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

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

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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 fashion cycle perpetuates neglect of consumer responsibility, social and ecological harm, capitalization of fast production and cheap prices, and labor exploitation.

## II. Background

### A. A Journey Down the Supply Chain

As clothes have gotten cheaper, trend cycles have sped up, and shopping has become a hobby, consumers, perhaps unknowingly, have perpetuated a cycle of abusive labor practices in overseas garment factories.<sup>13</sup> Because labor costs remain high in the Western Hemisphere, production has largely moved overseas and fashion companies industry-wide are utilizing subcontracting to produce their garments.<sup>14</sup> Subcontracting is the process by which a company divides parts of the supply chain across multiple countries and into multiple parts, including design, spinning, yarn production, dyeing, cutting, stitching, and final garment production.<sup>15</sup> The general supply chain involves multiple steps: (1) cotton is grown and sold to the global market; (2) spinners use cotton or synthetic fibers to produce yarn or fabric; (3) garment factories cut and sew the fabric and add trim to produce garments; (4) garment factories that lack capacity for some processes subcontract them to other facilities; (5) garments are shipped to the brands that place the order; (6) brands distribute the garments to retail and online stores; and (7) consumers purchase the garments.<sup>16</sup> Subcontracting allows for the success of fast fashion because it permits companies to utilize the low cost of overseas labor as subcontracted units are not regulated.<sup>17</sup> It is not uncommon that the clothing consumers buy in store has already been in multiple different countries or factories before hitting the shelves.<sup>18</sup>

Manufacturing supply chains in the fashion industry are known for being rife with abuse, forced labor, and extremely low wages.<sup>19</sup> Buyers often participate in a practice called “underground bidding,” where they use the quoted prices of one factory to get another factory to lower their

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<sup>9</sup> *See id.*

<sup>10</sup> *See id.*

<sup>11</sup> Solene Rauturier, *supra* note 2.

<sup>12</sup> *Id.*

<sup>13</sup> *See Made In Poverty: The True Price of Fashion*, *supra* note 4.

<sup>14</sup> Sesily Beridze, *supra* note 5.

<sup>15</sup> *Id.*

<sup>16</sup> *Made In Poverty: The True Price of Fashion*, *supra* note 4 at 43.

<sup>17</sup> Sesily Beridze, *supra* note 5.

<sup>18</sup> *See* Elisa Arrigo, *Global Sourcing in Fast Fashion Retailers: Sourcing Locations and Sustainability Considerations*, MDPI (Jan. 9, 2020),

<https://pdfs.semanticscholar.org/4ca3/780a2ed3955e31e68243a70182aaaa9f9fde.pdf>.

<sup>19</sup> *The Fabric Act: What It Is & Why It Matters*, REMAKE (May 16, 2022), <https://remake.world/stories/fabric-act-what-it-is-why-it-matters/>.

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 with very little financial resources.<sup>22</sup> As delivery time for orders has decreased ten to twenty percent over the last five years, urgent orders have become more frequent.<sup>23</sup> Consequently, workers are forced to work overtime hours, often without overtime pay, in order to meet these quick turnaround times and order changes.<sup>24</sup>

#### B. Working Conditions in Overseas Garment Factories

Workers in fashion supply chains often endure unimaginable conditions in garment factories, where buildings lack fire alarms, and managers can lock doors and keep workers in until they complete the orders.<sup>25</sup> Other dangerous conditions include crumbling buildings, broken alarms, and missing sprinklers and fire barriers.<sup>26</sup> In countries like Bangladesh, local laws regulating fire safety, pay, and working conditions are not well-enforced as there are not enough inspectors and there is significant potential for the corruption of officials.<sup>27</sup> Specifically, the Bangladesh government has failed to enforce national building codes, especially in buildings owned by well-connected landlords.<sup>28</sup> Thus, garment workers often endure brutal, unsafe working conditions at the mercy of their employer.<sup>29</sup>

In 2013, an eight-story clothing manufacturing building in Dhaka, Bangladesh collapsed, killing over one thousand garment workers.<sup>30</sup> Just five months earlier, at least 112 workers died in a factory fire in Tazreen on the outskirts of Dhaka.<sup>31</sup> Following these incidents, many major United States (U.S.) retailers joined safety-monitoring groups that required them to stop selling clothing from factories that violated safety standards.<sup>32</sup> But Amazon—one of the world’s largest retailers—did not join this coalition and continues to sell clothing made from factories operating under similar conditions.<sup>33</sup> Amazon has stated that it does not inspect the factories that produce the clothing they buy from wholesalers or other third-party sellers.<sup>34</sup> In fact, the company will only remove a product from their site if they become aware that the product came from a factory that may not

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<sup>20</sup> *Made In Poverty: The True Price of Fashion*, *supra* note 4 at 42.

