



Voices from the Field

Reprisals and Repression of
Garment Worker Unions and
Workers Organizations
During COVID-19 in Sri Lanka

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Reprisals and Repression of Garment Worker Unions and Workers Organizations During COVID-19 in Sri Lanka

Asia Floor Wage Alliance and
Global Labor Justice - International Labor Rights Forum

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Based on interviews with unions, workers' rights organizations and garment workers, this report shows that Sri Lanka's largest garment manufacturer Brandix Lanka (Brandix) violated government COVID-19 guidelines in the days before a superspreader COVID-19 outbreak in 2020 at one of its factories. Additionally, this report reveals that both Brandix and the Sri Lankan government police and military escalated the repression of Sri Lankan unions and workers' organizations working on the case. Brandix denies wrongdoing; however reprisals against civil society including unions and workers' organizations remain a serious threat.

ABOUT THE AUTHORS:



Asia Floor Wage Alliance (AFWA) is an Asian labor-led global labor and social alliance across garment producing countries (such as Bangladesh, Cambodia, India, Indonesia, Pakistan, Sri Lanka) and consumer regions (USA and Europe) for addressing poverty level wages, gender-based violence, and freedom of association in global garment production networks. For more information please contact AFWA at contact@asia.floorwage.org.



Global Labor Justice – International Labor Rights Forum (GLJ – ILRF) is a non-governmental organization that works transnationally to advance policies and laws that protect decent work; to strengthen freedom of association and workers’ ability to advocate for their rights; and to hold corporations accountable for labor rights violations in their supply chains. For more information please contact Sahiba Gill at sahibagill@globallaborjustice.org.

INTRODUCTION

In October 2020, a superspreader COVID-19 outbreak hit Sri Lankan garment manufacturer Brandix Lanka, where 1000 of the 1400 workers at one factory tested positive for COVID-19 — as did thousands of workers throughout Sri Lanka's FTZs in and around Colombo. Since then, Sri Lankan unions and workers' rights organizations have been fighting for inclusive growth at Brandix Lanka. Despite evidence otherwise, Brandix Lanka has denied any wrongdoing.

This report provides evidence of major violations of Sri Lanka's COVID-19 protocol two weeks before the outbreak and of serious intimidation of several Sri Lankan unions and workers' rights organizations as they sought accountability for the outbreak. Workers at Brandix Lanka report that management hosted a large concert at the factory where the Brandix outbreak started, days before the first detected case that violated COVID-19 guidelines. They describe a climate of intimidation and fear in which those who reported COVID-19 symptoms were told to continue working. As unions and workers' rights organizations fought for accountability for the outbreak's impact on workers, the government, including the military, increased public attacks on union leaders. Both Brandix Lanka and the Sri Lankan military and police engaged in serious intimidation of several Sri Lankan unions and workers' rights organizations who had spoken publicly in Sri Lanka about the case.

This report is based on fact finding by AFWA and GLJ-ILRF with unions, workers' rights organizations and workers in Sri Lanka. The report includes interviews with Dabindu (Drops of Sweat) Collective, Stand Up Workers Union, and Revolutionary Existence for Human Development (RED), which are women-led unions and organizations with members at Brandix Lanka. In addition, between February and November 2021, Asia Floor Wage Alliance (AFWA) conducted in-person interviews with 15 workers at three Brandix Lanka factories, including the factory where the COVID-19 outbreak was identified, Brandix Minuwangoda. All of the workers interviewed were women. AFWA conducted the interviews in small groups at local union offices, informed workers of the purposes of the interviews, and offered assurances of confidentiality. The names of the workers and any identifying information have been removed to maintain their confidentiality.

BACKGROUND: SRI LANKA'S GARMENT INDUSTRY AND BRANDIX LANKA

SRI LANKA'S GARMENT INDUSTRY

Export-driven garment manufacturing in Sri Lanka began with a major political shift in 1977 that resulted in the liberalization of the economy, including the creation of export processing zones (EPZs). Prior to 1977, small firms produced apparel for the domestic market. In Sri Lanka's 1977 general election, the incumbent United Front, which had been in power since 1970 before Sri Lanka became a republic in 1972, lost, and a new center-right ruling coalition dominated by the United National Party (UNP) came to power. Post-1977, the Sri Lankan government focused on a dramatic structural shift to a liberalized economy to respond to the impacts of the global economic crisis on Sri Lanka. During the 1970s, Sri Lanka's economy depended on commodity exports as a legacy of colonialism. As the value of commodity exports plunged, the price of imported goods—especially oil— exploded, part of a global pattern created by Bretton Woods macroeconomic policy. In response to resulting shortages and low growth, Sri Lanka was the first country in South Asia to liberalize its economy and the first to open export processing zones (EPZs), also known today as a free trade zone. The EPZ, which eventually became the site of most garment production in Sri Lanka, was operated by the Sri Lanka Board of Investment (BOI) (originally named the Greater Colombo Economic Commission), a government authority parliament created in 1978 to operate the Zones.

