

W R C

**WORKER RIGHTS
CONSORTIUM**

Country Risk Assessment for Universities



May 14, 2019



Introduction

This report assesses key risks of labor rights violations against workers in leading countries where collegiate licensed apparel is manufactured. The report also highlights the methodological challenges involved in identifying, documenting and remedying labor rights abuses in these countries' garment manufacturing sectors, and the relative effectiveness (or ineffectiveness) of various investigative and factory monitoring approaches in uncovering and correcting such violations. The information in this report is based on the Worker Rights Consortium's experience, over the last 18 years, in factory labor rights investigations and remediation of worker rights abuses in more than 20 garment-producing countries in North and South America, Africa, Asia, Central America, and the Caribbean Basin.

This report highlights the most significant risks of labor rights and human rights abuses – of all major types, from violations of core workplace rights like freedom of association and freedom from forced labor to hazardous and abusive working conditions and treatment as well as forms of wage theft and unlawful denial of other forms of compensation – in 10 of the countries that have been disclosed by university licensees to have the largest number of suppliers producing college logo goods. These countries are the United States, China, Vietnam, India, Mexico, Honduras, Thailand, Indonesia, Pakistan, and Bangladesh.

The report classifies the level of risk of labor abuses in each of these countries as *high* or *moderate*, as there are no countries on this list (not excepting the U.S., as discussed below) where labor practices in their garment sectors do not present at least a moderate risk of significant rights violations. By way of introduction to the individual country risk profiles, this report also discusses the particular challenges in these countries in uncovering, documenting, and securing remediation of serious labor rights abuses, and the methodology that has been developed by the WRC since 2000 to address these significant and often complex obstacles.

A. Causation and Variation in Labor Violations Risk among Garment-producing Countries

The global garment industry's dominant structure of dispersed manufacturing supply chains, where major Western apparel brands source garments from networks of literally hundreds of third-party supplier factories located in low-wage countries across the developing world, is a major contributor to the prevalence and persistence of labor rights abuses in the sector. Brand-driven pressure for lower prices ("the race to the bottom") and rapid delivery times ("fast fashion"), combined with this industry structure, contributes to intense competition among factories and between countries that results in serious labor rights violations being common in the garment industries of nearly every country which is a significant producer for the collegiate apparel market.

Nonetheless, garment workers in particular countries often experience distinctive patterns of labor rights violations and abusive working conditions due to differences in such varied factors as regulatory capacity and

will (or lack thereof) of local governmental authorities, the existence (or non-existence) of space for independent unions and other worker rights organizations to operate without state control or repression, gendered patterns of dominance and abuse, use of private or state violence in industrial relations, local factory construction practices, and degree of reliance on migrant labor and other particularly vulnerable groups of workers.

For example, China and Vietnam prohibit the very existence of independent labor organizations and jail labor activists (crackdowns which have become only more intense in recent years) while permitting officially sanctioned unions to be controlled at the factory level by employers. In Bangladesh, independent unions and worker organizing, while formally permitted, have faced increasing levels of governmental and employer repression in the form of employer-directed violence against labor activists, mass arrests and terminations of protesting workers, and baseless criminal prosecutions of labor leaders.

Similarly, while garment workers in all major apparel exporting countries face health and safety hazards on the job, the nature and severity of this risk varies greatly from country to country. Because garment factories in Bangladesh and Pakistan are frequently housed in multistory buildings, workers in these countries' apparel sectors are at much greater risk from deadly factory fires and structural collapses due to lax safety practices and shoddy construction. In Vietnam and elsewhere in Southeast Asia, due to a combination of stiflingly hot temperatures inside factories, harsh production quotas, and long hours, impacts on worker health are seen most dramatically in episodes of faintings and physical collapse on the job.

B. Challenges in Factory Monitoring in the Global Garment Industry

The exposure, starting in the mid-1990s, of severe labor rights abuses in garment factories, both abroad and in the U.S., that supply major clothing brands led to the near-universal adoption of labor codes of conduct by both the brands themselves and, in the

case of college logo apparel, licensor universities. At the same time, facing unabated pricing and delivery pressure from apparel brands, factory owners rapidly adopted aggressive and often sophisticated measures for concealing their abusive labor practices from brand representatives and the auditing firms that brands retained to inspect and certify their supplier factories.

One of the most significant of these practices is the near-universal tactic of factory managers and supervisors "coaching" workers to provide false information concerning labor conditions and practices to auditors and brand representatives, under threat of factory closure (should the buyer cease doing business with the factory because of labor violations) or retaliatory firing (should the factory owner learn which workers revealed abusive practices). Another is the practice, frequently encountered in many countries' garment sectors, of maintaining false timekeeping and payroll records to show auditors and brands, in order to conceal excessive working hours and/or wage theft. Another common tactic is making very temporary improvements in working conditions either before or immediately after a brand's audit, to either conceal violations or give the impression they are being rectified.

Unfortunately, the inspection methodologies most commonly used by brand auditors are highly susceptible to these forms of concealment of rights violations. By far the most reliable source of information concerning factory conditions and practices is the workers themselves – if they feel secure and motivated to speak truthfully. Indeed, only workers are in a position to relate what incidents and abuse occur in a factory during the 99%+ of the time when outside auditors *aren't* present. And workers are best equipped to reveal when fake timekeeping and payroll records don't match their actual working hours and wages.

