona related health rules and coordination between local administration and industrial police.^{xv}

On April 20th Prime Minister Sheikh Hasina stated: “RMG owners may continue operation with the limited number of workers if they can provide safe accommodation and transport services for the workers”. All mill-factories and agriculture farms connected to production and supply-chain of RMG will be gradually opened, depended on the coronavirus condition, declared the notice.

To ensure social distancing to prevent coronavirus from the further spread, Bangladesh has been monitoring general holidays since March 26th, which is set to continue till May 5th^{xvi}.

The positive aspect of government decision was this lone money will provide a 3-month salary to the workers, which is a big support to the workers to survive lockdown situation and transferring money directly to the workers account secured wages payment direct to the workers. Now the factory owners cannot miss use this easy loan fund for personal benefits. The negative impact of the government decision will be discussed with tread organization and labour unions' opinion in part.

Tread Organizations Response:

The tread association like **BGMEA** and **BKMEA** are the largest trade associations in the country representing the readymade garment industry, mainly the woven garments, knitwear, and sweater sub-sectors with the same importance. **BGMEA** works in conjunction with the concept to build up the RMG industry of Bangladesh and the economy of the country. It has two objectives: first, protect and promote the interests of the industry; thus, ensure sustained growth in the foreign exchange earnings of the country. Second, it is committed to safeguarding all legitimate rights and freedoms of the garment workers. The association also strives toward the improvement of society and the environment.

Rubana Huq, the president of the Bangladesh Garment Manufacturers and Exporters Association (**BGMEA**).Huq said some 1,048 factories who are members of **BGMEA** had reported that orders for over 900 million garments worth \$2.9 billion had already been cancelled or were being held up. Rubana Huq said the order cancellations might adversely affect some 2 million workers in the readymade garments segment^{xvii}.

BGMEA after the declaration of the general holiday from 26th March requested it members to keep the factory close, except the factory with the order of **PPE** production order. Taking appropriate safety measure to protect the workers.

In response to the deadline on 16th April to pay the wages, the **BGMEA** on 17th April stated, 1,665 of its members paid their workers. According to a report by the association, 73 per cent of its members have made the payments, which indicates that 87 per cent workers of the sector have got their wages. Only 97 factories in Dhaka and 119 others in Chattogram were at the final stages of paying their workers. The rest of the factories will try to pay the wages between April 20 and 22^{xviii}.

After a month of closing of the factory from 26th march to 25th April, getting permission from the government **BGMEA** decided to reopen the factories from 26th April. Reason for reopening of the factories given by the association is, long time closer of the factory will put them in the risk of losing the international market. As competitors like Vietnam, china resumed its production. **BGMEA** instructed its members to reopen the factory with the workers are present in the nearby the factory. The **BGMEA** also unstructured the factories to avoid transmission of the virus and safeguard workers to follow, the ILO Bangladesh office, COVID-19 specific

OSH guidelines, together with the Department of Inspection for Factories and Establishments (DIFE)^{xix}. On 9th may the **BGMEA** publish a new circular and stated that the nation will be appointed in Ashulia Health Center of Bangladesh. Where the RMG workers will get the following facilities:

- Workers can now the report in the Ashulia Health Center if they are willing to go for a Polymerase Chain Reaction (**PCR**) testing for novel coronavirus.
- They will be given health advice on their test report from the same health centre.
- The sample collection for Covid-19 testing will start from May 13 and will operate through Saturday to Thursday from 9 am to 1 pm^{xx}.

Bangladesh Garment Manufacturers and Exporters Association (**BGMEA**) All through in 2020 from March to June period RMG export earnings declined by US\$5.28 billion over that of last year, and the unsettled liability would be around US\$2.11 billion. In this COVID 19 pandemic, RMG factories face differed payment of US\$3.0 billion and cancellation and suspension of the order of \$3.18 billion. From these \$3.18 billion, European union brands orders were cancelled or held of amount \$1.93 billion,^{xxi} subsequently \$574 million by the US, and \$ 52 million by Canadian buyers. Besides, \$ 620 million were cancelled or held by buyers from non-traditional markets.

Table of export of RMG industry in 2020 from March to July.

Months	Amount in \$ million	Percentage of decline compared to 2019.
March	2.25	20.14
April	374.67	85.25
May	1.24	62.06
June	2.24	6.63
July	1.75	11.74

BGMEA president Dr Rubana Huq states the export in July 2020 in 1st 2 weeks was a positive sign in this pandemic situation but compared to last July it was much lower. The increase in the number of exports does not mean that brands are placing new orders. Possibly they are resuming the cancelled and suspended orders^{xxii}.