By 1990, Sri Lanka became dependent on garment exports as a fundamental part of its economy. Garment exports had risen to roughly 40% of Sri Lanka's total exports, nearly the same as its current levels; the other major export remained tea. Production occurred primarily either in EPZs or enterprises licensed by the BOI that operate on similar terms. During the 1980s and 1990s, foreign firms invested significantly in Sri Lanka's EPZs—dominated first by first East Asian apparel exporters, then European investors who ultimately became the majority of foreign investors—because of country-wise quotas on garment imports to key markets under the Multi Fibre Agreement (MFA). Foreign firms focused on apparel in part because they considered the civil war as a major production risk for more highly integrated supply chains, like electronics.

In the post-MFA period from 2005 onward, Sri Lanka increased its share of the global garment industry.¹ The global trade regime on garments and textile liberalized when the MFA ended in 2005. With the integration of textiles into the World Trade Organization (WTO) under the Agreement on Clothing and Textiles, Sri Lanka abolished all textile tariffs and substantially reduced tariffs on clothing imports in 1997 in order to create a free trade regime. Post-MFA Sri Lanka managed to grow its share of the global textile

¹ See World Bank, *Sewing Success? Employment, Wages and Poverty following the End of the Multi-Fibre Agreement* (2012). Available at: <https://openknowledge.worldbank.org/handle/10986/13137>.

market, which was an important source of gross domestic product (GDP) and foreign currency throughout the civil war.

During this period of growth, three major features of Sri Lanka's garment industry emerged. First, Sri Lanka identified and responded to a need to specialize and distinguish itself in an unprecedentedly liberalized global garment market. In response to this increased global competition, Sri Lankan garment producers grew their exports by shifting production into high-value areas, specifically bras and underwear, as well as speed and flexibility. This shift was facilitated through expanded design capabilities and closer functional integration with global buyers in order to remain competitive in global value chains.² Second, Sri Lanka encouraged local capital to consolidate into fewer firms. By 2008, the number of garment suppliers shrank to half its 2004 size, even as the overall value of output had grown.³ Third and finally, garments' importance to Sri Lanka's garment industry was solidified. Today the garment industry comprises 7% of GDP⁴ and 15% of Sri Lanka's employment.⁵

Despite the consolidation of local capital in Sri Lanka's garment industry, global fashion companies who outsource production to Sri Lankan suppliers have significant power over shop floor working conditions. In the garment industry, global fashion companies shape workplace practices through their purchasing practices. Companies do this by using consolidated bargaining power against suppliers to impose purchasing practices that require workers produce at or below minimum wages, and require production targets that pressure supervisors to use gender-based violence and harassment (GBVH) — from verbal abuse to assault — to pressure workers to meet targets on time.⁶ In Sri Lanka, garment work pays poverty wages that are among the lowest in the global industry and five times less than a living wage.⁷ In the past several years, work in the EPZs has become more precarious as factories have trended towards hiring day laborers.

This disproportionately impacts Sri Lankan women workers. From its inception, EPZ garment work has been hired for on the basis of gender-based stereotypes, which has led to an industry that predominantly hires women and creates occupational segregation.⁸ Women are significantly overrepresented in the Sri Lankan garment

² Prema-chandra Athukorala, Edimon Ginting, Hal Hill, and Utsav Kumar (eds.), *The Sri Lankan Economy: Charting a New Course* (Asian Development Bank, 2017). Available at: <https://www.adb.org/sites/default/files/publication/373316/sri-lankan-economy.pdf>.

³ World Bank at 184.

⁴ "An industry misunderstood: Sri lankan apparel's tale of resilience and global leadership," *Employers Federation of Ceylon* (30 Dec. 2020), <https://employers.lk/2020/12/30/an-industry-misunderstood-sri-lankan-apparels-tale-of-resilience-and-global-leadership/>.

⁵ "Sri Lanka's 2021 apparel exports may reach pre-pandemic levels: TexPro," *Fibre2Fashion.Com* (28 May 2021). <https://www.fibre2fashion.com/news/apparel-news/sri-lanka-s-2021-apparel-exports-may-reach-pre-pandemic-levels-texpro-274224-newsdetails.htm>.

⁶ Asia Floor Wage Alliance, *A Stitch in Time Saved None: How Fashion Brands Fueled Violence in the Factory and Beyond* (2022). Available at: <https://asia.floorwage.org/covid/a-stitch-in-time-saved-none-how-fashion-brands-fuelled-violence-beyond-the-factory/>.

⁷ Asia Floor Wage Alliance, "The solution - An Asia Floor Wage," <https://archive.cleanclothes.org/livingwage/afw/what>.