Brand auditors, however, interview garment workers almost exclusively on-site – inside factories – where workers are most vulnerable to management coaching and intimidation. And because auditors typically are generalists who inspect a high volume

of factories (and, in some cases, are actually retained and paid by the factories themselves, as a condition of the factory doing business with the brand), these auditors often lack the ability, time, or incentive to uncover and report the worst labor abuses.

The result has been numerous instances of undiscovered severe abuses and un-remedied deadly hazards for workers. These include, in the last several years alone, cases documented by the WRC in which factories that previously had been inspected *dozens of times* by industry auditors and even “certified” as labor rights compliant were subsequently revealed to employ forced labor, permit widespread sexual coercion, commit daily wage theft, or operate as virtual deathtraps for workers due to risk of fatal fires or building collapses.

C. The WRC’s Investigative Methodology for Assessing Labor Rights Risks

Recognizing the challenges discussed above, from our earliest factory investigations in 2001 up to the present, the WRC has consistently used a research methodology that emphasizes the need to interview garment workers away from their factories, where workers can and will testify freely and honestly concerning labor conditions and abuses. This methodology has enabled the WRC to uncover and document violations that in many cases had gone unnoticed and/or uncorrected by industry auditors and brands for years at a time.

Success in arranging offsite interviews with factory workers and obtaining accurate information about labor rights violations requires an investigative capacity that the WRC has developed in major garment-producing countries over nearly two decades. Due to the prevalence of management “coaching” and intimidation, even away from their factories, workers are typically only willing to talk to investigators freely about labor rights abuses when there is a base of trust and confidence in the investigators on the part of the workers. Such trust is generally present only when the relationship between the workers and the investigator is mediated by an organization

or individual that is already known to and trusted by the workers – a local union or other worker rights organization or advocate.

For this reason, WRC has maintained, as a top priority for its local representatives in major garment-producing countries, the fostering and preserving of relationships of trust and confidence with independent local worker organizations and advocates. Such trust and confidence is all the more essential in key garment-producing countries like China, Vietnam, and Bangladesh, where independent worker organizations and advocates are themselves subject to frequent and severe intimidation and retaliation by state authorities and/or factory owners.

A key factor, in turn, in the WRC’s success in developing such trusted relationships with local labor advocates and workers is providing credible assurance that any risk taken to provide testimony about workplace violations is worthwhile – that the investigator documenting the abuses will use all available means to seek their remediation (even if this requires a significant length of time), rather than simply noting them in an auditing report that may never be acted upon or even shown to workers. These twin commitments to local labor rights advocates and organizations – to not undermine their own often-fragile ability to operate *and* to doggedly pursue remediation of workplace abuses – are, therefore, integral elements of the WRC’s investigative capacity in leading garment-producing countries and a prerequisite for effective factory inspection and remediation work by any auditing or inspection body.



Country Risk Profiles

A. United States

The U.S. remains, strictly in terms of the number of suppliers disclosed by licensees (8,099), by far, the largest source of collegiate licensed goods. However, this ranking significantly overstates the actual number of factories in the U.S. that manufacture collegiate goods, since internal research conducted by the WRC has found that many locations disclosed by licensees in this country are in fact business offices or distribution centers of companies selling imported goods.

These licensees do disclose a significant number of suppliers, however, in southern California, which is the largest center of garment manufacturing remaining in the U.S., employing more than 45,000 workers. While many of these supplier locations are not actual factories, some certainly are. California state wage-and-hour inspectors reported in late 2018 that they had cited a supplier in Los Angeles disclosed by a small collegiate licensee, Hype and Vice, for more than \$300,000 in violations of state labor laws, in an investigation that is being monitored closely by the WRC.¹

The discovery of such violations at a collegiate apparel manufacturing facility in southern California is not surprising, as recent enforcement activity by government regulators has found more than 80% of factories inspected in the region to be violating wage-and-hour laws, with some workers paid as little as one-third of the applicable legal minimum.² A non-collegiate factory monitored in 2013 in Los Angeles by the WRC was found to have required employees to work at the

factory for up to 36 hours at a stretch without payment of overtime premiums, resulting in wage theft of hundreds of thousands of dollars.

Despite dedicated, though severely under-resourced, efforts by state and federal regulators, preventing labor rights violations in L.A.'s garment factories remains highly challenging. Workers, many of them undocumented, are highly vulnerable to employer intimidation, and factory owners can often avoid accountability for violations, as their small factories are easy to move and reopen under new identities. These same factors, along with the weak penalties on employers for anti-union retaliation, make union organizing by workers in the sector a near impossibility.

In the monitoring case noted above, the WRC was able to achieve compliance only through sustained cultivation and confidential interviewing of contacts among the factory's workers, and the fact that the factory's owners were subject to a settlement agreement with local government authorities, under which further violations or retaliation against workers would result in criminal penalties for contempt of court. Nevertheless, when the mandatory settlement period ended, the factory owners were quick to shift operations to a new location.

Due primarily to the existence and active enforcement efforts of state and federal wage-and-hour regulators in the U.S. garment sector, the WRC views factory suppliers in this country as posing a *moderate risk* of serious labor violations, relative to other countries that are major sources of collegiate apparel.

¹ Deborah Belgum, "Downtown LA Garment Factories Cited for Labor-Law Violations," California Apparel News (Sep. 6, 2018), <https://www.apparelnews.net/news/2018/sep/06/downtown-la-garment-factories-cited-labor-law-viol/>.