<sup>21</sup> *Id.*

<sup>22</sup> *Id.*

<sup>23</sup> *Id.* at 44.

<sup>24</sup> *Id.* at 45.

<sup>25</sup> Justin Scheck et al., *Amazon Sells Clothes From Factories Other Stores Shun – Deadly 2013 collapse led to blacklists of dangerous plants in Bangladesh*, WALL STREET JOURNAL (Oct. 24, 2019), <https://www.wsj.com/articles/amazon-sells-clothes-from-factories-other-retailers-shun-as-dangerous-11571845003>.

<sup>26</sup> *Id.*

<sup>27</sup> Sarah Butler, *Why are wages so low for garment workers in Bangladesh?*, THE GUARDIAN (Jan. 21, 2019), <https://www.theguardian.com/business/2019/jan/21/low-wages-garment-workers-bangladesh-analysis>.

<sup>28</sup> Ian Taplin, *supra* note 6.

<sup>29</sup> *See Made In Poverty: The True Price of Fashion*, *supra* note 4 at 42.

<sup>30</sup> *The Rana Plaza Accident and Its Aftermath*, INTERNATIONAL LABOUR ORGANIZATION (last visited Oct. 11, 2022), [https://www.ilo.org/global/topics/geip/WCMS\\_614394/lang--en/index.htm](https://www.ilo.org/global/topics/geip/WCMS_614394/lang--en/index.htm).

<sup>31</sup> *Id.*

<sup>32</sup> Justin Scheck, *supra* note 24.

<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

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—needed to cover basics like food, decent housing, healthcare, clothing, transportation, utilities, childcare, education, and other essential needs, in addition to some savings for the future and unexpected events.<sup>40</sup> The legal minimum wage for garment workers in Bangladesh is approximately 8000 taka per month, which amounts to \$79 USD.<sup>41</sup> But instead of paying workers a legal minimum wage, some factories will utilize a piece-rate system in which they pay workers pennies per garment sewn—a practice also used in the U.S.<sup>42</sup> Under this system, workers are paid \$0.02 to \$0.06 per garment, which can translate to, at most, \$6 per hour.<sup>43</sup>

Although the Bangladesh government sets a minimum wage, it is not properly enforced, resulting in many workers making much less.<sup>44</sup> In a research study examining the working conditions and lives of garment workers in Bangladesh and Vietnam, one hundred percent of garment workers interviewed in Bangladesh earned below a living wage.<sup>45</sup> Of those interviewed, ninety percent said they could not afford enough food for themselves or their families, seventy-two percent could not afford medical treatment when they got sick or injured, seventy-six percent had no running water inside their home, and thirty-three percent had been separated from their children, primarily due to insufficient income.<sup>46</sup> Moreover, Fifty-six percent of workers reported that they experienced wage cuts, although technically illegal in Bangladesh, for things such as not meeting

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<sup>35</sup> *Id.*

<sup>36</sup> See Sarah Butler, *supra* note 25.

<sup>37</sup> See Elisa Arrigo, *supra* note 16.

<sup>38</sup> Sesily Beridze, *supra* note 5.

<sup>39</sup> *Made In Poverty: The True Price of Fashion*, *supra* note 4 at 8.

<sup>40</sup> *Id.*

<sup>41</sup> Sarah Butler, *supra* note 25.

<sup>42</sup> Summary of S. 4213: FABRIC Act, GOVTRACK (last updated May 25, 2022), [govtrack.us/congress/bills/117/s4213/summary](https://govtrack.us/congress/bills/117/s4213/summary).

<sup>43</sup> *Made In Poverty: The True Price of Fashion*, *supra* note 4 at 9.