⁸ See e.g., Lynch, Caitrin. *Juki Girls, Good Girls: Gender and Cultural Politics in Sri Lanka's Global Garment Industry* (Cornell University Press, 2007).

industry, with 83% of workers being women.⁹ Since the 1980s, Sri Lankan garment factories have hired women disproportionately, based on stereotypes that they were ideal employees—“innocent” workers with smaller, nimbler hands better suited to the work, and able to be paid at low wages. Young unmarried women were said to require lower wages to cover their living expenses because they were not primary breadwinners and were working only for their dowries. The stereotype was a self-fulfilling prophecy: factories hired young unmarried women from rural areas working for a few years before marriage, often to cover dowries — in part because the wages in the garment industry are far below a living wage. However, factories also employ women with children and families to support those who are primary breadwinners. Both groups are harmed by the stereotype that employers use to justify low wages and to hire almost exclusively women in the garment industry, a form of occupational segregation that reflects stereotypes about women that keep women out of other professions and stuck in garment industry jobs.

All this makes unionization especially important for fighting for a garment industry in Sri Lanka that produces inclusive growth, yet since the 1970s, government and capital have repressed union organizing in the sector. The Sri Lankan Board of Investment (BOI) operates free trade zones (FTZs) that restrict unionization through restricting access to factories.¹⁰ Courts and the labor department do not on paper or in practice effectively protect union and workers’ rights,¹¹ even though garment manufacturers have tried to promote garments “Made in Sri Lanka” as being “ethical.”¹²

Nevertheless, unions and respect for freedom of association and collective bargaining are vital to workers in the garment industry. For decades, several unions and community organizations including Dabindu Collective, Stand Up Workers Union and RED have organized women working at low-wages in fashion manufacturing, who are often migrants, despite the obstacles in their way. These women-led and worker-led organizations mobilize around workers’ issues at home and at work, provide direct legal and household aid, and advocate for workplace and national policy changes for fair treatment of working people. For example, they have campaigned against police brutality in FTZs after the killing of a young FTZ worker, Roshen Chanaka, by police and successfully against labor law deregulation. They provide a voice for labor in a context of significant discrimination and stigma against women garment workers, maintaining hope for a better future through collective action.

Dabindu Collective (Da Bindu meaning “drops of sweat”) began almost 40 years ago in the mid-1980s as a newspaper for workers within the free trade zones that helped

⁹ World Bank at 176.

¹⁰ See “Comments adopted by the CEACR: Sri Lanka,” *International Labor Organization*, https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13200:0::NO::P13200_COUNTRY_ID:103172.

¹¹ See e.g., *id.*; Lance Compa, *The Struggle for Workers Rights in Sri Lanka* (2003). Available at: <https://www.solidaritycenter.org/wp-content/uploads/2019/07/Sri-Lanka.The-Struggle-for-Worker-Rights-in-Sri-Lanka.2003.pdf>.

¹² See e.g., Kanchana Ruwanpura, *Garments without Guilt?: Global Labour Justice and Ethical Codes in Sri Lankan Apparels* (Cambridge University Press 2022).

inform workers about their rights and raise their collective consciousness. One of the few women-led worker organizations in Sri Lanka organizing in a women-dominated sector, Dabindu Collective led by Chamila Thushari, became a membership-based organization that is specifically focused on the interests of women workers, primarily in the FTZs. Dabindu conducts sector-level advocacy with suppliers, the garment suppliers' organization Joint Apparel Association Forum (JAAF), and the government on behalf of garment workers, and has been a leader in many of the several labor challenges to state and capital in the garment sector. In 2021, Dabindu registered as a trade union, creating Dabindu Collective Union.

Revolutionary Existence for Human Development (RED) was founded in 2018 by human rights activist Chandra Devanarayana. RED is a membership organization of 400 that aims to work against all kinds of repression, oppression, exploitation, and sexual harassment of women workers, especially widows, single mothers, and migrant women workers.

Stand Up Movement Lanka was founded in 2007 by former garment worker Ashila Niroshine Mapalagama. Stand Up Movement operates in the garment, tea plantation and sex work sectors promoting the rights of workers including Sri Lankan migrant workers abroad. Stand Up conducts know your rights training, process vocational training, and has created a social security system for its members into which workers can pay in order to access interest free loans and direct financial support in case of a death in the family. In 2020, Stand Up Movement Lanka registered Stand Up Workers Union Lanka as a trade union in order to be able to represent workers as a union with employers which they consider a natural extension of their existing advocacy.