² Natalie Kitroeff and Victoria Kim, "Behind a \$13 shirt, a \$6-an-hour worker," *Los Angeles Times* (Aug. 31, 2017), <https://www.latimes.com/projects/la-fi-forever-21-factory-workers/>.

B. China

China has 1,380 suppliers that have been disclosed as producing collegiate goods for university licensees, making it the leading overseas sourcing location, and China remains, overall, the world's largest garment manufacturer. As noted, the Chinese's government's legal prohibition on independent labor unions and its recently-intensified crackdown on any forms of independent worker advocacy make violation of freedom of association a key labor rights risk in this country. In addition, as discussed below, the recent establishment of garment manufacturing facilities in reeducation detention centers in north-west China, as part of the country's crackdown on the region's ethnic Uighur minority, has raised the risk of use of forced labor in export apparel supply chains as well.

Chinese law requires that all trade unions be affiliated with the Communist Party-controlled All-China Federation of Trade Unions (ACFTU). Individuals attempting to form independent labor unions have been punished with criminal prosecution on contrived charges. Moreover, at the local factory level, ACFTU units are often under the control of factory managers, who serve as the union's official in-plant leadership.

Until 2015, however, there had been, over the previous decade, a significant degree of unofficial tolerance of independent NGOs that provided legal advice and rights education for factory workers, away from the worksite in local communities. Among the key roles these NGOs play is to advise factory workers when, is not infrequent in China, the latter go on strike, without the ACFTU's support, to protest abusive conditions.

Since 2015, however, there has been a steadily intensifying repression of these organizations, involving forced closure of their offices and arrest and criminal

prosecution of their leaders, staff, and supporters. Related to this concerted campaign of repression has been the enactment of laws requiring highly intrusive regulation and monitoring of any foreign-based funding of such organizations, making it extremely difficult for any organization to benefit from such funding and thereby cutting off one of the very few available sources of support.

The rapidly shrinking space for labor advocacy has had the result of removing these key external sources of support for Chinese workers in addressing labor rights violations. At the same time, significant increases in China's regionally-determined minimum wages, which are also intended to ensure social stability, have had the impact of encouraging a shift in garment production both out of China entirely to lower-wage countries and from China's more affluent coastal provinces to its poorer interior, where lower labor standards prevail. A likely trend of deterioration of working conditions in Chinese garment factories as production shifts inland is of particular concern, as even in the coastal provinces, despite improved wage levels, factory workers still face harsh working conditions, including, as recently reported at a plant in Guangdong making Disney products, overtime hours at five times the maximum legal limit.³ Forced and excessive overtime, more generally, remains common in the Chinese garment sector, and buyer enforcement is particularly weak, in part because the overtime limits in buyer codes are usually considerably less protective of workers than Chinese law.

An extreme example of the interaction between this geographic shift in production and the country's increasingly repressive political atmosphere has been the establishment, as noted above, of garment production in and around forced labor reeducation camps in China's far northwestern Xinjiang province, where up to one million members of the Uighur ethnic minority are reportedly being detained

³ Gethin Chamberlin, "Revealed: Disney's £35 Ariel doll earns a Chinese worker 1p," *The Guardian* (Dec. 6, 2018), <https://www.theguardian.com/global-development/2018/dec/06/revealed-disney-ariel-doll-earns-chinese-worker-1p>.

⁴ Dake Kang, Martha Mendoza, and Yanan Wang, "US sportswear traced to factory in China's internment camps," *Associated Press* (Dec. 19, 2018), <https://www.apnews.com/99016849cddb4b99a048b863b52c28cb>.

in an effort to eliminate their cultural and social autonomy. In December 2018, the Associated Press reported that the university licensee Badger Sport had imported garments produced by a supplier factory⁴ (which, as the WRC revealed, produced collegiate apparel, but had not been disclosed by Badger to universities) with operations that, according to satellite imagery analyzed by the WRC, were initially located actually in, and later adjacent to, one of these detention centers.

The recent establishment of Badger's supplier's operations in Xinjiang appears consistent with the Chinese government's overall use of forced labor as part of its program of detention and forced assimilation of the Uighur population, which involves the forced training of detainees in low-skilled manufacturing work (including people with advanced degrees who were employed as professionals before being unlaw-

fully incarcerated) inside the detention facility. Some detainees are required to be employed in associated nearby factories, even after their release.

The presence of collegiate apparel production in this forced labor environment revealed not only the lack of prior due diligence on the part of the licensee, Badger Sport, but also exposed the weakness of the factory certification system upon which Badger relied, the Worldwide Responsible Accredited Production ("WRAP") program, whose auditors visited the supplier's operations in fall 2018 and certified it as compliant with its standards. While Badger reports it has since ceased sourcing any products from northwest China, the situation provides a potent illustration of why China continues to present, in the WRC's view, a *high risk* for labor rights abuses.

C. Vietnam

Vietnam is another leading overseas source of collegiate apparel, with 148 supplier factories disclosed by licensees. Its booming apparel sector is also rife with labor rights violations, with the virtual nonexistence of meaningful freedom of association being the most blatant, but far from the only, area of non-compliance with university standards.

