

Rejoinder of Clean Clothes Campaign

Union Busting in Myanmar: Myan Mode, Rui-Ning and Huabo Times factories

We take note of the company responses of BESTSELLER (June 5th), Inditex (June 8th) and MANGO (June 8th) on [BHRRC website](#). Despite claims from the brands, and the achievement of an agreement at the Myan Mode factory, their responses thus far do not address the core problem of discrimination against trade unionists. Further to the Myan Mode and Rui-Ning cases, the [Huabo Times](#) factory dismissals, coming a mere three days after a new union registered in the factory in May, presents yet another case of union discrimination in the Myanmar suppliers for Inditex and Bestseller (as well as Primark). In all three cases (Myan Mode, Rui-Ning and Huabo Times) full remedy is yet to be provided.

These individual cases highlight the [documented](#) pattern of union repression prevalent in the Myanmar garment industry. Under the guise of Covid-19 and the professed resulting need to downsize, union members are being dismissed. In these three cases the pattern is clear: the union called management out for putting their workers at risk of contracting Covid-19 and/or not paying due wages, subsequently union members and union supporters were dismissed in the days following. In all cases, management refused to sit at the table with the union to address the human rights violations and negotiate a resolution. Reference to the fact that the local labour department has approved the Rui-Ning factory dismissals, as Bestseller presented in their response, ignores the obligation of brands' due diligence to assess any negative impacts they have on human rights in their supply chain and to mitigate these impacts.¹ As such, it is an inadequate response. Reports from the Rui-Ning union also state that the lay-off list was presented only hours before the union members were dismissed, which makes "consultation" of the union a mockery. Moreover, Rui-Ning employees reported working overtime in the past month, and at Huabo Times, within one week of the dismissals, 200 employees from another factory branch were reportedly called in to finish production, thereby evidencing that the dismissals had more to do with union discrimination than necessary downsizing.

We specifically note the unwillingness of management at both Rui-Ning and Huabo Times to directly negotiate with the legitimate trade union at the factory. We were informed that the management still refuses to reply to the union's request to meet, and is therefore continuing to violate the principle of Freedom of Association, as mandated by the ILO core labour standards. Notably in their responses, both Inditex and Bestseller refer to additional frameworks, including the [Myanmar Freedom of Association guideline](#), that they have committed themselves to under the umbrella of ACT. In this FoA guideline, as well as in a [statement](#) to address the impact of Covid-19 in Myanmar which was signed by both brands, the need for suppliers to consult with union representatives prior to dismissals is explicitly mentioned, as is the right for either party to request a meeting to discuss urgent matters. What is not included but needs to be stressed

1 UN Guiding Principles on Business and Human Rights
https://www.ohchr.org/documents/publications/guidingprinciplesbusinesshr_en.pdf

OECD Due Diligence Guidance: https://www.oecd-ilibrary.org/governance/oecd-due-diligence-guidance-for-responsible-supply-chains-in-the-garment-and-footwear-sector_9789264290587-en

is that, alongside the obligation of suppliers to recognise factory unions and engage in good faith negotiations, there is also the obligation for Inditex, Bestseller and Mango to engage in meaningful due diligence, which includes engaging with stakeholders. However, none of these brands have directly spoken to the factory union involved despite, for example, Bestseller's statement that they were willing to discuss the case with the complainant.

The first requirement from brands is that any "deal" or "agreement" must be negotiated with the trade unions, recognising them as legitimate representatives for the workers. Any "solution" failing to involve the trade union represents a violation of the right to collective bargaining, a right enshrined in the Universal Declaration of Human Rights.

Furthermore, the impact of the dismissals should be fully addressed in all cases. We welcome the Myan Mode agreement, in which 75 union members are reinstated, however 545 workers are still waiting for justice. At Rui-Ning, recognition of the union, as well as an agreement between the union and management on rehiring 323 dismissed workers, is still outstanding. At Huabo Times, half of the newly formed union and dozens of union supporters have been dismissed, and there is no solution on the horizon as yet.

Immediate steps required from Inditex, Bestseller and Mango are to ensure that the management at both the Rui-Ning Factory and the Huabo Times factory negotiate in good faith with trade unions and fully remediate the rights violations. Resulting agreements should be supported by brands' ongoing orders in the factories. Without this commitment, brands are failing in their due diligence as well as their publicly-stated support of building [sustainable industrial relations](#), reducing such statements to nothing more than empty CSR rhetoric.

At a structural level, brands should take preventative measures to ensure non-discrimination in retrenchment and re-hiring decisions. Brands and retailers need to request that all suppliers develop clear policies to ensure that Covid-19 is not used as a cover for union busting. In factories where there is a union, these policies should be negotiated with and signed off by them. All retrenchment proposals should be monitored by brands to ensure that they do not disproportionately affect trade union members and leaders, women (particularly pregnant women), or workers on permanent contracts. In cases where retrenchment has had a discriminatory effect, the process should be invalidated and redone following best practice procedures. Orders should reflect positive incentives to ensure such policies are in place. The policies should be based on the relevant ILO conventions and take the [Better Work](#) guidance into consideration.