BRANDIX LANKA

Brandix Lanka is the Sri Lanka subsidiary of Brandix Apparel Limited (BAL) (hereafter "Brandix"), a major multinational garment manufacturer. Brandix is headquartered in Colombo, Sri Lanka, with 22 factories in Sri Lanka, Brandix Apparel City in Andhra Pradesh in India, and factories in Bangladesh, Cambodia, and Haiti. Brandix also has a significant minority share in Teejay, one of South Asia's largest textile manufacturers, and owns an activewear and underwear design and manufacturing company.¹³ In 2021, Sri Lanka's Export Development Board named Brandix Lanka "Exporter of the Year" for the seventh time.¹⁴

Brandix is a family run company beneficially owned by members of the Omar family.¹⁵ CEO Ashroff Omar and his brothers inherited the company from their father, MH Omar.

¹³ "Our Network," *Brandix.com*. <https://brandix.com>.

¹⁴ "Brandix secures 7th Exporter of the Year Award," *Brandix.com*, <https://brandix.com/2021/brandix-secures-7th-exporter-of-the-year-award>.

¹⁵ "Brandix Apparel Limited," *International Finance Corporation* <https://disclosures.ifc.org/project-detail/SII/44341/brandix-apparel-limited>.

MH Omar launched BAL as part of a holding company formed in 1976 from purchase of previously state-run industrial enterprises.

Brandix leadership has ties to the current government in Sri Lanka. Sri Lanka's President Gotabaya Rajapaksa appointed Brandix CEO Ashroff Omar to an 11 member advisory committee for Sri Lanka's new economic council in March 2022.¹⁶ President Gotabaya Rajapaksa had been the Defense Secretary under his brother Mahinda Rajapaksa's presidency from 2005 to 2015. Mahinda Rajapaksa is currently Prime Minister under his brother's presidency. In May 2020, Brandix Lanka held a ceremony in which Brandix CEO Ashroff Omar and Basil Rajapaksa — brother of Mahinda and Gotabaya Rajapaksa and then-special representative of the President as well as head of the Presidential Task Force on Economic Revival and Poverty Eradication — handed over the ceremonial first box of masks exported to the United States, which Brandix Lanka manufactured, to US Ambassador to Sri Lanka Alaina B. Teplitz.¹⁷ In May 2021, Brandix Lanka made donations of one of its factories as a COVID-19 quarantine center¹⁸ and of medical equipment to the Sri Lankan military.¹⁹

As of May 2021, Brandix had employed at least one retired member of the Sri Lankan military as a member of senior level staff: Retired Major General Udaya Perera, Group Head of Administration at Brandix.²⁰ Retired Major General Perera served at a high command level of the Sri Lankan Army as Brigadier and Director of Operations during 2008 and 2009 at the end of the Sri Lankan internal armed conflict, during which time the Sri Lankan Army has been credibly accused of human rights violations.²¹ In December 2021, the United States denied entry to Retired Major General Perera, widely considered to be connected to the aforementioned allegations.²² According to the Sri Lankan military, Retired Major General Perera facilitated the aforementioned May 2021 medical equipment donation from Brandix to the Sri Lankan military by contacting the Commander of the Sri Lankan Army, General Shavendra Silva.²³ Silva is also the head of the COVID-19 task force responsible for the COVID-19 response in Sri Lanka, part of a

¹⁶ "Sri Lanka to appoint panel to assist economic council after criticism," *EconomyNext* (22 March 2022), <https://economynext.com/sri-lanka-to-appoint-panel-to-assist-economic-council-after-criticism-91669/>.

¹⁷ "Brandix exports 1st consignment of face masks to US" *Fibre2Fashion.com* (20 May 2020), <https://www.fibre2fashion.com/news/apparel-news/brandix-exports-1st-consignment-of-face-masks-to-us-267341-newsdetails.htm>.

¹⁸ Aazam Ameen, President inspects 1200 bed Army-improvised COVID Hospital, *The Sunday Morning* (Sri Lanka) (19 May 2021), <https://www.themorning.lk/president-inspects-1200-bed-army-improvised-covid-hospital/>.

¹⁹ Fmr Senior Officer's Initiative Gets Disinfection & Patients' Examination Chambers, *National Operation Centre for Prevention of COVID-19 Outbreak* (23 April 2020), <https://alt.army.lk/covid19/content/fmr-senior-officers-initiative-gets-disinfection-patients-examination-chambers>.

²⁰ *Id*; *supra* note 18.

²¹ See e.g., "OHCHR Investigation on Sri Lanka," *UN Human Rights Council*, <https://www.ohchr.org/en/hr-bodies/hrc/oisl>.

²² Shamindra Fernando, "Predicament of war-winning Sri Lanka military," *The Island* (Sri Lanka) (5 January 2022), <https://island.lk/predicament-of-war-winning-sri-lanka-military/>.

