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WORKER RIGHTS
CONSORTIUM

**WORKER RIGHTS CONSORTIUM
FACTORY ASSESSMENT
PANORAMA APPARELS (BANGLADESH)
FINDINGS AND RECOMMENDATIONS**

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I. Introduction

This report details the results of a Worker Rights Consortium (WRC) investigation into violations of freedom of association at Panorama Apparels (“Panorama”), a factory in Gazipur, Bangladesh. In February 2016, Panorama factory management illegally dismissed workers who were officers of a proposed union and engaged in a sophisticated campaign to ensure that the worker leaders would not return to the factory, further violating the workers’ associational rights. At the time that the WRC launched its investigation, Panorama, which employs 1,500 workers, was a supplier of collegiate apparel to Antigua Group. Throughout the period of this engagement, Panorama Apparels has supplied non-collegiate shirts to H&M and a British retailer, Next.

This case underscores the challenges workers in Bangladesh, like in so many other countries producing collegiate apparel, face when exercising their associational rights as well as the obstacles labor rights monitors have in documenting these cases. As discussed in this report, virtually every time the workers tried to exercise their legal rights—first to improve their working conditions and then to obtain justice after being forced to resign from their positions at the factory—they faced tremendous obstacles.

Panorama’s actions represent particularly severe violations of freedom of association, a fundamental workplace right protected under Bangladeshi labor law, international labor standards, and buyer codes of conduct. The management’s actions were so egregious that, in the midst of the WRC’s intervention, a high-level ILO delegation highlighted the Panorama case as an example of the severity of workers’ rights violations in Bangladesh.

Despite active intervention by key buyers in response to ongoing fact-finding and advocacy by the WRC, the damage done by factory management to workers’ associational rights in this case was not remedied. After six months of engagement, Panorama management succeeded in removing the complainant workers from the workplace; after management’s months of intimidation, the workers no longer wished to return to the plant, fearing escalated retaliation. Panorama management’s intimidation campaign was so effective that, by the close of this case, the workers’ union advisors were unwilling even to participate in a workplace freedom of association training program for fear of retaliation against themselves and their families.

This case serves as a stark reminder of the obstacles that garment workers face when they seek to exercise their associational rights and press for improved conditions in their workplaces.

II. Methodology

The findings outlined in this report are based on the following sources of evidence:

- Offsite interviews with five terminated Panorama workers carried out between February 2016 and August 2016;

- Review of original documents provided by Akota Garment Workers Federation;
- Email communications with apparel brands sourcing from Panorama including Antigua Group, NEXT, and H&M; and
- Review of the applicable labor and human rights standards implicated by the labor rights violations reported by workers at Panorama, including relevant national labor law, international standards, and university and buyer codes of conduct.

III. Findings

In February 2016, Panorama workers began to come together to improve conditions at their factory. The workers decided to form a union, with the help of the labor federation, Akota Garment Workers Federation (AGWF), to press for these improvements. The workers at Panorama submitted their application for union registration to the appropriate agency of the government of Bangladesh, the Joint Directorate of Labor (JDL), on February 7, 2016.

Illegal Dismissals

On March 1, 2016 AGWF filed a complaint with the WRC alleging that five Panorama workers, who were officers of the union whose application for registration that was still pending, were dismissed or coerced into resigning from Panorama on the day prior, February 29. The WRC immediately launched an investigation into the complaint and interviewed the workers, who reported that they had been forced by management to resign. The WRC contacted the Panorama management on March 2 and again on March 4 to request their cooperation with our inquiry, but they did not respond.

The WRC was able to reach clear findings in this case based on worker testimony even in the absence of any answer from management.

The termination of these workers during this period would be illegal on its face, regardless of management's motivation for these terminations. The Bangladesh Labor Code prohibits employers from altering the terms of employment of any worker serving as a union officer while the union's application for registration is pending with the JDL, unless the employer obtains prior permission from the Director of Labor. The WRC was able to review the workers' petition to the JDL, dated February 7, 2016, listing the relevant workers as founding officers, to confirm that they enjoyed this protection at this time.

In conjunction with the workers' testimony that they had been forced to resign, this was adequate to reach a clear finding. There was no plausible reason why the workers would have voluntarily resigned, in a context where they had protections against termination, and then demanded their jobs back. Given this, the WRC found that the termination of these workers in this time period is a violation of Bangladeshi law, regardless of management's motivation. As such, these terminations also constitute a violation of

codes of conduct adopted by universities and key buyers, which require that suppliers comply with national law.