The industrial police expected that there might be labour unrest at end of the July as on 1st august Eid ul Adha is on its way, a second biggest religious festival in Bangladesh. On July 22nd State Minister for Labour and Employment Begum Munnujan Sufian asked garment factory owners to pay the workers' festival bonuses by July 27th and half of their current monthly salary in advance by July 30th. In response to this tread organization, a **BKMEA** director stated that now they have to pay the salary of June, July plus Eid bonus. It is a huge presser on the owners as most of the factory did not qualified for stimulation package and many SME factories in shortage of cash because of deferred payment and cancellation. For these owners failed to pay the workers which cause a direct effect on the workers living hood. **BGMEA** stated that out of 4500 affiliated factories only 1,926 operational factories out of these 1,854 factories paid the June wages. As par industrial police report 279 are **BGMEA** factories, 391 are **BKMEA** factories and 86 factories are under **BTMA**.

But these type of instruction for the ministry was contradictory with the Bangladesh labour act 2013, as per law the entrepreneurs must pay the wages of the former month of their workers within seven working days of the next month. So, ordering the owners to pay for the July in advance is not legally ethical^{xxiii}.

Labour organization response:

In Bangladesh, labour unions are not that strong. But despite many obstacles, some of the labour organizations are vocal in covid19 pandemic. Some of them are Bangladesh Garments and Industrial Workers Federation (**BGIWF**), Bangladesh Independent Garment Workers Union Federation (**BIGUF**), Bangladesh Federation of Workers Solidarity (**BFWS**), Bangladesh Apparels Workers Federation (**BAWF**), National Garments Workers Federation (**NGWF**), and Federation of Garments Workers (**FGW**) all this labour unions and labour activists criticized this decision of reopening the factories and protested against it. Even at the beginning of the march when pandemic started in Bangladesh, the labour union demanded the close for the factories.

When government and trade organizations decided to reopen the factories, on 25th April the number of COVID 19 cases was 4745 and death was 140^{xxiv}. It was expected that numbers of cases will in upcoming days. In such condition reopening the factories puts the workers at high risk of getting infected and spread of the virus to the community.

Kalpona Akter, president of the Bangladesh Garment and Industrial Workers Federation (BGIWF), stated at least 4 garment workers have died from COVID-19 and more than fifty are infected. How is it possible to maintain social distance in the factory as 1000 of workers work in a factory, setting in 1 feet distance from each other and in a small room without a proper ventilation system. Also, in the city, they live in constrain condition in one room 3 to 5 peoples live together and share the same kitchen and toilet, so it was impossible from for them to maintain social distance. All most 900 garment factories reopened since April 26th and though factories have been instructed to follow safety guidelines set by the Bangladesh Garment Manufacturers and Export Association (**BGMEA**). Less than half of these factories fall under the **BGMEA**'s responsibility, out of 900 factories, which makes clear how many of these factories are following safeguards was unclear^{xxv}.

As it was instructed by the **BGMEA** to resume production with 30% of the workers, this instruction was violated by most of the factories in the first stage 26-30 April. In compliance with the **BGMEA** inspection report, most factories have been found started to run with more than 50% of workers, like many involved 70 to 90% of their workers, which was a clear violation of the COVID-19 guidelines. This guideline was not correctly instructed by the factory management to the workers and labour activists complained that many factory managements calls the workers to join work from 26th April. As well as for fear of losing their job they came to workplace ignoring the social distance which was a clear violation of labours and human rights.

The labour activist mentioned that in Chattogram another important export-oriented city of Bangladesh, 207 factories reopened, without adequate safety measures. Workers informed that they only use face mask by themselves, no temperature check on the factory, no gloves and sanitizer was provided by the owners.

The general manager of the Chittagong Export Processing Zone (**CEPZ**) explained the situation of **CEPZ**, if workers enter by four different rows, 25,000 workers will in every row.

If the workers maintain three meters among themselves, then the length of each line will be 75 km long it was impossible to maintain social distance.^{xxvi}

Labour organizations also demanded salary payment by the owners for March and April, also demanded to arrest the owners who failed to pay. They protested the government decision of labour ministry on 4th may along with factory owners to pay 65% salary to the workers for April and May, for the factories which orders are suspended, and workers are laid off. Leaders of Industrial Bangladesh Council (IBC) disagreed with the decision on the meeting and demanded 100% payment of the wages along with the 7 more demand^{xxvii}. They also demanded, brands to take responsibility for the workers in this crisis moment.