²³ *Supra* note 19.

trend under the current administration of appointing military or ex-military officials into civilian government roles.²⁴

BRANDIX VIOLATED COVID-19 GUIDELINES WEEK BEFORE COVID-19 OUTBREAK DETECTED AT FACTORY

COVID-19 IN SRI LANKA

When the COVID-19 pandemic began in March 2020, Sri Lanka initially imposed a police curfew in free trade zones and eventually required the zones to close. Thousands of free trade zone workers engaged in protests to demand their March salaries. By April 2020, certain approved manufacturers were open in the free trade zones,²⁵ and the Ministry of Health released guidance on COVID-19 control at workplaces including manufacturing, the MOH *Operational Guidelines on Preparedness and Response for Outbreak for Work Settings Interim Guidance*.²⁶ The EPZs stayed open in large part because Sri Lanka became a key sourcing destination for PPE, to which manufacturers pivoted as global fashion companies stopped orders.²⁷ Sri Lanka increased its PPE production the second most globally, some six times its prior production levels.²⁸

COVID-19 OUTBREAK AT BRANDIX MINUWANGODA

In October 2020, 1000 of 1400 workers tested positive for COVID at Brandix Minuwangoda, owned by Brandix Lanka. The outbreak, first detected on October 4, was a superspreader that was responsible within weeks for half of Sri Lanka's recorded COVID-19 cases.²⁹ Sri Lanka's Chief Epidemiologist reported that workers showed signs

²⁴ See "Sri Lanka: UN Report Describes Alarming Rights Situation: Governments Should Impose Targeted Sanctions, Press for Justice," *Human Rights Watch* (3 March 2022), <https://www.hrw.org/news/2022/03/03/sri-lanka-un-report-describes-alarming-rights-situation>.

²⁵ "EFC lists out measures to work during extended periods," *Daily Mirror* (1 April 2020) <http://www.dailymirror.lk/business-news/EFC-lists-out-measures-to-work-during-extended-curfew/273-1859>.

²⁶ Sri Lanka Ministry of Health and Indigenous Medical Services, *Operational Guidelines on Preparedness and Response for Outbreak for Work Settings Interim Guidance* (17 April 2020) http://eohfs.health.gov.lk/occupational/images/2020/Workplace_COVID_guideline_for_web_20200320.pdf.

²⁷ See e.g., "United States Works With Sri Lankan Apparel Industry to Increase PPE Exports," *USAID* (27 July 2020), <https://www.usaid.gov/sri-lanka/press-releases/jul-27-2020-united-states-works-sri-lankan-apparel-industry-increase>.

²⁸ See International Labour Organization, BetterWork, and Cornell University International Labor Relations School, *The supply chain ripple effect: How COVID-19 is affecting garment workers and factories in Asia and the Pacific* (October 2020), https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/documents/briefingnote/wcms_758626.pdf.

²⁹ See e.g., Ranga Cyrilal, "Corona virus: How did the new cluster in Minuwangoda become infected?" *BBC News* (Oct. 7, 2020), <https://www.bbc.com/sinhala/54434094>; Shihar Aneez, "Garment workers on front line of Sri Lanka coronavirus outbreak," *Reuters* (Nov. 3, 2020), <https://www.reuters.com/article/health-coronavirus-sri-lanka-workers-idINL8N2HI4C3>.

of respiratory diseases by September 20, 10 days before the first worker tested positive, and confirmed that some workers were COVID symptomatic during that time.³⁰

Brandix has not acknowledged engaging in any wrongdoing that caused or contributed to the outbreak and has not made public a promised investigation. Brandix's current position is that "all protocols were followed at all our facilities as required by health authorities."³¹ In November 2020, Brandix Group Finance Director Hasitha Premratne reported that "We have appointed a high-level three-member independent committee to investigate the allegations leveled in the media. Upon completion of the investigation, we will take appropriate action as per its findings ... and will share these findings and take the necessary action in the event of violation."³²

Two government investigations are inconclusive on whether Brandix caused or contributed to the outbreak. Sri Lanka's labor department announced an investigation into the Brandix outbreak.³³ Sri Lanka's Attorney General announced an investigation in October 2020 into whether there had been criminal negligence or oversight that caused danger to human life, which was a narrow mandate.³⁴ In July 2021, the Attorney General issued a statement that there had been no such criminal action and that there was no evidence requiring further action on the question.³⁵ Neither report has been released at the time of writing, leaving the Sri Lankan public without authoritative and complete public information from the Sri Lankan government about the outbreak.

Workers at Brandix Minuwangoda report to the authors that Brandix Lanka did violate Sri Lanka's applicable COVID-19 guidelines in the two weeks prior to the outbreak. Workers at Brandix Minuwangoda told AFWA that Brandix Minuwangoda management held a concert on September 25, 2020 — a week before the first worker at Brandix Minuwangoda tested positive for COVID-19.³⁶ Workers reported Brandix held the concert to celebrate having shipped a big order. One local Sinhalese newspaper reported the concert and that police oversaw the band's quarantine after the Brandix outbreak was discovered. The workers told AFWA that the management-hosted concert was widely attended and social distancing was not in place. The guidelines from the Sri

³⁰ Zulfick Farzan, "Divulapitiya apparel worker NOT origin of Minuwangoda Brandix cluster," *Newsfirst* (Sri Lanka) (7 October 2020), <https://www.newsfirst.lk/2020/10/07/divulapitiya-apparel-worker-not-origin-of-minuwangoda-brandix-cluster/>.