By law, all trade unions in the country are required to be affiliated with the Communist Party-controlled Vietnam General Confederation of Labor (VGCL). Individual labor rights activists who attempt to form independent worker advocacy organizations, whether unions or NGOs, or to even promote any type of public campaign in defense of labor rights, are consistently targeted for criminal prosecution on trumped-up charges and convicted with prison sentences of several years or more.

Much less reported, but just as significant for the exercise of freedom of association by factory workers, is the fact that the VGCL routinely permits and staunchly defends control of local labor unions at the company level by factory managers. WRC investigations of garment factories in Vietnam, including but not limited to those producing collegiate apparel, have consistently found that the official leadership of in-factory union bodies is comprised of the factory's own human resources representatives and other top managers, with non-supervisory workers playing at most a token role.

This domination of the union representing factory workers by the factory's own management renders both freedom of association and collective bargaining rights essentially nonexistent in the workplace, with workers' sole avenue for protesting labor abuses being spontaneous strikes. Due to the prevalence of abusive working conditions in the sector, such worker actions, though of fleeting duration, are not uncommon.

WRC investigations of Vietnamese export garment factories have uncovered a wide array of other serious labor abuses, including:

- Frequent discriminatory discharges of pregnant employees;
- Extraction of bribes from job applicants by supervisors in return for hiring, along with formal hiring policies that openly discriminate against older workers;
- Pervasive verbal abuse and, in some cases, physical abuse and sexual harassment of workers by supervisors;
- Widespread wage theft through requiring employees to work off-the-clock, either as a matter of formal policy or through imposition of excessive production quotas;
- Excessive working hours, including failure during peak production periods to afford workers a single rest day per week; and
- An array of health and safety risks, including physical collapse on the job from overwork, poorly-ventilated factories, and extremely unhealthy working arrangements (e.g. sewing operators seated for the entire day on unpadded backless benches, workers using solvents without exhaust ventilation, etc.).

All of these violations were identified by the WRC at factories producing for major apparel brands (including a facility that was a major manufacturer of collegiate products for Nike), which had been audited by or for these buyers, in some cases up to three dozen times per year, all without these abuses being identified and/or corrected. In nearly all of these cases, the failure to identify these violations appears linked, in large part, to aggressive "coaching" of workers by managers to conceal violations.

Due to repression of civil society and harsh restrictions on freedom of association, the WRC's own investigative work in Vietnam has required the careful recruitment of local sources capable of arranging and conducting confidential interviews with factory workers and maintaining these relationships on an ongoing basis. In light of the prevalence and very serious nature of the abuses this investigative work has uncovered, the WRC considers sourcing collegiate apparel in Vietnam to pose a *high risk* of labor rights violations, particularly in the areas noted above.

D. India

India is a significant source of apparel for university licensees, with 70 suppliers disclosed in that country. The WRC's investigations of Indian garment factories, which are made possible by longstanding relationships of trust with local labor advocates, have consistently uncovered a wide array of serious labor rights violations.

One key contributing factor to the prevalence and persistence of labor rights abuses in these workplaces is frequent repression of the freedom of association by Indian factory owners, which prevents workers from establishing unions to protect their rights. This is despite the fact that India has a democratic pluralist system where independent trade unions are able to function freely and have been long-established in factories in other industries.

Attempts by workers in India's export garment factories to form unions, however, are routinely met with harsh retaliation, not infrequently involving not only the firing of worker activists, but also acts of employer-organized violence. A WRC investigation in 2018 of a factory in Bangalore owned by India's largest garment manufacturer, Shahi Exports, and which produces collegiate apparel for Columbia Sportswear, found that the plant's top managers had responded to a union organizing effort by personally leading a violent attack on worker activists involving beatings and death threats, caste- and gender-based abuse, and physical expulsion of victims from the factory.

This management-led attack was initially covered up by Shahi as an internal dispute between workers, and, at first, no action was taken by the numerous major brands doing business with the company. Following the WRC's release of a report of our investigation of the attack, however, which was based on in-depth offsite interviews with dozens of factory workers, Shahi was required to implement significant remedial measures pressed for by the WRC, including reinstatement and compensation of the workers who were victims of the attack, recognition of the union, and a commitment to negotiate by the company.

The extreme power imbalance between factory owners and workers that results from repression of freedom of association has contributed to an environment of virtual impunity with respect to other labor violations. In the garment sector around the national capital of New Delhi, the elimination, through retaliatory firings, of any attempts at union organizing in recent years has left workers (many of whom have the added vulnerabilities of being internal migrants and being employed by labor subcontractors, rather than by the factory itself) forced to work long hours of overtime, beyond the legal maximum, without any payment of required overtime premiums.

Wage theft on a similarly universal scale has been seen in another of India's garment manufacturing hubs, the area around Bangalore, where employers have repeatedly resisted the implementation of legally-mandated increases in the minimum wage, affecting more than 100,000 workers, by simply refusing to increase pay, by appealing to government authorities to repeal increases as being the result of purported "clerical errors," and/or by reducing the value of cash allowances already paid to workers in the amount of the minimum wage increase. All of these tactics for denying workers the minimum wage were violations of Indian law and/or brands' codes of conduct, but were undetected or tolerated by brands and their auditors until uncovered by the WRC through complaints received from local labor advocates and verified through worker interviews. Since 2010, the WRC has documented and secured compensation for workers for more than \$7.5 million in wage theft by Bangalore factories.