IV. Initial Recommendations by the WRC

The WRC recommended that, in order to return to compliance with Bangladeshi law and thus university codes of conduct, Panorama Apparels immediately reinstate these workers to their previous positions, with no loss of seniority or change in terms of employment, and pay them back wages corresponding to the days of missed work. As Panorama failed to respond to the WRC's initial communications, we contacted the three key buyers from the factory—Antigua (the university licensee in this case), H&M, and Next—and requested that they press Panorama to promptly complete these remedial actions.

V. Initial Buyer Response

At the same time that the workers reported the complaint to the WRC, the workers also filed an unfair labor practice complaint with the local authorities.

Antigua and Next promptly replied, preferring to wait for the local regulatory process to be completed before taking any action themselves. Antigua replied by stating it would “not take any action in this matter until such time that an outcome is determined by the proper local authorities.”¹ The brands' decision to defer to the government's protocol and findings was not unreasonable. To the extent that the government would conduct a credible investigation and produce findings into the workers' complaint in a timely manner, the WRC did not press the brands to implement its recommendations until after the government produced its findings.

The collegiate licensee, Antigua, reported to the WRC that it sourced only a small amount of apparel from Panorama, and, thus, it had little leverage through its business relationship to resolve the violations. While Antigua still bore responsibility for ensuring compliance with university codes, the WRC's analysis was that engagement with H&M and Next, which had considerable leverage over the factory, was key to achieving remediation.

H&M also replied to the WRC's recommendations, preferring to deal with the matter directly with the global union federation IndustriALL, a global union federation with whom they have a Global Framework Agreement. This agreement provides a framework for dialogue between employers and employees in order to solve conflicts at on the factory level.

¹ Email from Brian Lemna, to Laura Gutierrez and Jessica Champagne, “Violations at Panorama Apparels” March 15, 2016.

VI. Violations Compounded by Lack of Legal Enforcement, Flaws in Registration Process

The actions of Bangladesh's labor authority, the JDL, are significant in this case, not only because they prolonged and restricted remediation of the violations at Panorama, but also because they underscore the obstacles that stand in the way of workers in Bangladesh seeking a remedy in response to violations of their rights by their employers.

i. Flawed Investigation into the Panorama Employees' Complaint

As noted above, in addition to reporting their complaint to the WRC, the five workers filed an unfair labor practice complaint to the JDL in March 2016. Later that month, the JDL dismissed the case, concluding that no violation had occurred, because the five workers had resigned voluntarily. The affected workers and their union advisors testified to the WRC that the government authorities never spoke to any of the workers who filed the complaint, to the union's elected officers at the plant level, or to its affiliated federation, AGWF. The government's investigation apparently relied exclusively on management's claims and on the resignation letters the workers were coerced into signing.

The government's failure to carry out a credible investigation into the workers' complaints was not surprising based on its own track record. Shortly after the workers were terminated from Panorama, in April 2016, Human Rights Watch noted that "there are no procedures governing investigation of union-busting and other unfair labor practices by labor authorities" in Bangladesh.²

ii. Arbitrary Rejection for Union Registration

Shortly after issuing its response to the workers' complaint, the JDL rejected the Panorama union's application for registration.³ The union was notified in March by the JDL that its application had been rejected, supposedly for the following five reasons:

1. The union claimed to have held meetings with the proposed union on January 14 and 28, 2016, but the JDL found that these did not actually occur.
2. The president and secretary of union are not currently working at the factory.
3. 551 of the union members could not be identified.
4. The total number of the union is less than 30% of total work force.
5. The list of executive committee members is not filled out correctly.

² Human Rights Watch, "Bangladesh: Garment Workers' Union Rights Bleak" *April 21, 2016*, <https://www.hrw.org/news/2016/04/21/bangladesh-garment-workers-union-rights-bleak>

³ The rejection of the application, even if it were legitimate, would have no bearing on the issue of the illegal dismissals, which occurred while the application was still pending and were therefore illegal on their face.