Factory Owners' Response:

In the global supply chain, after the workers. The position of the manufacturers is the most compromising. According to the owners' point of view, various existing rules and practices in the industry put the manufacturer in compromising position. Bangladesh garments export taken into account \$34.12 billion, or 84 per cent of the country's overall exports of \$40.53 billion, in the financial year ended June 30, 2019.^{xxviii}

Bangladesh started to face difficulties at the beginning of 2020 when pandemic started in China. According to a research report by Penn State University's Center for Global Workers' Rights (GCWR), by Mark Anner. He administered an online survey between 21st March and 25th March 2020, reveals the "devastating impact" the cancellation of orders has had on the factories and their employee^{xxix}. The brands and retailers squeezed the owners in this crisis. At the 1st phase shortage of raw material supply for china, manufactures face delay in production and supply for goods. The brands and retailers penalized them for the delay. And the brands disagree to pay for the increase in production cost, because of the increase in raw material price^{xxx}. For the shortage of raw materials, many factory owners stopped their production and layoff the workers. Under section 12 and 16 of the Bangladesh Labour Act 2013. According to section 12, the employer may, at any time, in the event of a fire, catastrophe, breakdown of machinery, or stoppage of power supply, epidemics, civil commotion or any other cause beyond his control, stop any section or sections of the establishment, wholly or partly for such period as the cause for such stoppage continues to exist. Must provide accurate notice about when the factory will be open. If the suspension for work is more than 3 day, workers will get

the salary. If the suspension of work is more than 3 days, owners may layoff the workers under section 16.

According to section 16 of Bangladesh labour, it was stated whenever a worker, other than a badli or casual worker, whose name is borne on the muster-rolls of an establishment and who has completed not less than one year of continuous service under the employer is laid-off, he shall be paid compensation by the employer for all days during which he is so laid-off, except for such weekly holidays as may intervene. Compensation will be half of the basic salary. And to get the compensation workers must work at least 1 year in the factory. After the 45 days of a layoff, the owner may terminate the workers with notice^{xxxii}.

In the second phase delay in the payment form, January to February for the shipments the retailers make delay in payment more than a month in breach of contractual terms. for this reason, owners failed to pay the workers even for February and March.

In the third phase at the beginning of the march when the pandemic hit the western countries. The brands and retailers cancelled which are ready to ship or order in progress. For which the owners already invested full amount and owed to workers for the finished products^{xxxiii}.

The brands Denny to pay for the raw material purchase and for the worker's payment this has a direct impact on the 1,2 million workers^{xxxiii}. Many brands like brands such as H&M, C&A, JC Penney, Tesco, Zara, Li & Fung, Only & Sons, Pull & Bear etc cancelled and suspended their orders by simply by a phone call or emails^{xxxiv}. They used the **force majeure** clause in their contracts to defend the breach of their legal obligation to pay for orders in production. The justification for the use of **force majeure** will be discussed in the next part.

In this pandemic situation, Mostafiz Uddin is CEO of Bangladesh Denim Expo and Bangladesh Apparel Exchange (**BAE**), and many other garments owner opened their mouth about the dark side of the garment supply chain. The owners mentioned about the issues which put then in this squeezing position in the pandemic. The issues are as follows:

1. The brands and retailers did not have a single penny invested in the production of goods. For the purchase of raw material, labour and other related cost paid by the manufactures. Not sharing in any investment cost give the brands and retailers freedom to cancel the order anytime they want. As financial burden lies on the manufacturer only.

2. In case of export and import, **LC** (letter of credit) was used. It is an irrecoverable financial instrument, which obliges the buyer to pay the manufacturer. When the manufacturer supplies the goods. But in the case of garment export, buyers use **sales contracts** or **purchase orders** to save bank charges to open the **LC**. The sale contract or purchase orders does not have a binding effect like **LC**. There is no way to get the money if the buyer delay in payment or cancel the order.

3. Most of the time manufacturer sign the contract or agreement which contain, terms and conditions favourable to the buyers. Unless the manufacturer signs the contract, they cannot be listed as a supplier of that buyer without accepting it. This type of biased contracts stopped the manufacturer to take any legal action against the buyers if they cancel order or delay in payment

Which buyers did in the pandemic crisis cancelled ordered, leaving all the financial burden on the manufacturer? As manufacturer runs out of cash flow, they failed to pay the labours. Now after the pandemic situation getting better, the buyers asking for 50 to 70% discount of shipped products. Because of lack of cash flow and to pay workers many manufacturers are forced to accept the discount. But accepting on buyers demand many factories are about to close now as manufacturer sale garments with marginal profit.

4. Taking legal action against the brands in other county is a complicated process and expensive for the manufacturer. And if they do so, they may lose business for those brands as well from others too^{xxxv}.

The brands' response in the pandemic, not just violets the garments workers' rights. They squeezed the factory owners too which, leads to the closing of the factories and lay off workers without pay.

Brand's and Retailer's Unethical Business Behaviour:

Since the beginning of the COVID 19 crisis, eventual reduction of sale and close of the shops in us, the UK and Europe cancelled orders and suspended the orders. It shows the brand ignorance of social corporate responsibility (**CSR**) and abandoning the manufacturers and 60 million global RMG.