³¹ Brandix welcomes conclusion of investigations into the spread of COVID-19 at its Minuwangoda apparel factory, *Brandix.com* (26 July 2021), <https://brandix.com/quick-links/covid-19-response-statements>.

³² Charindra Chandrasena, "There was no cover up: Brandix," *The Sunday Morning* (Sri Lanka) (1 November 2020), <https://www.themorning.lk/there-was-no-cover-up-brandix/>.

³³ "Brandix Probe," *Ceylon Today* (Sri Lanka) (15 October 2020), <https://ceylontoday.lk/news/brandix-probe>.

³⁴ "AG orders criminal investigation into Covid spread from Brandix plant," *Economy Next* (27 October 2020), <https://economynext.com/ag-orders-criminal-investigation-into-covid-spread-from-brandix-plant-75271/>.

³⁵ *Supra* note 28.

³⁶ "බ්‍රැන්ඩික්ස් විධායක සාදක සංගීතය සැපයූ 'යක්කු' පාසැලක සංගීතයක.. සියල්ල නිරෝධායනයට..." *Lanka C News* (8 October 2020), <https://lankacnews-com.translate.google.com/translate?hl=en&sl=si&tl=en&pt=nui.sc>.

Lankan Ministry of Health (MOH) at the time recommended that any workplace require physical distancing at all times and “restrict large gatherings. Avoid in-person meetings as much as possible.”³⁷ Workers at Brandix including at Brandix Minuwangoda told AFWA that Brandix management had stopped following COVID-19 guidelines at the time of the outbreak. Workers reported that management no longer facilitated social distancing in the canteens, for example, as required by the MOH guidelines.³⁸

In addition, at the time of the outbreak, Brandix Minuwangoda workers also reported to news outlets that Brandix did not allow workers who reported COVID-19 symptoms to management to isolate and test, which would have been a clear violation of Sri Lanka’s applicable COVID-19 guidelines. The COVID-19 guidelines stated clearly that “following categories of workers should not report for work [:] - Those having fever, with or without acute onset respiratory symptoms ... the employer should ensure that if a sick person reports for work, he/she is sent back home immediately.”³⁹ In October 2020, workers reported Brandix management told workers with a fever to continue working despite fever.⁴⁰ Workers again reported that they had been under pressure to finish a large order at the time, which may have been the same as the one in celebration of which Brandix threw the concert in violation of MoH guidelines.⁴¹

³⁷ *Supra* note 28 at 11.

³⁸ *See id.* at 9.

³⁹ *Id.* at 8.

⁴⁰ Aneez 2020; “The Brandix factory did not have safety mechanisms - workers say,” *The Leader* (Sri Lanka) (Oct. 7, 2020), https://theleader-lk.translate.google.com/news/4441-2020-10-07-04-20-00?x_tr_sl=auto&x_tr_tl=en&x_tr_hl=en&x_tr_pto=wapp

⁴¹ Harshani Dissanayake, “Is it true what Brandix does not say? That woman’s revelation!” *The Leader* (Sri Lanka) (Oct. 11, 2020), https://theleader-lk.translate.google.com/gossip/4493-is-it-true-that-brandix-does-not-tell-that-woman-s-revelation?x_tr_sl=si&x_tr_tl=en&x_tr_hl=en&x_tr_pto=nui,sc.

REPRESSION AND REPRISALS FOR DEMANDING ACCOUNTABILITY FOR COVID-19 OUTBREAK AND IMPACTS

UNIONS AND WORKERS' RIGHTS ORGANIZATIONS ATTACKED FOR ADVOCACY

During October through December 2020, Sri Lankan women-led workers' rights organizations and unions provided direct aid to workers and advocated publicly for accountability for Brandix, in a context of hate speech against women garment workers. After the Brandix outbreak, COVID-19 spread rapidly throughout garment factories near Colombo, which were now under military curfew because of the outbreak. Dabindu Collective, Stand Up Workers Union and RED held a press conference on October 15 calling for a range of actions including a government investigation into the outbreak.⁴² This built on advocacy the organizations conducted during COVID-19 for workers to receive emergency income support through the pandemic, when global fashion manufacturers laid off workers and cut wages in response to COVID-19 lockdowns and reduced order volumes from fashion companies. At the time, Brandix workers — including the first worker who tested positive for COVID-19 at Brandix Minuwangoda and who reported COVID-19 protocol violations at Brandix — were trolled on social media, accused of having extramarital affairs that led them to catch the virus.⁴³