The union has pointed out the following:

1. The union provided details of the two union meetings, including the names and signatures of the participants, when requested by the JDL in February. Additionally, when the JDL visited the factory on March 9, the JDL representatives asked the union treasurer, Shahidul Islam, about the union meetings mentioned in the application. The worker replied that the union had, in fact, convened meetings on those dates.
2. The union members were questioned during the JDL's visit to the factory on March 9. The workers were questioned separately, at their workstations and in the presence of two managers, Munna and Rifat. All three of the union members were asked about the union President and Secretary, both of whom were dismissed from the factory on January 29. The union members separately stated that both the President and Secretary had been fired from the factory.
3. In the JDL's initial recommendations, the union was requested to provide copies of all of the union members' ID cards as proof of employment at the factory. Copies of the union members' IDs are not required under the law. There was sufficient information provided in the union's application to prove each worker's employment status at the factory. Any of this information could have been verified via the factory's own records. The Panorama union voluntarily provided copies of nearly 100 union members' factory ID cards; it appears the government, in contravention of the law, claimed it could not "identify" any worker for whom a copy of an ID card was not provided.
4. By excluding hundreds of union members, on the specious grounds that ID cards were not provided, the government concluded erroneously that union membership did not meet the threshold of 30% of the workforce. According to the WRC's review of the union's application, the union in fact represented 674 workers at the time the application was submitted. Since the total workforce is roughly 1,550 (as reported by the Accord, for instance) the union represents well over 30% of the workforce.
5. The absence of the five executive members who were dismissed from the factory likely explains the "errors" the JDL identified in the executive committee.

The government's decision rewarded the management's lawless behavior; it provided the company with the desired outcome, allowing the unlawful, coerced resignations to stand as an obstacle to the recognition of the union.

The government's decision to reject the Panorama union was not surprising, given the growing rate at which the JDL was rejecting applications at the time. While the JDL registered an unprecedented number of unions in 2013 and 2014,⁴ in part due to the international pressure put on the government to improve working conditions in the

⁴ Human Rights Watch, "Whoever Raises their Head Suffers the Most" *April 22, 2015*, <https://www.hrw.org/report/2015/04/22/whoever-raises-their-head-suffers-most/workers-rights-bangladeshs-garment#>

garment sector following the Rana Plaza building collapse, the ratio of applications rejected against accepted applications had since.

All credible evidence reviewed by the WRC indicated that the AGWF-affiliated union at Panorama has met all requirements to gain registration. The government's rejection of the application, citing a series of false and/or pre-textual justifications, was a continuation of its increasingly lawless behavior on associational rights.

Despite the government's dismissal of the workers' complaint, and because the workers consistently stated that they had not resigned voluntarily and, in fact, wished to be reinstated to their position at the factory, the WRC continued to press the brands to secure a full resolution to the violations. The government's failure to enforce its own law did, however, present a temporary obstacle by making it more difficult for the WRC to press for prompt action. The failure of national governments to promptly and thoroughly implement their own laws is one reason why university codes of conduct were established. Workers can obtain justice when local official channels fail them.

VII. Remediation Commitment Undermined by Intimidation of Worker Leaders

At the urging of the WRC, Next and H&M succeeded in pressing the management to commit to reinstate the workers. A date was set for a meeting with the workers in question, their AGWF advisors, Next, H&M, and the WRC. On the day before this meeting was scheduled to take place in April 2016, the owner employed a new tactic to ensure that the workers would not return to work. Based on worker testimony, a local political boss affiliated to the governing party of Bangladesh sought out the workers and, at an in-person meeting, discouraged them from returning to the factory. During that meeting, the political boss threatened the workers, telling them they would "not be safe to stay in the area" if they did not support management's claim that they had voluntarily resigned from the factory. As a result, in the meeting the next day, the workers claimed that they had resigned voluntarily. Fortunately, representatives of the WRC were present that meeting and, in spite of these statements born out of intimidation, secured the owner's commitment to a strong reinstatement process.

The union, their attorney, and factory management set a second meeting to sign the reinstatement agreement. Once again, however, the owner attempted to undermine the process. The factory owner successfully pressed the AGWF Secretary, Kamrul Hasan, to meet him alone, without his legal counsel as previously agreed. The owner, however, was not alone in the meeting. He was joined by the same political boss who had threatened the workers the previous month. Once there, the owner presented an agreement completely different from, and much weaker than, the language to which he had committed in the presence of the brands and WRC. Factory management presented this agreement to Kamrul only in English, which Kamrul cannot read or write. Kamrul, because of the intimidating presence of the political boss, felt compelled to sign the agreement.