Bangladesh lost 3.15 billion of which are already shipped or ready to ship and in-process up to march. The brands and retailers just send the informal email stating cancellation of orders and

asking for a delay in payment others than the contract. And using the **force majeure**^{xxxvi} clause for the cancellation of the order. Its debatable issue is the use of this contract clause valid or not. Because application this clause will depend on the just jurisdiction and dose the COVID 19 pandemic follows within the definition of the **force majeure**^{xxxvii}. According to the definition a party to a contract from performing some or all its obligations under the contract following the occurrence of certain events which called “force majeure events”. which are outside of its control. Parties in the contract can implement the clause according to their negotiation. And the application of the **force majeure** clause depends on the jurisdiction. For example, in England, the **force majeure** clause does not exist under law. But parties can enforce it if they incorporate in their contract. On the other hand, in France **force majeure** covered by national law, even if the parties do not incorporate it in the contract. The clause drafted under the national law will be applicable in the contract^{xxxviii}. Using of **force majeure** clause by the brands and retailers, lawyer Alan Behr, a New Yorker specializing in the fashion industry, stated that it was unjustified to use this clause as most of the force majeure clause does not include a pandemic situation^{xxxix} and it was not reasonable to cancel order or delay in payment.

And according to the to Article 7.1.7^{xl} of the **Vienna Convention for International Commercial Contracts**, **force majeure** claims should apply to the party who has the responsibility to complete the production (contractual obligation), it will be appropriate for the Bangladeshi factories owners who are producing goods to use **force majeure** clause, rather than the retailers and brands^{xli}.

At the beginning of the crisis on March brands like C&A cancelled orders worth \$166m, H&M \$178m, Tally Weijl \$3m and suspended the order of \$7m. From March to June all the cancelled ordered are on the way to delivery, some are on the port and suspended orders are in production^{xlii}.later C&A on 23 April stated it resumed 93% of the suspended order.

According to the Worker Rights Consortium (**WRC**) in association with the Center for Global Workers’ Rights (**GCWR**) at Pennsylvania State University, tracks the brands who behaved responsibly towards the supplier and workers. As per research some brands like H&M, Inditex Zara, Kiabi Marks & Spencer, Next, Nike etc committed to pay in full for orders completed and in production.

Some brands like Arcadia, Bestseller, C&A, Li & Fung/Global Brands Group, Mothercare Primark etc did not commit to paying in full for orders completed and in production. Rather the brands asking to rebate and delay in payment more than 180 days or more. By cancelling the orders and delay in payment the EU brands/retailers' violets "The Human Rights Due Diligence Requirements of The UN Guiding Principles"^{xliii}. According to the UNGPs, the OECD Guidelines on Business Enterprises and Human Rights, and the ILO Tripartite Declaration on human rights due diligence process, companies need to fulfil their responsibility to respect human rights^{xliv}. The brands and retailers that benefit from European consumer markets have to pay their suppliers promptly, which is recognized as 60 days after receiving an invoice^{xlv}. More specifically considering the COVID-19 crisis, this means that brands and retailers need to honour contracts that they have already signed. And asking for late payment was a breach of OECD rule. According to the OEDC guidance, a business should consider potential social and economic adverse impacts related to the decision of ending business relation. It was observed in the current COVID 19 situation the bands/retailers cancelled order and delayed payment puts the RMG in laid-off position, delay in salary payment leads them to starvation, cause violation of human rights.

CONCLUSION

The COVID 19 crisis brings out the real picture of the global supply chain in the fashion industry. In the supply chain, most vulnerable are workers, their hard labour runs the industry. They are deprived of social securities and benefits in developing countries. The Bangladesh government stems to protect the workers was a positive one but need to develop social security system according to ILO standard. The business agreement between the manufactures and brands need must contain terms and conditions to keep the parties in equal status. The bands need to contribute to production cost in advance rather putting all the financial burden to the manufacturer. The advance investment may stop the brands for termination of orders.

While Bangladeshi suppliers mentioned about the use of sale contract rather than LC by the brands, it should be changed. Use of LC will provide on-time payment security to the manufactures and they will be able to pay workers on time. And most importantly it is now time to think about strong international contract law and common application in a different

jurisdiction. To make the brand accountable to respect the contract and stop unethical behaviour, which directly violets labour and human rights.

As the EU is one of the biggest markets for ready garments, European governments and the EU must present legislation making human rights due to diligence obligatory for brand and retailers and outlaw unfair trade practices. The government should guarantee punishments when these obligations are neglected^{xlvi}. The global garments supply chain was always squeezed the labours in any condition, but in this pandemic time effort from government, international labour organization, national labour unions and factory owners should unite together to protect the labours rights against the brands and retailer's unethical response in this pandemic.