Dabindu Collective, Stand Up Workers Union and RED also stood up for garment workers against military abuses. As part of the military COVID-19 response, on October 11 the Sri Lankan military allegedly conducted a raid of a garment worker hostel and forcibly rounded up workers to take them to an unsanitary military quarantine facility — all of which the groups alleged amounted to cruel, inhumane and degrading treatment. Dabindu Collective, Stand Up Workers Union and RED filed a complaint with the Human Rights Commission of Sri Lanka regarding the case on October 17, 2020.⁴⁴

The Sri Lankan military retaliated against Dabindu Collective, Stand Up Workers Union and RED for pushing for accountability for the COVID-19 outbreak. On October 19, 2020, General Shavendra Silva appeared on the Mahajana Sewaya Pinisai program on Swarnavahini TV Channel.⁴⁵ With apparent reference to Dabindu Collective, Stand Up

⁴² See "Ensure impartiality of Brandix internal inquiry, worker rights collective requests BOI," *EconomyNext* (15 October 2020), <https://economynext.com/ensure-impartiality-of-brandix-internal-inquiry-worker-rights-collective-requests-boi-74811/>.

⁴³ See e.g., Saman Priyankara Nammuni, "The story of 'Brandix' Supervisor Pradeepika who spoke all over Sri Lanka" *Gossip Lanka News* (Oct. 11, 2020), <https://www.gossiplankanews.com/2020/10/covid19-brandix-supervisor-speaks.html>; Jamila Husain, "'Brandix did not manufacture COVID. Our 'girls' are going through hell' - brandix management," *Daily Mirror* (Sri Lanka) (19 October 2020), <https://www.dailymirror.lk/news-features/Brandix-did-not-manufacture-COVID-Our-girls-are-going-through-hell-brandix-management/131-198173>.

⁴⁴ Communication on file with authors.

⁴⁵ SL Army Media, "Lt Gen Shavendra Silva, Head of the NOCPCO, CDS & Comd of the

Workers Union and RED, stated “there are certain groups that protest against these actions... They do so because they have limited understanding on this matter or groups who don't want us as a nation to defeat COVID.” He continued, referring to the complaint, “... These are all lies, like I said to fire up the people said by groups working with other agendas and who want COVID to spread more.” He further accused them of representing a anti-patriotic or anti-national agenda and filing the complaint to hinder the COVID-19 response so that COVID-19 could spread more, stating, “These are all because of anger towards us about quarantining infected persons or that we will successfully control the spread of the virus, or because they think otherwise they will not be able to properly implement their agendas, that it might hinder them the chance of getting money from the groups whose agendas they implement ...”. Silva further made a veiled threat of future action against the groups, saying, “we know that the people will give a good answer to these groups in the future.”

This government action was especially alarming in light of Sri Lanka criminalizing freedom of speech and assembly during COVID-19 and targeting citizens who criticize the state response to COVID-19.⁴⁶ In April 2020 and again in June 2021, Sri Lankan police announced they would arrest anyone who spread false or derogatory statements about officials involved in the COVID-19 response, under the existing Penal Code, Police Ordinance, and the Computer Crimes Act (CCA). In August 2021, the Criminal Investigation Department (CID) of the police summoned a former health ministry spokesperson after a TV interview criticizing the state handling of the pandemic, and questioned another doctor for a critical post on Facebook as well.

Finally, several Sri Lankan unions and workers’ rights organizations including Dabindu Collective, RED, and Stand Up Workers Union report that at a December 7, 2020 meeting with Brandix CEO Ashroff Omar, Omar warned attendees that he would not allow unionization at Brandix.⁴⁷

REPRISALS FROM BRANDIX AND SRI LANKAN GOVERNMENT ESCALATE

In February 2021, the International Finance Corporation (IFC), a Specialized Agency of the United Nations that is part of the World Bank Group, publicly disclosed on its website a proposed long-term loan of \$50 million to Brandix Lanka.⁴⁸ On March 25, 2021, Sri Lankan unions and workers’ rights organizations and global allies including the Dabindu Collective, Stand Up Workers Union, and RED filed a complaint with the IFC raising several concerns that Brandix did not comply with IFC policy on labor rights. Within a week of the filing, Brandix CEO Ashroff Omar called a meeting with several of

Army-‘Mahajana Sevaya Pinisai’” *YouTube* (20 October 2020), <https://www.youtube.com/watch?v=hFOhldctDel>.

⁴⁶ See “Sri Lanka: COVID-19 restrictions should not undermine freedom of expression,” *International Commission of Jurists* (2 September 2021), <https://www.ici.org/sri-lanka-covid-19-restrictions-should-not-undermine-freedom-of-expression/>.

⁴⁷ Communications on file with the authors.

⁴⁸ See *supra* note 15.

the Sri Lankan unions and organizations in which Omar accused them of attempting to cancel the loan altogether, rather than attempting to ensure the loan moved forward in compliance with IFC policy.