Widespread health and safety violations in Indian garment factories, which are the result of the absence of both independent unions and effective government inspections, present a serious risk not only to workers, but, because local laws often mandate provision of onsite nursery facilities, to workers' young children as well. In 2015, the WRC reported the result of the investigation of the death of the infant child of a female factory worker in one such nursery, in a factory owned by Gokaldas Exports, India's second-largest garment manufacturer and a supplier to Gap and adidas. Although a brand-commissioned

audit had exonerated the company for responsibility and failed to question the factory's paying the worker less than \$2,500 in compensation for the death of her child, the WRC found that the company had failed to comply with an array of safety regulations which could have helped prevent the child's death, and secured significant additional compensation for the mother's loss.

Another major concern in India is the location of substantial numbers of factories in multistory buildings and the associated fire safety risks. Because of near-universal non-compliance with both Indian and international fire safety standards, workers in any Indian garment factory in a building higher than two stories are likely to be at serious risk. Most importantly, such buildings are very likely to lack fire doors and fire-rated construction in exit stairwells, which are essential to keep stairwells free of heat and smoke in the event of a fire. As has been witnessed on numerous occasions in Pakistan and Bangladesh, as well as India, when a fire breaks out on the low-

er floors of a building with unprotected stairwells, the stairwells become impassable within a matter of minutes, sometimes seconds, and workers are left to try to save their own lives through such means as jumping across rooftops or leaping from windows.

The WRC has seen no evidence in India of the kinds of fire safety improvements that have been carried out in Bangladesh over the last five years, primarily under the auspices of the Accord on Fire and Building Safety, a program originally conceived by the WRC as a response to the glaring safety risks for garment workers across the Indian subcontinent. The percentage of factories in the Indian garment sector in multistory structures is less than in Bangladesh, and the average height of these buildings is lower; however, the risks are substantial.

Due to both the prevalence and severity of the labor rights abuses the WRC has found in Indian garment factories, sourcing in the country represents a *high risk* for university licensees.

E. Mexico

Mexico has 78 suppliers disclosed producing collegiate goods for university licensees, making it another significant sourcing location. Mexico's corporatist regime of one-party rule, which prevailed from the mid- to late 20th century, has bequeathed its garment industry (and the larger economy) with a labor relations system in which state authorities, employers, and corrupt unions collude to suppress authentic exercise of freedom of association by workers.

Mexican factory employers, in many regions of the country, including key garment-producing centers, have entered into so-called "protection contracts," which are labor agreements signed, without the participation or even knowledge of factory workers, with "charro" unions affiliated with the country's traditional ruling political party, which are then approved by local political authorities. While these contracts contain few if any benefits for workers beyond those already required by law, they provide an effective legal shield for employers against attempts by workers to form or join independent unions which could then negotiate authentic contracts on their behalf. They also provide the *charro* unions with ready sources of income in the forms of dues collected from workers, as well as protection payoffs from factory owners.

These collusive arrangements with corrupt unions in turn permit employers to maintain various other labor practices which comply with the formal requirements of Mexican labor laws (which, reflecting the political system's corporatist heritage, are highly protective of workers) while actively undermining the laws' actual purposes. For example, although Mexican law mandates regular profit-sharing with workers, factory owners have been able to establish shell companies that employ their entire workforces while recording none of their profits, thereby avoiding this obligation. Similarly, while Mexican factories often comply, as a formal matter, with the requirement that

they maintain workplace safety-and-health committees, these bodies fail to play any active role in investigating and/or eliminating workplace hazards.

Of significant concern from the standpoint of risk of serious labor abuses has been the response of both employers and corrupt unions when workers have attempted to challenge these collusive arrangements by forming and joining independent unions. In such cases, including in factories producing collegiate apparel, workers and independent labor rights advocates have frequently faced both retaliatory termination by employers and violent attacks by corrupt unions, although, again, these violations are often covered up after the fact through further collusion. Even in cases where an independent union enjoys the support of the vast majority of workers, the combined efforts of corrupt unions, employers, and governmental authorities often deny workers the opportunity to express their will. Cases investigated by the WRC are among the few in the country's export manufacturing (*maquiladora*) sector where workers supporting independent unions have been able to prevail.

The most recently reported (and still-unresolved) incident of illegal repression of an effort to replace a *charro* union with a legitimate, democratic labor body was the mass firing in May 2018 of more than 50 workers who were attempting to form an independent union at a factory in the state of Morelos supplying Nike, Polo Ralph Lauren, and Gap.⁵

Mexico's new national government has promised legal reform of the country's labor relations system, which may improve matters in time. However, at present, because of the severe obstacles to freedom of association in the country's garment sector and their resulting impact on other workplace practices, the WRC continues to view Mexico as a *high risk* country for labor rights violations.

⁵ Maquila Solidarity Network, "More than 50 Workers Attempting to Organize a Union at a Mexican Garment Factory Have Been Fired" (Jun. 5, 2018), <http://www.maquilasolidarity.org/en/more-50-workers-attempting-organize-mexican-garment-factory-have-been-fired>.