The form and effectiveness of management's intimidation posed a significant challenge to the WRC's efforts to press for remediation at this point. As it was clear that the involvement of the political boss was a tactic by management to intimidate the workers, the WRC would usually report the details of this violation in order to expose the thuggish actions and press for an end to the behavior and for remediation to address its impact. However, in this case, workers and their union advisors asked the WRC not to share this information while the case was ongoing. The individuals involved feared the potential consequences for themselves and their family if they named the political boss and shared their testimony with the buyers. This allowed the owner plausible deniability that he had anything to do with the workers not wanting to return. The owner effectively outsourced the intimidation of the workers, enabling him to claim that he had invited the workers back to the factory while, in fact, he had recruited the local political boss to ensure that they did no such thing.

Nonetheless, the WRC made it clear to the buyers that management's coercion and bait-and-switch tactics constituted an unacceptable corruption of the negotiation process, and that the new agreement did not meet the minimum standards for remediation laid out by the WRC in the original recommendations.

As a result of this communication from the WRC, the brands reverted to Panorama and successfully pressed the firm to sign the original agreement. This stronger agreement was signed in July 2016.

At this point, the terminated workers made it clear to the WRC that, despite their fear, they felt prepared and enthusiastic to return to the factory and continue advocating for improved working conditions for themselves and their colleagues. August 1 was the date set for the workers to return to the factory.

However, once again, on the eve of the workers' scheduled return to the factory, the management renewed its campaign of intimidation. The political boss once again summoned the workers to a meeting and threatened to chase them out of their neighborhood if they did not comply with his demands. This final set of threats convinced the workers that returning to the factory was not worth the risk to themselves and their families.

Factory management had achieved their goal of driving out the worker leaders and preventing the workers' free exercise of their associational rights.

VIII. Unsuccessful Efforts to Achieve Partial Remediation

While Panorama's management had engaged in a level of intimidation that made full remediation impossible, the WRC sought to implement remedies with the potential to address the impact on the associational rights of the other 1,500 workers in the factory. In any case of this type, there is a chilling effect on the overall workforce, who receive a

clear message that attempting to form a union or advocate for improvements can result in their termination and in other forms of reprisals.

Given this, the WRC designed and recommended that a robust training program be implemented jointly by a key buyer and the AGWF. This program would entail a series of trainings conducted in the plant for all workers, on work time, by the AGWF, buyers, and local trainers over a significant period of time. This program design would ensure that workers would not only have the opportunity to learn more about their rights on the job, but also they would benefit from the object lesson of seeing the union representatives in the factory and seeing that a major buyer actively supported Panorama workers' rights to associate and speak out without fear of retaliation.

A. Buyer Response

In August 2016, Antigua informed the WRC that the firm would no longer source collegiate apparel from Panorama. While the WRC did not recommend for the brand to terminate business relations with Panorama at this juncture, and in most cases would encourage a buyer to remain in the factory in order to be able to press the factory to remedy violations, in this particular case, the WRC did not discourage Antigua's departure. Not only did Antigua have minimal production—and therefore limited leverage to require remediation—at the facility, but, given the management's continued failure to comply with the recommendation, it is likely that the WRC would have eventually recommended Antigua to terminate its business relations with Panorama.

In the course of the engagement surrounding this case, Next was most active in engaging with the WRC and the workers to achieve remediation. Given this, and given Antigua's exit, the WRC sought Next's commitment and leadership in establishing the training program described above.

B. Intimidation Blocks Remediation

In October 2016, the WRC succeeded in securing Next's commitment to take the necessary steps to carry out such a program. Unfortunately, however, the company's intimidation had been so effective that not even this partial remedy could be implemented. The AGWF informed the WRC that its leadership felt that they could not safely participate in the implementation of the training program without risking significant retaliation. As their participation was crucial to any such program, the training program was never implemented.

IX. Conclusion

At Panorama, factory management—aided by a local political henchman and enabled by the government's failure to enforce Bangladeshi labor law—was able to successfully expel workers who attempted to form a union from the plant and prevent workers from making a free choice whether to unionize. While it is not unusual for managers in

garment factories to attempt to threaten workers to dissuade them from exercising their associational rights, the level of fear that Panorama management fomented in this case stands out. The fact that Panorama succeeded in intimidating workers into declining to return to the factory—even though the brands, at the WRC’s urging, had secured from Panorama an official offer of reinstatement—illuminates the challenges involved in seeking genuine remediation in freedom of association cases in countries where governments allow employers to use threats, intimidation, and violence with impunity.