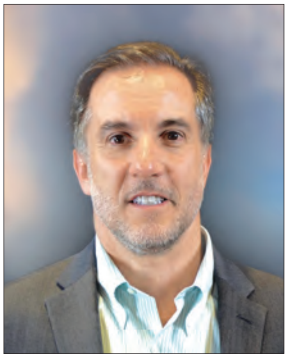

Mark Anner

The brutal impact of COVID-19 on garment workers

And the need for Global Binding Agreements in global supply chains

Courtesy of Mark Anner

Mark Anner is a professor of labor and employment relations and political science at The Pennsylvania State University, where he is also director of the Center for Global Workers' Rights.

- Anner reports that COVID-induced supply-chain disruptions were a disaster for garment exporters and workers globally.
- Buyers hold the balance of power in supply chains and used it to their own advantage at the expense of exporters and workers in countries with little or no safety-net protections for workers.
- He proposes that corporations go beyond Corporate Social Responsibility and Multistakeholder Initiatives with stronger, playing-field-leveling Global Binding Agreements — "negotiated, legally enforceable agreements among groups of multinational enterprises and trade unions in which corporations commit to respect workers' rights and to promote decent work within their subsidiaries and along their global supply chains."

Above: Bangladesh garment workers

The COVID-19 pandemic provides us with three crucial insights on employment relations in the global economy. It reminds us of the significant impact of international influences on employment relations regimes; it illustrates the extreme power imbalances in buyer-driven global supply chains; and it highlights the need for Global Binding Agreements (GBAs) as one important mechanism for ensuring decent work.

From disruption to crisis

On December 31, 2019, the government of China alerted the World Health Organization (WHO) to a health emergency in Wuhan City in the Hubei province. Just over three weeks later, the government placed Wuhan's 11 million inhabitants on lockdown. Other cities in the province followed suit soon thereafter. For garment global supply chains, this affected not only Chinese exports of final products, but it also dramatically reduced the flow of Chinese raw materials (notably fabric) needed by exporters elsewhere in Asia, Latin America, and beyond.

By March 2020, the majority of Bangladeshi suppliers were reporting delays in raw material shipments from China. Notably, these suppliers also indicated that "buyers" (the brands and retailers who placed orders for garment production) subsequently penalized them for the resulting delays in their shipments. The disruptions that began in Chinese-located supply chains also resulted in increased costs in raw materials as some textile factories shut down, which caused shortages.[1]

The supply chain disruptions in January and February 2020 were just a harbinger of the all-out crisis that soon awaited garment exporters and their workers throughout the world. In mid-March 2020, as European, American, and other major

Courtesy of Kristof Vadine

Garment worker supports Bangladesh accord.

consumer countries went into lockdown, buyers abruptly canceled not only future orders but also orders already in process. Some of these orders were finished and ready to be shipped, and a few were already on cargo ships en route to consumer markets. Buyers refused to honor their contractual obligations to pay for most of these orders. Many buyers evoked *force majeure* (an act of God freeing contractees from fulfilling their obligations) clauses in their master contracts to justify the breaking of their obligation to pay for placed orders.[2]

Globally, it is estimated that buyers canceled, without paying, USD 40 billion worth of orders.[3] This was devasting for supplier factories who run their operations on credit. For many years, most buyers were paying for orders 30 to 60 days after suppliers shipped the orders.[4] This meant supplier factories borrowed money to purchase the fabric, cut the fabric, sew the garments together, and package and prepare orders for shipment. Now they were left owing money to their banks, their raw material suppliers, their building landlords, and — most notably — to the millions of workers who sew the garments. In the months that followed, millions would be unemployed.

In Bangladesh, 72 percent of furloughed (temporarily dismissed) workers were sent home with no pay, and 80 percent of fired workers were sent home without severance.[5] Given the long history of paying workers below a living wage,[6] this meant that not only did workers lack savings to fall back on, but most workers were also already in debt. The vast majority of these workers are young women, and many are vulnerable internal migrants.