REFERENCES

1. March 2020: Coronavirus and garment workers in supply chains, Clean Clothes Campaign, Available at <https://cleanclothes.org/news/2020/march-2020-covid19-blog> [Last Accessed on August 15, 2020].
2. April 8, 2020: Fashion industry reels as coronavirus shuts shops and cancels orders.
3. Available at <https://www.theguardian.com/business/2020/apr/>.
4. March 19, 2020: Job cut fears as fashion brands slash orders in Bangladesh with coronavirus. Available at <https://www.reuters.com/article/us-health-coronavirus-bangladesh-jobs>
5. March 22, 2020: Factories won't shut down without PM's direction: state minister, Available at <https://www.newagebd.net/article/102937>
6. August 31, 2020, Covid-19 impact and responses: Bangladesh Availed at <https://www.fairwear.org/covid-19dossier/worker-engagement-and-monitoring/country-specific-guidance/Bangladesh>
7. March 22, 2020: European Retailers Scrap \$1.5 Billion of Bangladesh Orders. Available at: <https://www.bloomberg.com/news/articles/2020-03-23/>
8. September 9, 2020: RMG owners divided when lives at risk No specific govt guidelines on factory closure; workers left in uncertainty; some factories kept open.

- Available at <https://www.thedailystar.net/frontpage/news/rmg-owners-divided-when-lives-risk-1890001>
9. April 4, 2020: Thousands returning to Dhaka amid shutdowns. Available at:
 10. Available at <https://www.thedailystar.net/country/news/thousands-returning-dhaka-amid-shutdown-1889497>
 11. March 2020: Coronavirus and garment workers in supply chains, Clean Clothes Campaign, Available at <https://cleanclothes.org/news/2020/live-blog-on-how-the-coronavirus-influences-workers-in-supply-chains>
 12. April 12, 2020: Garment workers take to the streets demanding wages in Savar. Available at: <https://www.thedailystar.net/country/garment-workers-take-the-streets-demanding-wages-in-savar-1892191>
 13. April 08, 2020; Many garment units operate defying order. Available at <https://thefinancialexpress.com.bd/trade/many-garment-units-operate-defying-order-1586316605>
 14. March 25, 2020: Impact of coronavirus: PM announces Tk 5,000cr stimulus package for export-oriented industries. Available at: <https://www.thedailystar.net/coronavirus-deadly-new-threat/news/pm-announces-tk-5000cr-stimulus-package-export-oriented-industries-1885813>
 15. April 03, 2020: BB asks exporters to apply for loans from stimulus package immediately. Available at: <https://www.thedailystar.net/business/news/bb-asks-exporters-apply-loans-stimulus-package-immediately-1889119>
 16. Monday, 6 April 2020: Workers asked to open mobile banking accounts in 14 days.
 17. Available at: <https://www.observerbd.com/details.php?id=252870>
 18. April 20, 2020: DIFE launches telemedicine service for workers. Available at <https://tbsnews.net/coronavirus-chronicle/covid-19-bangladesh/dife-launches-telemedicine-service-workers-71539>
 19. April 23rd, 2020 Gazette: RMG can be kept open during the extended general holiday. Available at: <https://www.dhakatribune.com/business/2020/04/23/gazette-rmg-can-be-kept-open-during-extended-general-holiday>
 20. Available at <https://www.bgmea.com.bd/home/about>
 21. April 17, 2020: Unpaid workers regret not being entitled to aid as 609 BGMEA factories miss deadline. Available at

- <https://bdnews24.com/business/2020/04/17/unpaid-workers-regret-not-being-entitled-to-aid-as-609-bgmea-factories-miss-deadline>
22. April 26, 2020: RMG workers rush to Dhaka as factories start reopening today. Available at: <https://www.newagebd.net/article/105151/rmg-workers-rush-to-dhaka-as-factories-start-reopening-today>
 23. MAY 09,2020: Coronavirus: One lakh RMG workers to get free telemedicine service. Available at <http://unb.com.bd/category/Bangladesh/coronavirus-one-lakh-rmg-workers-to-get-free-telemedicine-service/51341>
 24. July 20, 2020: \$3.0b RMG payment uncertain. Available at <https://rmgbd.net/2020/07/3-0b-rmg-payment-uncertain>
 25. Jul 20, 2020: RMG export earnings in July 1-18 total \$1.57b. Available at <https://rmgbd.net/2020/07/rmg-export-earnings-in-july-1-18-total-1-57b>
 26. Jul 23, 2020: About 600 RMG factories at risk of unrest before Eid-ul-Adha. Available at: <https://rmgbd.net/2020/07/about-600-rmg-factories-at-risk-of-unrest-before-eid-ul-adha>
 27. Available at <https://www.worldometers.info/coronavirus/country/bangladesh>
 28. May 04, 2020 Factories open in port city with lax health and safety measures. Available at <https://www.thedailystar.net/business/news/factories-open-port-city-lax-health-and-safety-measures-1899259>
 29. April 30, 2020: Closed Factories: Pay workers 60pc of gross salary for April. Available at <https://www.thedailystar.net/frontpage/news/closed-factories-pay-workers-60pc-gross-salary-april-1898152>
 30. March 31, 2020: Garment exporter Bangladesh faces \$6 bln hit as world retailers cancel orders. Available at <https://www.reuters.com/article/health-coronavirus-bangladesh-exports/garment-exporter-bangladesh-faces-6-bln-hit-as-world-retailers-cancel-orders-idUSL1N2BO1A2>
 31. March 27, 2020, Abandoned? Impact of Covid-19 on Workers and Businesses at the Bottom of Global Garment Supply Chains, by Mark Anner. Available at: <https://www.workersrights.org/wp-content/uploads/2020/03/Abandoned-Penn-State-WRC-Report-March-27-2020.pdf>