<sup>44</sup> *Stitched Up: Women workers in the Bangladeshi garment sector*, WAR ON WANT (July 2011), <https://waronwant.org/sites/default/files/Stitched%20Up.pdf>.

<sup>45</sup> *Made In Poverty: The True Price of Fashion*, *supra* note 4 at 10.

<sup>46</sup> *Id.* at 6.

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 a perceived requirement to keep their jobs.<sup>49</sup> Because Bangladesh lacks the ability to enforce minimum wage laws—whether it be from government corruption or lack of unionization—persistent low wages lead to excess work and overtime, which leads to individuals being trapped in poverty and overall poor wellbeing.<sup>50</sup>

## 2. *Abusive Practices*

Over time, as prices have decreased and delivery times have shortened, aggressiveness has become very common in garment factories around the world.<sup>51</sup> A staggering eighty-eight percent of Bangladeshi garment workers reported regular verbal abuse—specifically shouting, yelling, cursing, and threats of physical violence from line managers—to speed up the flow of work and meet deadlines and production targets set by clothing companies.<sup>52</sup> Physical abuse is not uncommon either.<sup>53</sup> In the documentary *True Cost*, which focuses on the clothes we wear and the people who make them, some Bangladeshi workers reported being beaten by their managers for demanding better working conditions.<sup>54</sup> Additionally, despite the 2006 Bangladesh Labour Act’s intention to protect the fundamental rights of women workers—including the right to maternity leave—many pregnant women reported they were frequently subject to discrimination, with some even compelled to work additional hours to compensate for their maternity leave.<sup>55</sup>

## 3. *Lack of Unionization*

Unlike other industrialized nations, union presence in countries such as Bangladesh is met with significant disapproval.<sup>56</sup> In Bangladesh, although it is required by the Bangladesh Labour Act that worker management committees—called Participation Committees—be established, ninety percent of workers surveyed reported that they are mostly ineffective.<sup>57</sup> Several factory owners reported that no trade unions were allowed in their factories, despite buyers’ codes of conduct allowing for unionization.<sup>58</sup> As highlighted in the documentary *True Cost*, brands prefer to keep voluntary codes of conduct in place, leveraging the fact that they neither employ the workers directly nor own the factories.<sup>59</sup> By adding layers of contracting between themselves and the

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<sup>47</sup> *Id.* at 33.

<sup>48</sup> *Id.* at 13.

<sup>49</sup> *Stitched Up: Women workers in the Bangladeshi garment sector*, *supra* note 43.

<sup>50</sup> *Made In Poverty: The True Price of Fashion*, *supra* note 4 at 32.

<sup>51</sup> *Id.* at 35.

<sup>52</sup> *Id.*

<sup>53</sup> Zeynep Ozdamar-Ertekin, *The True Cost: The Bitter Truth Behind Fast Fashion*, INTERNATIONAL SOCIETY OF MARKETS AND DEVELOPMENT (2017), <https://digitalcommons.uri.edu/cgi/viewcontent.cgi?article=1026&context=mgdr>.

<sup>54</sup> *Made In Poverty: The True Price of Fashion*, *supra* note 4 at 18.

<sup>55</sup> *Stitched Up: Women workers in the Bangladeshi garment sector*, *supra* note 43.

<sup>56</sup> *Made In Poverty: The True Price of Fashion*, *supra* note 4 at 36.

<sup>57</sup> *Id.*; Bangladesh Labour Act (2006),

[https://www.ilo.org/dyn/natlex/natlex4.detail?p\\_lang=en&p\\_isn=76402&p\\_country=BGD&p\\_classification=01.02](https://www.ilo.org/dyn/natlex/natlex4.detail?p_lang=en&p_isn=76402&p_country=BGD&p_classification=01.02).

<sup>58</sup> *Made In Poverty: The True Price of Fashion*, *supra* note 4 at 36.

