

# WORKER RIGHTS CONSORTIUM FACTORY ASSESSMENT

*Quantum Apparel (Cambodia) Ltd. (Cambodia)  
Findings, Recommendations, and Status*



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WORKER RIGHTS  
CONSORTIUM

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## I. Introduction and Executive Summary

The following is a report on the findings, recommendations, and current status of the Worker Rights Consortium’s (“WRC”) investigation and remediation of violations of workers’ right to freedom of association, including retaliatory firing of and other acts of discrimination against three employee union leaders at Quantum Apparel (Cambodia), Ltd. (“Quantum Apparel”), an underwear factory located in Phnom Penh, Cambodia.

Quantum Apparel, which employs 1,607 workers,<sup>1</sup> is owned and operated by the underwear manufacturing conglomerate Brandix/Inqube, which is headquartered in Sri Lanka.<sup>2</sup> Quantum Apparel has been disclosed by the university licensee, Lululemon, as among its suppliers of collegiate-licensed accessories and is thus subject to the labor codes of conduct of universities and colleges affiliated with the WRC.<sup>3</sup>

The WRC initiated an investigation at Quantum Apparel in August 2023 after having received a complaint from the labor confederation, Coalition of Cambodian Apparel Workers Democratic Union (“C.CAWDU”), alleging that, shortly after having established a local affiliate union at Quantum Apparel, the company had retaliatorily terminated the employment of the worker who is the affiliate union’s president and also discriminated against two other employee union officers.

At the end of April 2023, Quantum Apparel workers established an independent union to address workers’ complaints concerning the company’s misuse of short-term employment contracts at the factory. However, as the WRC’s investigation documented, as soon as workers notified factory management that they were forming a union, Quantum Apparel began retaliating against the workers who comprised the newly elected leadership of the union.

The WRC’s investigation determined that this retaliation included the following unlawful actions, which also constituted violations of university codes of conduct:

- Discriminatory firing of the employee who was newly elected as union president;
- Retaliatory job transfers and shortening the duration of the employment contract of the employee who is the union’s secretary; and
- Retaliatory shortening of the duration of the employment contract of the employee who is the union’s vice president.

The WRC shared findings and recommendations for remediation of the violations with the factory owner, Inqube, and the licensee, Lululemon. To its credit, Lululemon, after receiving the WRC’s findings and recommendations for remediation, quickly took action to communicate to Inqube the necessity of addressing the violations.

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<sup>1</sup> Textile Apparel Footwear and Travel Goods Association in Cambodia (TAFTAC), Members Map, Quantum Apparel, accessed on April 24, 2024, <https://www.taftac-cambodia.org/our-members/search/?tab=list&id=102>.

<sup>2</sup> Inqube, “About Us – Global Supply Chain,” <https://www.inqube.com/about-us/global-supply-chain/>.

<sup>3</sup> Collegiate Licensing Company, Standard Retail Product License Agreement, Article 14 “Code of Conduct.”

After this engagement by the WRC and Lululemon, Quantum Apparel committed to reinstate the fired worker union leader with full back pay, starting from the date of their termination. The worker was reinstated on October 18, 2023, provided with a long-term employment contract (referred to under Cambodian law as “undetermined duration contracts”, “UDCs”) and received US\$648, which is equivalent to three months’ wages. In addition, Quantum Apparel remedied its discriminatory shortening of the employment contracts of the other two worker union leaders by providing them UDCs. The company also has refrained from further discrimination against workers for joining the union.

As evidence of the improved environment for the exercise of associational rights in the factory, more than 60 workers have joined the new union since the employee union president was reinstated. The WRC finds, therefore, that the violations of Cambodian law and university codes of conduct discussed in this report have been substantially remedied.

The successful outcome was achieved through the cooperation of Lululemon and its engagement with factory management in response to the WRC’s investigation. The WRC will continue to monitor the conditions at Quantum Apparel and may issue further recommendations in the future.

## II. Methodology

### A. Sources of Evidence

The WRC investigated violations of workers' freedom of association at the Quantum Apparel factory between August 2023 and December 2023. The WRC's findings are based on the following sources of evidence:

- Detailed confidential interviews, conducted away from factory premises, with seven current and former Quantum Apparel workers;
- Review of relevant factory records and documentation provided by workers, including termination letters and union formation documents;
- and
- Written communications with Lululemon.

### B. Terms of Reference

The WRC assessed Quantum Apparel's labor practices in relation to freedom of association against the company's obligations under Cambodian labor law and regulations, international labor standards, and university and vendor codes of conduct. These terms of reference include:

- Labor Code for Kingdom of Cambodia, 1997;
- Law on Trade Unions, 2016;
- Other *prakas* (regulations), notifications, and instructions of the Cambodian labor ministry;
- Conventions of the International Labour Organization (ILO) that Cambodia has ratified;<sup>4</sup>
- University codes of conduct;<sup>5</sup> and
- Lululemon's vendor codes of conduct.<sup>6</sup>

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<sup>4</sup> Cambodia has ratified 13 Conventions of the ILO, including all ILO's eight "Fundamental Conventions", which include Conventions 87 ("Freedom of Association and Protection of the Right to Organise") and 98 (Right to Organise and Collective Bargaining) that are most relevant.