32. April 06 2020: Abandoned? The impact of Covid-19 on factories and garment workers. Available at <https://fashionunited.com/en/news/business/abandoned-the-impact-of-covid-19-on-factories-and-garment-workers/2020040632954>
33. Available at http://www.dpp.gov.bd/upload_file/gazettes/14212_75510.pdf
34. March 27, 2020: Abandoned? Impact of Covid-19 on Workers and Businesses at the Boom of Global Garment Supply Chains by Mark Anner. Available at https://ler.la.psu.edu/gwr/news-items/Abandoned_CGWRWRCApril12020.pdf
35. March 23, 2020: Fashion Retailers Cancel Nearly \$1.5 Billion in Orders from Bangladesh. Available at: <https://sourcingjournal.com/topics/sourcing/coronavirus-bangladesh-garment-factories-retailers-cancel-1-5-billion-orders-201652/>
36. July 22, 2020: How fashion companies abandoned RMG workers in Bangladesh. Available at: <https://www.dhakatribune.com/opinion/op-ed/2020/07/22/op-ed-fashion-companies-abandon-thousands-of-seamstresses>
37. April 10, 2020: Why factories are accepting huge discounts by Mostafiz Uddin. Available at <https://apparelinsider.com/why-factories-are-accepting-huge-discounts>.
38. April 17, 2020: Force Majeure by MARSHALL HARGRAVE. Available at: <https://www.investopedia.com/terms/f/forcemajeure.asp>
39. March 16, 2020: Coronavirus: contracts, cancellations, chaos? Available at: <https://www.farrer.co.uk/news-and-insights/coronavirus-contracts-cancellations-chaos>
40. May 2020: FORCE MAJEURE AND COVID-19 A GUIDE FOR SUPPLIERS IN THE GARMENT INDUSTRY. Available at <https://thecircle.ngo/wp-content/uploads/2020/06/Memo-Force-Majeure-Garment-Sector-Suppliers-May-2020.pdf>
41. July 22, 2020: How fashion companies abandoned RMG workers in Bangladesh. Available at: <https://www.dhakatribune.com/opinion/op-ed/2020/07/22/op-ed-fashion-companies-abandon-thousands-of-seamstresses>
42. UNDROIT Principles 2010, Article 7.1.7 (Force Majeure).

43. April 28 2020: COVID-19: IT'S TIME TO SHOW WHAT RESPONSIBLE MEANS. Available at: <https://www.fairwear.org/stories/covid-19-its-time-to-show-what-responsible-means/>
44. July 22, 2020: How fashion companies abandoned RMG workers in Bangladesh. Available at: <https://www.dhakatribune.com/opinion/op-ed/2020/07/22/op-ed-fashion-companies-abandon-thousands-of-seamstresses>
45. April 28 2020: COVID-19: IT'S TIME TO SHOW WHAT RESPONSIBLE MEANS. Available at <https://www.fairwear.org/stories/covid-19-its-time-to-show-what-responsible-means>
46. The OECD calls it “due diligence for responsible business conduct” and details a six-step process. Available at: <https://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf>
47. Late Payment Directive 2011/7/EU Article 13. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32011L0007>
48. Garment supply chains in intensive care? https://www.ecchr.eu/fileadmin/Publikationen/ECCHR_PP_SUPPLYCHAINS_COVID_EN.pdf

ENDNOTES

ⁱApril 8, 2020: Fashion industry reels as coronavirus shuts shops and cancels orders.

Available at <https://www.theguardian.com/business/2020/apr/>

ⁱⁱ March 19, 2020: Job cut fears as fashion brands slash orders in Bangladesh with coronavirus.