<sup>59</sup> Zeynep Ozdamar-Ertekin, *supra* note 52.

workers making the garments, they remain free of responsibility from the effects of low wages, factory disasters, and violent treatment of workers.<sup>60</sup> There is also a trend toward hiring female workers, as Bangladeshi factory owners view men as troublemakers who will encourage others to join trade unions.<sup>61</sup> This trend perpetuates the exploitation of women in Bangladesh, consistently keeping them at the bottom of the employee hierarchy, working long hours for poverty wages, and being denied basic maternity rights.<sup>62</sup>

Beyond the prohibition of unionization, garment workers' employment contracts also offer little protection as many workers never even receive or understand their employment letter.<sup>63</sup> Because employees lack a clear understanding of their rights or expectations, the employer is at an advantage because they can utilize threats to terminate their employment at-will.<sup>64</sup>

Workers struggle to bring awareness to issues or raise their voices to call for higher wages and better working conditions because of the low level of union recognition and fear of reprisals.<sup>65</sup> Without the opportunity to be organized and represented by strong, independent unions, workers will continue to remain vulnerable to exploitation.<sup>66</sup>

#### 4. Access to Legal Remedies

In terms of legal remedies for things like workplace accidents, stark differences exist between eastern and western societies, as western societies have established legal frameworks that empower courts to determine fault and hammer out resulting obligations.<sup>67</sup> Although there are relative legal frameworks in emerging eastern societies, the lack of transparency and institutional corruption can undermine due process and leave the average citizen, or the family members of those injured or killed, frustrated with the inaction.<sup>68</sup>

### IV. Global Response

Despite well-documented abuses, the reality is that, for years, many corporate social responsibility programs have failed to improve the situations of workers in garment factories around the world.<sup>69</sup> In fact, it has been reported that the average Western consumer remains relatively indifferent to the plight of those workers overseas, as evidenced by their unchanged purchase behaviors and continual financial support of fast fashion companies.<sup>70</sup>

In a recent article published by *The Cut*, an investigation done by a United Kingdom broadcaster uncovered details about the business practices of the Chinese fast-fashion company, Shein, at a Guangzhou factory.<sup>71</sup> The investigation revealed that Shein workers receive approximately \$556

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<sup>60</sup> *Id.*

<sup>61</sup> *Made In Poverty: The True Price of Fashion*, *supra* note 4 at 36.

<sup>62</sup> *Stitched Up: Women workers in the Bangladeshi garment sector*, *supra* note 43.

<sup>63</sup> *Made In Poverty: The True Price of Fashion*, *supra* note 4 at 34.

<sup>64</sup> *Id.*

<sup>65</sup> *Id.* at 36.

<sup>66</sup> *Id.*

<sup>67</sup> *Id.*

<sup>68</sup> *Id.*

<sup>69</sup> *Stitched Up: Women workers in the Bangladeshi garment sector*, *supra* note 43 at 3.

<sup>70</sup> See Ian Taplin, *supra* note 6.

<sup>71</sup> Sangeeta Singh-Kurtz, *Shein Is Even Worse Than You Thought*, THE CUT (Oct. 17, 2022), <https://www.thecut.com/2022/10/shein-is-treating-workers-even-worse-than-you->

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 CORPORATION (last visited Oct. 25, 2022),

[https://www.ifc.org/wps/wcm/connect/news\\_ext\\_content/ifc\\_external\\_corporate\\_site/news+and+events/news/insights/bangladesh-garment-industry](https://www.ifc.org/wps/wcm/connect/news_ext_content/ifc_external_corporate_site/news+and+events/news/insights/bangladesh-garment-industry).

<sup>78</sup> *Id.*

<sup>79</sup> *Id.*

<sup>80</sup> Shafiqul Elahi, *Bangladesh's Journey Towards Ensuring Labor Rights*, THE GEOPOLITICS (Sep. 19, 2022), <https://thegeopolitics.com/bangladeshs-journey-towards-ensuring-labor-rights/>.

<sup>81</sup> *Bangladesh Government Launches First Employment Injury Scheme Pilot in the Garment Sector*, INTERNATIONAL LABOUR ORGANIZATION (June 21, 2022), [https://www.ilo.org/global/topics/geip/news/WCMS\\_849244/lang--en/index.htm](https://www.ilo.org/global/topics/geip/news/WCMS_849244/lang--en/index.htm).