F. Thailand

Thailand remains a significant source of collegiate products for university licensees, with 44 supplier factories disclosed. Rising wage levels in Thailand – in particular, a 39% increase in the legal minimum wage in 2013 – have caused the country’s garment factories to turn increasingly to migrant workers, and, in particular, migrants from Thailand’s much poorer neighbor, Myanmar (Burma) (which, until 2015, had not established a legal minimum wage of its own), as a source of low-paid labor. The uncertain immigration status in Thailand of many of these Burmese workers, which already had made them extremely vulnerable to labor abuses, has been further exacerbated by a draconian law enacted by the Thai government in 2017 that mandates harsh criminal penalties for undocumented workers in the country.

A further legal factor adding to the vulnerability of Burmese migrant workers in Thai garment factories is the longstanding prohibition under Thai law on foreign workers forming new unions, serving in the leadership of existing labor unions, or even participating in elections for the latter – which are all significant violations of freedom of association rights. The ban on migrant workers forming their own unions is particularly significant because the unions that currently exist in the country’s garment sector are, with rare exceptions, notably weak in their representation of local Thai workers, not to mention migrant laborers who lack the right to vote in union elections. This is a problem that has only worsened as the country’s labor movement has come under increasing pressure from Thailand’s ruling military junta.

The impact of the vulnerable status of Burmese migrant workers in Thai garment factories is apparent in the wide array of labor abuses that the WRC has documented, including:

- Forced labor, including through the confiscation of immigration and identity documents;
- Detention outside working hours inside overcrowded and unsanitary factory dormitories;
- Extremely excessive working hours, including

- limiting employees to only one day off per month;
- Pervasive and egregious wage theft, including failure to pay overtime rates for extremely long working hours; and
- Discriminatory terminations of pregnant female Burmese workers.

Exploitation of Burmese migrant workers is particularly severe in the garment factories clustered in the district of Mae Sot on Thailand’s border with Myanmar, where enforcement of labor laws by Thai authorities is notably lax.

The vulnerability of Burmese migrant workers to retaliation by Thai factory owners makes labor abuses against these workers particularly susceptible to concealment from brand factory auditors through “coaching” of workers and falsification of factory records. At a garment factory employing Burmese migrants in Mae Sot that was disclosed as producing collegiate apparel and is the subject of a recent WRC investigation, managers succeeding in concealing from brand auditors *for years* the very existence of a “secret” factory dormitory where migrants were held after working hours – and, moreover, had obtained “certification” of the factory’s labor rights compliance from a leading industry CSR program, the Business Social Compliance Initiative (BSCI).

The WRC was able to uncover and document this and other severe abuses at this factory – and has since made significant progress in their remediation – only because of our longstanding cooperation with the leading migrant worker rights organization in the region, which arranged in-depth interviews with the factory employees. These workers, in turn, provided the WRC with invaluable assistance in documenting the violations at this factory, including by supplying video footage of the factory’s “secret” dormitory and copies of the company’s actual pay and timekeeping records (which the management had consistently falsified for brand auditors). In light of Thai garment factories’ increasing reliance on a Burmese migrant workforce and the extreme vulnerability of these migrants to severe labor abuses, the WRC considers Thailand to pose a *high risk* as a supplier country for collegiate apparel.

G. Honduras

Honduras has 48 suppliers that have been disclosed as producing collegiate goods for university licensees. Although significant labor rights violations continue to exist in the country's garment sector, Honduras is notable among major garment-producing countries for the progress its apparel sector has made in respect for freedom of association – progress in which universities have played a significant and historic role.

Prior to the end of the last decade, the Honduran garment industry had a lengthy history of repression of freedom of association, through aggressive, and sometimes violent, retaliation against union organizing. In addition to firing workers who attempted to organize unions, factory owners also promoted and signed collective labor agreements (“*pactos colectivos*”) with internal company-controlled employee committees, whose presence was intended to preempt independent labor organizing.

The environment for freedom of association in the Honduran garment sector began to shift decisively in 2009 when U.S. universities supported the recommendation by the WRC that collegiate licensee Russell Athletic (a subsidiary of Fruit of the Loom, “FOTL”) should be required to take decisive measures to remedy freedom of association violations in the 2008 closure of its only unionized factory in the country, which had produced collegiate apparel. A WRC investigation, which included dozens of interviews with both factory workers and supervisors, found extensive evidence (including statements by FOTL's top regional labor relations officials) that retaliation for workers' decision to unionize had played a significant role in the company's decision to shut the plant – despite strenuous claims to the contrary by company officials.

After more than 100 universities had terminated or announced their intention to terminate Russell's licenses, FOTL's corporate management in the U.S. negotiated an agreement with the Honduran workers' union, the CGT, to implement the recommen-

dations of the WRC for restoring freedom of association not only for the former workers of the closed plant, but also throughout its entire operations in Honduras – where FOTL was the country's largest private sector employer. The remedial measures agreed to by FOTL in 2009 included the reopening of the closed factory, rehiring and compensation of its workers, recognition of the union and negotiation of a collective bargaining agreement (“CBA”), and, perhaps most significantly, a policy of neutrality and openness towards the exercise of freedom of association – union organizing – in all of its Honduran plants.

The agreement between FOTL and the CGT led not only to the successful reopening and establishment of positive labor relations at the previously closed factory, but, over the next several years, to the conflict-free organization of unions and negotiation of CBAs at the majority of the company's other operations in Honduras. This shift on the part FOTL, as a leading garment factory employer in Honduras, also led to reduced resistance to workers' exercise of freedom of association on the part of other major North American apparel companies that have factories in the country, including North Carolina-based Hanesbrands and the Canadian manufacturer, Gildan, both of which also produce apparel for the collegiate market.