Available at <https://www.reuters.com/article/us-health-coronavirus-bangladesh-jobs>

ⁱⁱⁱ March 22,2020: Factories won't shut down without PM's direction: state minister,

Available at: <https://www.newagebd.net/article/102937>

^{iv} August 31, 2020 Covid-19 impact and responses: Bangladesh. Availed at <https://www.fairwear.org/covid-19-dossier/worker-engagement-and-monitoring/country-specific-guidance/bangladesh>

^v March 2020: Coronavirus and garment workers in supply chains, *Clean Clothes Campaign*, Available at <https://cleanclothes.org/news/2020/march-2020-covid19-blog> [Last Accessed on August 15, 2020]

^{vi} March 22, 2020: European Retailers Scrap \$1.5 Billion of Bangladesh Orders. Available at:

<https://www.bloomberg.com/news/articles/2020-03-23/>

^{vii} September 9, 2020: RMG owners divided when lives at risk No specific govt guidelines on factory closure; workers left in uncertainty; some factories kept open. Available at

<https://www.thedailystar.net/frontpage/news/rmg-owners-divided-when-lives-risk-1890001>

^{viii} April 4,2020: Thousands returning to Dhaka amid shutdowns. Available at:

<https://www.thedailystar.net/country/news/thousands-returning-dhaka-amid-shutdown-1889497>

- ^{ix} March 2020: Coronavirus and garment workers in supply chains, Clean Clothes Campaign, Available at: <https://cleanclothes.org/news/2020/live-blog-on-how-the-coronavirus-influences-workers-in-supply-chains>
- ^x April 12, 2020: Garment workers take to the streets demanding wages in Savar. Available at: <https://www.thedailystar.net/country/garment-workers-take-the-streets-demanding-wages-in-savar-1892191>
- ^{xi} April 08, 2020; Many garment units operate defying order. Available at <https://thefinancialexpress.com.bd/trade/many-garment-units-operate-defying-order-1586316605>
- ^{xii} March 25, 2020: Impact of coronavirus: PM announces Tk 5,000cr stimulus package for export-oriented industries. Available at: <https://www.thedailystar.net/coronavirus-deadly-new-threat/news/pm-announces-tk-5000cr-stimulus-package-export-oriented-industries-1885813>
- ^{xiii} April 03, 2020: BB asks exporters to apply for loans from stimulus package immediately. Available at: <https://www.thedailystar.net/business/news/bb-asks-exporters-apply-loans-stimulus-package-immediately-1889119>
- ^{xiv} Monday, 6 April 2020: Workers asked to open mobile banking accounts in 14 days. Available at: <https://www.observrbd.com/details.php?id=252870>
- ^{xv} April 20, 2020: DIFE launches telemedicine service for workers. Available at <https://tbsnews.net/coronavirus-chronicle/covid-19-bangladesh/dife-launches-telemedicine-service-workers-71539>
- ^{xvi} April 23rd, 2020 Gazette: RMG can be kept open during extended general holiday. Available at: <https://www.dhakatribune.com/business/2020/04/23/gazette-rmg-can-be-kept-open-during-extended-general-holiday>
- ^{xvii} <https://www.bgmea.com.bd/home/about>
- ^{xviii} April 17, 2020: Unpaid workers regret not being entitled to aid as 609 BGMEA factories miss deadline. Available at <https://bdnews24.com/business/2020/04/17/unpaid-workers-regret-not-being-entitled-to-aid-as-609-bgmea-factories-miss-deadline>
- ^{xix} April 26 2020: RMG workers rush to Dhaka as factories start reopening today. Available at: <https://www.newagebd.net/article/105151/rmg-workers-rush-to-dhaka-as-factories-start-reopening-today>
- ^{xx} MAY 09, 2020: Coronavirus: One lakh RMG workers to get free telemedicine service. Available at <http://unb.com.bd/category/Bangladesh/coronavirus-one-lakh-rmg-workers-to-get-free-telemedicine-service/51341>
- ^{xxi} July 20, 2020: \$3.0b RMG payment uncertain. Available at <https://rmgbd.net/2020/07/3-0b-rmg-payment-uncertain/>
- ^{xxii} Jul 20, 2020: RMG export earnings in July 1-18 total \$1.57b. Available at <https://rmgbd.net/2020/07/rmg-export-earnings-in-july-1-18-total-1-57b>
- ^{xxiii} Jul 23, 2020: About 600 RMG factories at risk of unrest before Eid-ul-Adha. Available at: <https://rmgbd.net/2020/07/about-600-rmg-factories-at-risk-of-unrest-before-eid-ul-adha/>
- ^{xxiv} <https://www.worldometers.info/coronavirus/country/bangladesh>
- ^{xxv} March 2020: Coronavirus and garment workers in supply chains, Clean Clothes Campaign, Available at <https://cleanclothes.org/news/2020/march-2020-covid19-blog>
- ^{xxvi} May 04, 2020 Factories open in port city with lax health and safety measures. Available at <https://www.thedailystar.net/business/news/factories-open-port-city-lax-health-and-safety-measures-1899259>
- ^{xxvii} April 30, 2020: Closed Factories: Pay workers 60pc of gross salary for April. Available at <https://www.thedailystar.net/frontpage/news/closed-factories-pay-workers-60pc-gross-salary-april-1898152>
- ^{xxviii} March 31, 2020: Garment exporter Bangladesh faces \$6 bln hit as world retailers cancel orders. Available at <https://www.reuters.com/article/health-coronavirus-bangladesh-exports/garment-exporter-bangladesh-faces-6-bln-hit-as-world-retailers-cancel-orders-idUSL1N2BO1A2>
- ^{xxix} March 27, 2020 Abandoned? Impact of Covid-19 on Workers and Businesses at the Bottom of Global Garment Supply Chains, by Mark Anner. Available at: <https://www.workersrights.org/wp-content/uploads/2020/03/Abandoned-Penn-State-WRC-Report-March-27-2020.pdf>
- ^{xxx} April 06 2020: Abandoned? The impact of Covid-19 on factories and garment workers. Available at <https://fashionunited.com/en/news/business/abandoned-the-impact-of-covid-19-on-factories-and-garment-workers/2020040632954>
- ^{xxxi} http://www.dpp.gov.bd/upload_file/gazettes/14212_75510.pdf
- ^{xxxii} March 27, 2020: Abandoned? Impact of Covid-19 on Workers and Businesses at the Bottom of Global Garment Supply Chains by Mark Anner. Available at https://ler.la.psu.edu/gwr/news-items/Abandoned_CGWRWRCApril12020.pdf
- ^{xxxiii} March 23, 2020: Fashion Retailers Cancel Nearly \$1.5 Billion in Orders from Bangladesh. Available at: <https://sourcingjournal.com/topics/sourcing/coronavirus-bangladesh-garment-factories-retailers-cancel-1-5-billion-orders-201652/>