Most low-income countries where the majority of garment exports are produced do not have developed social protection systems. There have been no enhancements to unemployment insurance or significant stimulus checks that workers could rely on to survive during the crisis. Globally, garment workers are estimated to have suffered between USD 3.19 billion and USD 5.79 billion in lost wages[7] and have been denied between USD 500 billion and USD 850 million in legally mandated severance pay.[8]

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By November 2020, 77 percent of workers were reporting that they or a member of their household had gone hungry since the beginning of the pandemic.[9] Some employers also took advantage of the crisis to rid themselves of unions by closing their unionized facilities first, through a wave of union-busting tactics.[10]

The big squeeze: Power imbalances in global supply chains

The buyer response to the COVID-19 pandemic and the impact of that response on supplier factories and their workers do not come as a surprise to anyone following global garment supply chains closely. Indeed, the buyer response reflects decades of pronounced power imbalances between buyers and suppliers. Technology, trade liberalization, and financialization have all contributed to buyer consolidation and supplier dispersion, which have given buyers the power to squeeze suppliers on price and other purchasing practices.[11] The world of global garment production had become a buyer's market, as large brands and retailers were able to play one supplier off another to see who would accept the lowest price and the quickest delivery time. Some large buyers, to more effectively squeeze down on price, require their suppliers to bid against each other for orders via online bidding systems.

When the COVID-19 pandemic disrupted sales, brands and retailers leveraged this power imbalance to cancel orders without paying or, in some cases, accept orders — but only with dramatic discounting on prices that had been established through production contracts. The fact that there was not a massive number of lawsuits against brands and retailers for breach of contract is further reflection of the imbalance. Suppliers feared that, while they might eventually win such a case for a particular order, suing a major buyer would almost certainly ensure that they would never again receive an order from that buyer or from any other buyer intent on avoiding such "troublemaker" suppliers.

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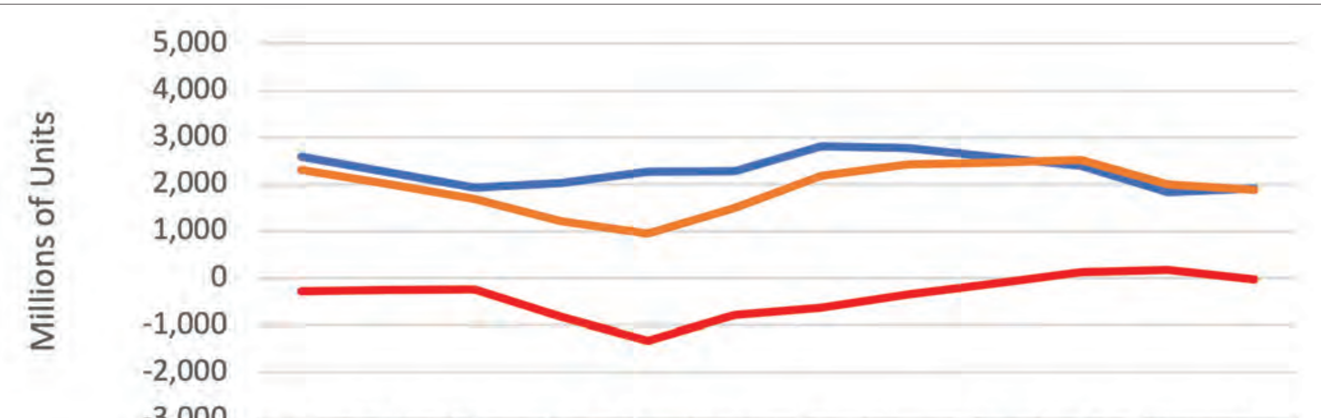
News and media exposés illustrated the extremely adverse impact of buyer order cancellations on suppliers and their workers; a social movement emerged demanding buyers "#PayUp." The Worker Rights Consortium, in association with the Center for Global Workers' Rights (CGWR) at The Pennsylvania State University, posted a tracker that indicated which brands had paid in full and which had not.[12] By the summer of 2020, an estimated USD 22 billion in canceled orders had been paid. This was an enormous achievement, and one that showed the potential impact of "symbolic power"[13] (shaming) on even the most structurally powerful economic actors when there is clear unethical business behavior that causes significant human rights harm.

Yet getting buyers to pay for canceled orders is only part of the issue. As economies began to reopen, buyers began placing small orders and demanding very quick delivery times, based on an inability to forecast what they could sell in the coming months or even weeks. And they also had little idea whether demand would grow dramatically with reopening or whether new outbreaks would cause new lockdowns. At the same time, to return to full profitability, buyers began demanding significant reductions on prices. These buyers perceived that there would be dramatic overcapacity in supplier countries as a result of the pandemic and that this would allow them to push prices down even further.

The dynamics of this buyer–supplier relationship can be seen by graphing the change in apparel imports to the United States by month for 2020 relative to 2019. For an industry accustomed to constantly growing sales through a system of cheap mass merchandizing and fast fashion, the crisis was profound and unprecedented: for the first nine months of 2020, imports dropped precipitously. The largest decline occurred in May 2020, when imports decline by 1.3 billion units, a 58 percent drop relative to imports in May 2019. All told for 2020, the volume of imports to the United States declined by 4.5 billion units, a 15 percent drop (Figure 1).