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-rate systems in place, which critics argue U.S. factories use to skirt around state-mandated minimum wages.<sup>93</sup> For example, in Los Angeles, California—where many garment factories are based—although the minimum wage is \$15 an hour, factories pay workers by the piece—\$0.05 to sew a side seam or \$0.10 to sew a neck.<sup>94</sup> Beyond ambiguities in the language of the law, the problem with enforcing minimum wage claims against these factories is the way in which they disappear in the middle of the night when workers bring forth wage claims, and then resurface under a different name and

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<sup>82</sup> *Id.*

<sup>83</sup> *Id.*

<sup>84</sup> *Ground breaking legislation for garment workers in the US*, INDUSTRIALL (May 18, 2022), <https://www.industrial-union.org/ground-breaking-legislation-for-garment-workers-in-the-us>.

<sup>85</sup> Shafiqul Elahi, *supra* note 78.

<sup>86</sup> *Labour rules amended*, NEWAGE (Sep. 6, 2022), <https://www.newagebd.net/article/180397/labour-rules-amended>.

<sup>87</sup> *Id.*

<sup>88</sup> *Id.*

<sup>89</sup> *Id.*

<sup>90</sup> Fashion Accountability and Building Real Institutional Change Act, S. 4213, 117th Cong. (2022).

<sup>91</sup> *The Fabric Act: What It Is & Why It Matters*, *supra* note 18.

<sup>92</sup> *Ground breaking legislation for garment workers in the US*, *supra* note 82.

<sup>93</sup> Derek Guy, *The Hidden World of Wage Theft In US Garment Industry*, PUT THIS ON (Sep. 10, 2021), <https://putthison.com/the-hidden-world-of-wage-theft-in-us-garment-industry/>.

<sup>94</sup> *Id.*

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* Section 3(a).

<sup>97</sup> S.B. 62, 2021-2022 Sess. (Cal. 2021).

<sup>98</sup> *See* Derek Guy, *supra* note 91.

<sup>99</sup> Fashion Accountability and Building Real Institutional Change Act, *supra* note 88.

<sup>100</sup> *Id.*

<sup>101</sup> *Ground breaking legislation for garment workers in the US*, *supra* note 82.

<sup>102</sup> *Id.*

<sup>103</sup> *See The Fabric Act: What It Is & Why It Matters*, *supra* note 18.

<sup>104</sup> Fashion Accountability and Building Real Institutional Change Act, *supra* note 88 § 8(c)(1).

<sup>105</sup> *Id.* § 8(c)(3).

<sup>106</sup> *See The Fabric Act: What It Is & Why It Matters*, *supra* note 18.

<sup>107</sup> Fashion Accountability and Building Real Institutional Change Act, *supra* note 88 § 45(U)(A).

<sup>108</sup> Peter O'Dowd, *What It Takes To Make Clothes In the USA*, WBUR (Jan. 17, 2020), <https://www.wbur.org/hereandnow/2020/01/17/clothes-made-in-the-united-states>.

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 standards.<sup>110</sup> If a company violates these provisions, the Undersecretary of the Garment Industry is authorized to impose a fine up to \$50 million.<sup>111</sup> That being said, although the provisions of the Act sound good in theory, it has an estimated four percent chance of passing in Congress.<sup>112</sup>

## V. Conclusion

While it is difficult to predict the precise route that fast fashion will take over the next decade, we can still be hopeful that better labor practices and provisions will be put into place. Some believe that fast fashion will continue to expose the difficulty of reconciling the need to create revenue with safe workplace practices.<sup>113</sup> Because retail prices remain low, the business model itself privileges the consumer over the garment worker, and the institutional framework is largely complicit with this system.<sup>114</sup> As the “freedom of choice” has been so strongly ingrained in Western consumer culture, it may prove to be difficult to encourage people to abandon their current consumption habits.<sup>115</sup>

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<sup>109</sup> Fashion Accountability and Building Real Institutional Change Act, *supra* note 88.

<sup>110</sup> *See id.*

<sup>111</sup> *Id.*

<sup>112</sup> Summary of S. 4213: FABRIC Act, *supra* note 41.

<sup>113</sup> *The Rana Plaza Accident and Its Aftermath*, *supra* note 29 at 10.

<sup>114</sup> Ian Taplin, *supra* note 6 at 10.

<sup>115</sup> *Id.* at 11.