-
- ^{xxxiv} July 22, 2020: How fashion companies abandoned RMG workers in Bangladesh. Available at: <https://www.dhakatribune.com/opinion/op-ed/2020/07/22/op-ed-fashion-companies-abandon-thousands-of-seamstresses>
- ^{xxxv} April 10, 2020: Why factories are accepting huge discounts by Mostafiz Uddin. Available at <https://apparelinsider.com/why-factories-are-accepting-huge-discounts>
- ^{xxxvi} April 17, 2020: Force Majeure by MARSHALL HARGRAVE. Available at: <https://www.investopedia.com/terms/f/forcemajeure.asp>
- ^{xxxvii} March 16, 2020: Coronavirus: contracts, cancellations, chaos? Available at: <https://www.farrer.co.uk/news-and-insights/coronavirus-contracts-cancellations-chaos>
- ^{xxxviii} May 2020: FORCE MAJEURE AND COVID-19 A GUIDE FOR SUPPLIERS IN THE GARMENT INDUSTRY. Available at <https://thecircle.ngo/wp-content/uploads/2020/06/Memo-Force-Majeure-Garment-Sector-Suppliers-May-2020.pdf>
- ^{xxxix} July 22, 2020: How fashion companies abandoned RMG workers in Bangladesh. Available at: <https://www.dhakatribune.com/opinion/op-ed/2020/07/22/op-ed-fashion-companies-abandon-thousands-of-seamstresses>
- ^{xl} UNDROIT Principles 2010, Article 7.1.7 (Force Majeure).
- ^{xli} April 28 2020: COVID-19: IT'S TIME TO SHOW WHAT RESPONSIBLE MEANS. Available at: <https://www.fairwear.org/stories/covid-19-its-time-to-show-what-responsible-means/>
- ^{xlii} July 22, 2020: How fashion companies abandoned RMG workers in Bangladesh. Available at: <https://www.dhakatribune.com/opinion/op-ed/2020/07/22/op-ed-fashion-companies-abandon-thousands-of-seamstresses>
- ^{xliii} April 28 2020: COVID-19: IT'S TIME TO SHOW WHAT RESPONSIBLE MEANS. Available at: <https://www.fairwear.org/stories/covid-19-its-time-to-show-what-responsible-means>
- ^{xliv} The OECD calls it “due diligence for responsible business conduct” and details a six-step process. Available at: <https://mneguidelines.oecd.org/OECD-Due-Diligence-Guidance-for-Responsible-Business-Conduct.pdf>
- ^{xlv} Late Payment Directive 2011/7/EU Article 13. Available at: <https://eur-lex.europa.eu/legal-content/EN/TXT/?uri=CELEX%3A32011L0007>
- ^{xlvi} Garment supply chains in intensive care? https://www.ecchr.eu/fileadmin/Publikationen/ECCHR_PP_SUPPLYCHAINS_COVID_EN.pdf