The drop in the *value* of global apparel imports to the United States in 2020 relative to 2019 was even more dramatic. This indicates that the issue was not simply one of declining sales due to COVID-related lockdowns but also reflected an intensified price squeeze by buyers over their suppliers. In May 2020, the value of apparel imports declined by USD 4 billion, a 60 percent drop. Even more notable is that, while imports by volume began to increase slowly in late 2020, the total value of those imports increased at a slower pace. Indeed, in October 2020, while the volume of monthly imports surpassed the

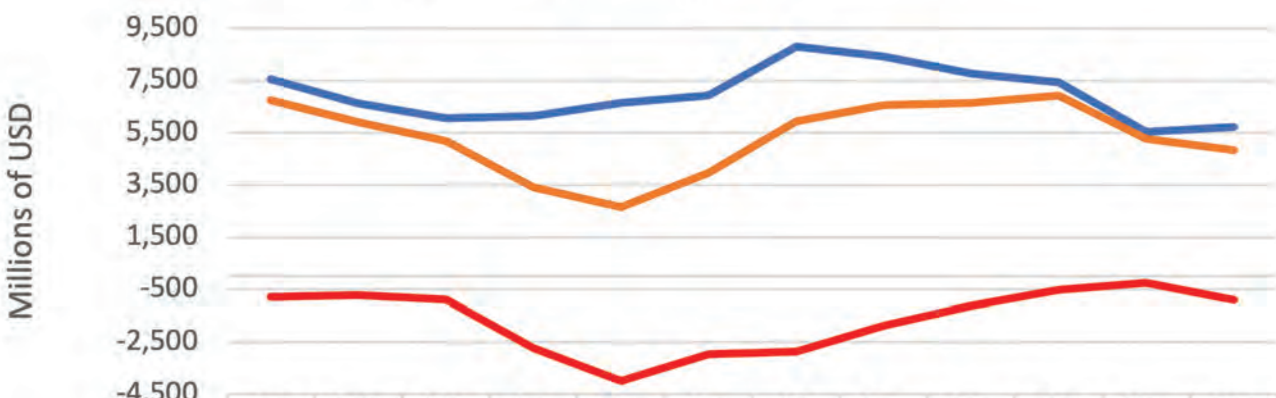
Figure 1. U.S. global apparel imports by volume, 2019 vs. 2020



	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2019	2,591	2,257	1,929	2,033	2,274	2,278	2,813	2,772	2,581	2,392	1,829	1,908
2020	2,309	2,006	1,687	1,211	948	1,497	2,182	2,425	2,462	2,517	2,003	1,881
Difference	-281	-251	-242	-821	-1,326	-781	-631	-347	-118	125	174	-27

Source: Author's calculations based on OTEXA data.

Figure 2. U.S. global apparel imports by value, 2019 vs. 2020



	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
2019	7,546	6,635	6,062	6,147	6,650	6,927	8,815	8,435	7,772	7,435	5,537	5,734
2020	6,757	5,910	5,182	3,413	2,651	3,961	5,943	6,566	6,644	6,923	5,280	4,833
Difference	-789	-724	-880	-2,733	-3,999	-2,965	-2,872	-1,869	-1,127	-512	-257	-901

Source: Author's calculations based on OTEXA data.

volume of imports in October 2019, the value of those imports declined. All told for 2020, the value of imports to the United States declined by USD 19.6 billion, down 23 percent (Figure 2). This indicates that the price buyers paid to suppliers was dramatically squeezed down throughout 2020.

In a survey of suppliers conducted in July and August 2020, we found that — while controlling for the product (e.g., comparing the 2019 price versus 2020 price paid to produce a man's long-sleeve cotton shirt) — buyers on average squeezed down on price by 12 percent.[14] And this was not the only way buyers exercised their power over suppliers; they also delayed their payments to suppliers from an average of 44 days in the pre-pandemic period to an average of 77 days during the pandemic.[15] This delayed desperately needed cash to suppliers to pay workers and to purchase raw materials for new orders. Many suppliers began going out of business, especially small- and medium-sized suppliers. As a result, an estimated 10 percent of garment workers globally (3.5 million workers) lost their jobs, which has had devasting impacts for them and their families.[16]

Credit: Remake

Image of #PayUp campaign

Global Binding Agreements (GBAs)

The question going forward is what mechanisms might be most effective in addressing the dramatic power imbalances in buyer-driven global supply chains outlined above. The industry has long relied on Corporate Social Responsibility (CSR) programs and Multistakeholder Initiatives (MSIs), which are based on codes of conduct, social standards, and factory audits. These are nonstate mechanisms for addressing social compliance that are designed to monitor supplier violations. In extreme cases, they may result in the termination of a buyer's relationship with a supplier.