The Sri Lankan government also swiftly engaged in intimidation of the unions. On April 8, 2021, Dabindu Collective, Stand Up Workers Union, RED, and allied Sri Lankan unions held a press conference regarding the investment in Brandix Lanka, where an attendee who identified themselves as being from the Ministry of [Mass] Media accused the groups of canceling the loan and threatening Brandix.⁴⁹

Brandix senior ex-military staff further engaged in harassment of one of the unions, Dabindu Collective Union. As mentioned above, as of May 2021, the Sri Lankan army described Retired Major General Udaya Perera as Group Head Administration of Brandix. After the press conference on April 8, 2021 Retd. Major General Perera called the leader of Dabindu Collective. Noting that he had been in the Army for 36 years, Perera asked the union leader why she had been informing fashion companies about what was happening in Sri Lanka.

Sri Lankan police further intimidated the unions in the subsequent weeks through searches of their offices and their leaderships' private homes. In April 2021, the Criminal Investigation Department (CID) of Sri Lankan Police visited the offices of RED and Stand Up Workers Union. The legal basis for the searches were not disclosed to the unions, who complied with the searches. When police visited RED, they stated they were from the Katunayake Police Station Intelligence unit. The same day, CID visited both RED's and Stand Up Workers Union's leaders' homes, asking details about their parents, siblings and relatives.

⁴⁹ See Asia Floor Wage Alliance, "Press Release: Sri Lankan Unions Demand Respect for Workers ..." *Facebook Live* (8 April 2021), <https://www.facebook.com/AsiaFloorWage/videos/191167129479367/>.

CONCLUSION AND RECOMMENDATIONS

This report illustrates that freedom of association for trade unions and workers organizations is critical to making sure that working people's voices are heard in Sri Lanka's garment industry. When trade unions and workers organizations can exercise freedom of association, they help ensure that workers can speak up when garment factories do not follow the law and that workers have a collective voice in factories and in society to represent working peoples' interests. These roles are essential to creating inclusive growth that benefits all.

The repression and reprisals during COVID-19 documented in this report illustrate an absence of full freedom of association for garment sector unions in Sri Lanka. The ILO Committee on Freedom of Association has consistently emphasized that respect for human rights and civil liberties and "a climate free of violence, pressure, fear and threats of any kind," is critical for a free trade union movement.⁵⁰ Moreover, these freedom of association violations have interfered with accountability for COVID-19 responses by garment manufacturers like Brandix and by the government of Sri Lanka, with particular impact on women workers in Sri Lanka's garment industry. Beyond the existing gender-based violence and harassment documented in Sri Lanka's garment industry, the Brandix COVID-19 outbreak resulted in further abuse and harassment of women garment workers — whether by their employers, the government and military, or by society at large — linked to their status as garment workers.

We urge the Government of Sri Lanka to:

- **Respect freedom of association.** Respect unions and workers' rights to freedom of association and collective bargaining consistent with ILO Conventions C87 and C98, as well as Sri Lankan citizens' rights to freedom of speech consistent with the International Covenant on Civil and Political Rights, which are also protected as fundamental rights under the Constitution of Sri Lanka. This includes ending intimidation of unions and workers' rights organizations through criminal investigations and ensuring that all garment manufacturers respect freedom of association and collective bargaining consistent with ILO C87 and C98.
- **Ratify ILO C190.** Sri Lanka should ratify the ILO Violence and Harassment Convention, 2019 (ILO C190) and put in place necessary laws and policy measures to prevent and address violence and harassment in the world of work.
- **Ensure national social dialogue includes women-led unions.** In light of the predominance of women workers in Sri Lanka's garment industry, which represents 15% of Sri Lanka's workforce, ensure that women-led unions are represented at the

⁵⁰ International Labor Office, *Freedom of Association: Compilation of decisions of the Committee on Freedom of Association* (6th ed.) (2018) at para. 73. Available at: https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---normes/documents/publication/wcms_632659.pdf.

National Labor Advisory Committee, the national tripartite consultative mechanism for social dialogue.

We urge Brandix Lanka to:

- **Respect freedom of association.** Respect unions and workers' rights to freedom of association and collective bargaining consistent with ILO Conventions C87 and C98, including compliance with IFC Performance Standard 2 on Labor and all requirements associated with IFC financing to Brandix Lanka.
- **End employment of ex-military officials.** End immediately any employment of ex-military officials with credible allegations of human rights abuses against them, which has a chilling impact on freedom of association at Brandix Lanka in light of the post-conflict context in Sri Lanka.
- **Dialogue with women-led trade unions and workers' organizations.** Brandix Lanka should engage in dialogue with Asia Floor Wage Alliance's Women's Leadership Committee (WLC), which includes Sri Lankan women-led trade unions, in order to ensure respect for Brandix workers' rights at work.