Currently, more than 35,000 garment workers in the country, who are employed by these and other factory owners, work at unionized factories covered by CBAs. This advance in respect for freedom of association has likely made Honduras the country with the highest percentage in the world of workers, in its export apparel industry, who are represented by independent unions and covered by authentic labor agreements.

This progress on freedom of association, while improving conditions for unionized workers in factories covered by new CBAs, has certainly not ended labor rights violations in the Honduras garment sector as a whole. Some factory owners continue to retaliate against workers seeking to establish unions through discriminatory firings. Recent WRC inves-

tigations of factories in the country, including suppliers of collegiate apparel, have found off-the clock work and other wage and hour violations. And there is a widespread failure on the part of factory owners to provide legally-mandated onsite childcare facilities for workers.

Finally, the WRC has encountered repeated cases of factory owners who, when closing their plants for legitimate economic reasons, seek to avoid paying their workers legally-mandated severance benefits, amounting in some cases to several million dollars.

However, in recent years the WRC has had significant success, at factories that produced university licensed apparel, in prevailing on factory owners – or, when necessary, the licensees and other brands that used the factory – to ensure that workers receive this legally-owed compensation.

In light of the progress made in the Honduran garment sector in securing respect for freedom of association, the WRC believes the country presents a *moderate risk* of significant labor rights violations.

H. Indonesia

Indonesia has 42 suppliers that have been disclosed as producing collegiate goods for university licensees. Since the country's democratic transition in the early 2000s, unions have been able to form and function independently in the garment industry, though employers not infrequently retaliate during labor disputes against workers who are union leaders, typically through retaliatory firings, but also, in some cases, with fabricated criminal complaints. As a result, the environment for exercise of freedom of association is mixed, but, on the whole, better than in most other garment-exporting countries in the region.

One practice commonly used in the Indonesian garment sector to both facilitate dismissal of worker activists and deny workers statutory seniority-based rights and benefits is the unlawful long-term employment of workers under short-term labor contracts. Recent interviews conducted by the WRC with Indonesian workers producing collegiate apparel also found significant labor rights violations in the areas of working hours, with some employees working up to three weeks without a rest day, and in hiring, with some factory owners maintaining an open policy of discrimination in hiring in favor of younger female workers (most likely based on a stereotypical view of these workers as less likely to protest mistreatment).

From an economic standpoint, however, the most significant labor rights violation encountered in the Indonesian garment sector is nonpayment by factory owners of statutory severance benefits owed to workers at the time of factory closures or mass layoffs. As Indonesian law mandates fairly sizeable

severance compensation to workers who lose their jobs due to economic closures of factories – in part because the country lacks a system of public unemployment benefits – the unpaid sums owed to workers by a single factory when it closes often amount to several million dollars.

Industry observers have estimated that in the majority of garment factory closures in Indonesia, workers are not paid the full amount of severance benefits they are legally due. The most prominent exceptions to this outcome have been in cases where the WRC and other international labor rights advocates have prevailed upon the brands that were the buyers of the factory's products to provide the payments in place of the absconding factory owner. In 2013, following the WRC's reporting to universities on one such unpaid severance case in a factory that had produced collegiate apparel, Nike, adidas, and the Dallas Cowboys all contributed funds to ensure that workers received more than \$3 million in statutory severance benefits.

However, the WRC continues to investigate other factory closures in Indonesia, including at factories disclosed as producing collegiate apparel, where workers are owed equally large sums. At present, the WRC has four active cases of severance theft in Indonesia, three at former collegiate factories, involving arrears, in the aggregate, of close to \$20 million. Due to the frequency of Indonesian workers being owed substantial amounts of unpaid severance benefits in such cases, among other factors, the WRC considers Indonesia to present a *high risk* of significant labor rights violations by producers of collegiate licensed goods.

I. Pakistan⁶

Pakistan has 58 suppliers that have been disclosed as producing collegiate goods for university licensees. The situation for freedom of association in Pakistan's garment sector is mixed. While the government permits the establishment and operation of independent unions and labor rights NGOs, factory owners actively seek to prevent the formation of unions in their plants through a variety of unlawful means, including retaliatory dismissal of union leaders, filing of false criminal charges against the latter, and the registration of employer-controlled unions (so-called "pocket unions") or even completely non-existent labor organizations as a means of legally preempting the registration of an independent union in the factory.

Pakistani garment factories often employ workers under short-term contracts or make use of labor subcontractors in order to facilitate and conceal the retaliatory termination of not only workers who seek to form unions, but also those employees who simply seek to avail themselves of statutory sick leave, maternity leave, or other legal benefits. There also have been recent reports of export garment factories where workers of whom the factory management wishes to rid itself are physically beaten until they resign. Employees are also punished if they refuse managers' demands that they work extensive hours of overtime, including, in some instances, working overnight. Verbal abuse, including the use of gen-

dered insults against female workers, is common. Garment workers in Pakistan face particularly severe risks to their safety on the job from dangers of fire and building collapses resulting from the manner in which many garment factories in the country are constructed and maintained. In particular, factories that are located in multistory structures typically lack basic fire safety features, such as enclosed exit stairwells equipped with fire-rated doors, and contain numerous fire hazards, such as unsafe wiring. Such buildings are often subjected to additional loads (through the construction of new floors) without structural retrofitting, resulting in risks of wholesale collapse.