But these mechanisms do not entail significant consequences for buyers whose purchasing practices are conducive to violations. In part, this is because the programs are partly or wholly designed and implemented by buyers. Critiques of CSR and MSI programs are abundant.[17] And these programs dramatically revealed their limitations during the COVID pandemic when they were entirely unable to prevent buyers from canceling orders without paying. Even MSIs with so-called "responsible exit" protocols were unable even to slightly slow or otherwise mitigate the devastating impact of abrupt order cancellations on suppliers and their workers.

A core factor for the failure of these initiatives is their lack of binding power over buyers. If the root cause of the systemic worker rights violations in global supply chains is power imbalances between buyers and suppliers, and suppliers and their workers, then the only initiatives that can address this dynamic are ones with enough power to mitigate such asymmetries. In this regard, two emerging trends are worth tracking. The first is the growth of mandatory due diligence initiatives, Global Binding Agreements … are negotiated, legally enforcement agreements among groups of multinational enterprises and trade unions wherein corporations commit to respect workers' rights and to promote decent work within their subsidiaries and along their global supply chains.

Courtesy of Mark Anner

particularly in the European Union and at the level of the European Union.[18]

The second approach is what I call "Global Binding Agreements" (GBAs). GBAs build on the model of Global Framework Agreements (GFAs), which are negotiated agreements among trade unions and multinational enterprises wherein corporations commit to respect workers' rights and to promote decent work within their subsidiaries and along their global chains.[19] However, GBAs go beyond GFAs in two important ways. First, they are (as the name implies) binding. Worker representatives can take allegations of violations to a binding arbitration panel with potential real economic consequences for buyers whose practices contributed to human rights harm. Currently, only 10 percent of GFAs refer to any form of arbitration or mediation; rather, the vast majority of GFAs rely on enforcement via "reputational sanction."[20]

Second, while GFAs focus on a single multinational enterprise and a single Global Union Federation (GUF), GBAs involve multiple employers and multiple unions and union allies. The most notable example of a GBA in garment global supply chains is the Accord on Fire and Building Safety in Bangladesh (the Accord), which was signed by more than 200 global garment brands and retailers, including three of the world's largest fashion companies: H&M (Sweden), Inditex (Spain), and UNIQLO (Japan). On the labor side, it includes two GUFs (with six Bangladeshi union affiliates) and four worker rights NGOs as "witness signatories." The Accord allows for parties (labor or companies) to make use of binding arbitration following protocols of the Convention on the Recognition and Enforcement of Foreign Arbitral Awards and the UNCITRAL Model Law on International Commercial Arbitration. This mechanism was twice used effectively by trade unions against buyers and resulted in settlements worth millions of dollars, which partly explains why the Accord was successfully able to address 119,281 fire, building, and electrical safety issues as of January 1, 2021.

An example of a binding agreement is the Fair Food Program in the U.S. agricultural sector, signed by Taco Bell, McDonalds, Whole Foods, and 12 other companies. With its worker participation and binding power, it has proved to be remarkably successful in ensuring living wages and establishing safe working environments that are free of sexual harassment. More recently, labor unions, local women's organizations, worker rights NGOs, global unions, and multinational enterprises signed a set of binding agreements (GBAs) with Levi Strauss & Co., The Children's Place, and Kontoor Brands to address gender-based violence and freedom of association violations in Lesotho garment factories. Finally, in response to the COVID pandemic, more than 200 organizations put out a call for a binding agreement on wage assurances and severance guarantee funds.[21] If successful, this would be yet another example of GBAs. All these programs involve robust worker participation, which is why they are also known as "Worker-Driven Social Responsibility" programs.

Conclusion

The buyer response to the COVID-19 pandemic illustrates the extreme power imbalances in apparel global supply chains. Buyers abruptly canceled orders without payment, resulting in thousands of garment factories going out of business and millions of garment workers losing their jobs and facing malnutrition. These dynamics also highlight the limitations of voluntary CSR programs and MSIs, which failed to prevent such disruptive conduct on the part of fashion brands and retailers. More effective and equitable approaches entail initiatives that have the power to curtail such adverse buyer purchasing practices. Global Binding Agreements provide one such approach. ■

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Notes

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17. For a recent critique, see MSI Integrity, "Not Fit-for-Purpose: The Grand Experiment of Multi-Stakeholder Initiatives in Corporate Accountability, Human Rights and Global Governance," Institute for Multi-Stakeholder Initiative Integrity, 2020.
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