Such hazardous conditions – combined with a callous disregard for workers' safety by factory owners and a severely flawed system of factory auditing and certification – resulted in 2012 in the most deadly factory fire in the history of the global garment industry, when the Ali Enterprise factory in Karachi, which previously had been certified as compliant by both the WRAP and the SA ("Social Accountability") 8000 programs, burned with its workers locked inside and unable to escape, causing more than 250 deaths. Despite this tragedy, brands sourcing garments in Pakistan have, to date, not committed to an industry-wide program of independent factory safety inspections and remediation like the Bangladesh Accord. As a result, the WRC considers Pakistan to present a *high risk* of serious labor rights violations for licensees.

⁶ Information in this section derived in significant part from the Human Rights Watch report, "No Room to Bargain: Unfair and Abusive Labor Practices in Pakistan (Jan. 23, 2019), <https://www.hrw.org/report/2019/01/23/no-room-bargain/unfair-and-abusive-labor-practices-pakistan>.

J. Bangladesh

While university licensees currently have disclosed only 28 factories in Bangladesh as producing collegiate apparel, this number is likely to grow in the near future, as Bangladesh already trails only China and Vietnam as an exporter of garments to the U.S. Although, through 2013, the country's tragic record of garment factory fires and building collapses presented the global garment industry's most extreme labor rights risk, this risk has since been significantly abated by the historic progress made under the Accord on Fire and Building Safety in Bangladesh.

While the Accord's work is not yet completed, in the view of the WRC, the most salient labor rights risk currently in the country's garment sector is the shrinking space for exercise of freedom of association, resulting from multiple recent crackdowns on worker protest and independent unions by the Bangladeshi's increasingly authoritarian regime – and the use of violence against labor activists by factory owners.

Between 2005 and 2013, Bangladeshi garment workers suffered a series of horrific factory fires and building collapses that claimed, in all, the lives of more than 1,600 workers. The worst of these, the 2013 Rana Plaza building collapse, was the most deadly industrial accident in the history of global manufacturing.

As with Pakistan's Ali Enterprise factory fire in 2012, the conditions that produced these tragedies were entirely preventable – the operation of factories in multistory buildings without enclosed exit stairwells, the use of lockable non-fire-rated doors, unsafe wiring, and the construction of additional floors on buildings without structural retrofitting. And, as at Ali Enterprises, all of the Bangladeshi factories where these tragedies occurred had been audited by brand representatives, and, in the case of factories in the Rana Plaza building, had been certified by the BSCI program.

The WRC and other labor rights advocates had, for several years prior to the Rana Plaza disaster, called

for a program of independent expert inspections of the country's garment factories and mandatory remediation of hazards that would be required and funded by the major apparel brands sourcing from the country, but were repeatedly rebuffed by brand officials. In the immediate aftermath of the Rana Plaza catastrophe, however, brands acceded to the request of the WRC and other international labor rights advocates that they sign a binding agreement with Bangladeshi and global trade unions to create and implement the factory inspection and hazard remediation program that had been previously proposed and rejected.

Since 2013, more than 200 brands have signed the Accord and required more than 1,600 factories employing over 2.5 million workers to undergo independent expert inspections and remedy the hazards that are thereby identified. To date, across these factories, more than 90% of these hazards have been eliminated, and the number of fatalities from garment factory fires and structural hazards in the six years since the Accord was adopted is less than 4% of the number during the six years prior to the agreement's signing. Bangladesh is now considerably safer for garment workers than either India or Pakistan, though some risks remain.

Unfortunately, during this same time, the Bangladeshi garment industry has failed to make commensurate progress in other areas of labor rights compliance. In particular, while the critical spotlight on the industry's labor practices immediately following the Rana Plaza disaster did *temporarily* force Bangladesh's government and factory owners to permit greater freedom for workers to exercise freedom of association, the past several years have seen intensified attacks on labor rights activism by employers and state authorities.

In 2014, the WRC investigated and documented brutally violent attacks directed by managers of one of Bangladesh's largest garment manufacturers, Azim Group, a supplier to Gap and other brands, against factory union activists. In 2017, the WRC reported on a crackdown on a much larger scale against Bangladeshi workers protesting poverty-level wages,

which resulted in the unlawful dismissals of more than 1,500 factory workers and the arrest, on falsified charges, of nearly three dozen labor activists.

While the WRC and other labor rights advocates were ultimately able to secure the release of the detained activists and the dropping of the false charges against them, very few of the workers who were terminated during the 2017 crackdown were reinstated to their jobs, as, with little exception, brands declined to require this of factory owners. Moreover, since December 2018 Bangladesh's garment sector

has seen a renewed crackdown of the same type, with the mass dismissal of more than 11,000 workers for having peacefully protested a recent minimum wage increase as inadequate. As the rock-bottom wages in the country's garment sector are likely to spark recurrent protests among workers, and as these protests seem likely to result in renewed crackdowns on freedom of association by factory owners and state authorities, the WRC considers Bangladesh to continue to present a *high risk* of labor rights violations for licensees.



Conclusion

The WRC hopes that this analysis of country labor rights risk is helpful in advancing the work of universities in promoting respect for labor and human rights in the global production of collegiate licensed goods. The WRC is available to discuss with you the particular labor rights risks in each of these countries in further depth.