<sup>5</sup> Collegiate Licensing Company, Standard Retail Product License Agreement, Article 14 "Code of Conduct."

<sup>6</sup> Lululemon, *Vendor Code of Ethics and Benchmarks*, January 2021, [https://corporate.lululemon.com/~/\\_media/Files/L/Lululemon/our-impact/vendor-code-of-ethics/vcoe-supporting-benchmarks.pdf](https://corporate.lululemon.com/~/_media/Files/L/Lululemon/our-impact/vendor-code-of-ethics/vcoe-supporting-benchmarks.pdf).

### III. Findings, Recommendations, and Company Response

The subsections below detail the findings of the WRC with respect to violations of freedom of association at Quantum Apparel and the remediation of these violations. These violations contravened Cambodian labor laws, university and brand codes of conduct, and international labor standards.<sup>7</sup>

On April 25, 2023, a number of workers at Quantum Apparel decided to establish a union affiliated with the C.CAWDU labor federation. An election for the union's leadership was set for May 4, 2023. A list of employees who were candidates for office in the union was submitted to Quantum Apparel on April 26, 2023, in the morning at 9:35 a.m., with a representative of the company, Hay Phally, signing a document confirming the company's receipt of this list.

On May 4, 2023, the workers held the union leadership election as planned and on the following day, May 5 at 10:27 a.m., submitted the results, which included the names of the workers elected to leadership positions in the new union, via email<sup>8</sup> to Quantum Apparel's management. Subsequently on May 9, 2023, the workers applied for registration of the union at the Cambodian Ministry of Labor, which issued the union its official registration on May 31, 2023.

#### A. Illegal Retaliatory Transfer of Union Secretary and Shortening of Contracts of the Union Secretary and Vice President for Their Associational Activities

On May 12, 2023, only one week after the union election, the company transferred the newly elected union secretary from her previous position as a line assistant, where she had worked for the previous 18 months, to a new job as a packing worker. One month later, in June the company again transferred her, this time assigning her to work as a counter. Given that she did not have any prior experience working as a counter, the worker was repeatedly reprimanded by her supervisor and pressured to improve her performance.

The management's decision to suddenly transfer the employee union secretary twice in a two-month period, immediately after she stood for the union election, when she previously served in the same position for the 18 months she had been employed at factory before the election, strongly indicates that the transfers were retaliatory in nature.

In addition, after this worker was elected to be the union secretary, factory management shortened the duration of her employment contract. Previously, like most of the workforce, the union secretary was employed at Quantum Apparel on consecutive three-month contracts (known in Cambodia as "fixed duration contracts" or "FDCs"). However, after her contract expired on May 21, 2023, which was only two weeks after the union election, she was issued only successive two-month FDCs.

Similarly, the employee union vice president also had his contract shortened by the factory management after his election to a union office. The union vice president had started working at

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<sup>7</sup> The fact that the WRC's investigation, as reported in this document, did not address other areas of the factory's labor practices should not be construed as an indication of the factory's overall compliance with respect to its practices in those other areas.

<sup>8</sup> C.CAWDU, email to Su and Solyda Ngorn sent on May 9, 2023 (on file with the WRC).

Quantum Apparel on March 23, 2022, and after finishing his probationary period, was employed on consecutive three-month FDCs. However, after his contract expired at the end of May 2023, he was issued successive two-month FDCs.

During the same period, other workers at the factory continued to be employed under three-month FDCs. Given that both the union secretary and union vice president were the only employees to have their contracts shortened and were provided with no explanation for this change, the WRC determined that the management discriminated against the union secretary and vice president by shortening their contracts in retaliation for their union activities.

Cambodian law prohibits employers from considering workers' membership or office in a union when making employment decisions.<sup>9</sup> The management's sudden decisions to transfer the union secretary and to shorten the employment contracts of both the union secretary and vice president indicates that management targeted these two workers for their union activities, in violation of Cambodian law and, by extension, university and brand codes of conduct.<sup>10</sup>

## **B. Unlawful Retaliatory Termination of the Union President in June 2023**

On June 30, 2023, just days before the expiration of his current three-month FDC, the newly elected worker union president was called into the company's office and told that his employment contract would not be renewed, on the grounds that the factory did not have sufficient orders to continue to employ him. He was then given a termination notice to sign. The worker union president refused to sign his termination notice, but, on the following workday, the security guard prevented him from entering the factory, saying that he was terminated.

Cambodian law requires that, in the case of downsizing, employers first lay off workers with the least qualifications and then those with the least seniority.<sup>11</sup> The WRC found that the employee union president had worked at the factory longer than most of the other workers in his department, however, he was the only worker to be terminated.

The union president also had no prior history of poor work performance that would justify singling him out for layoff. Finally, during the same period, Quantum Apparel continued to advertise new

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<sup>9</sup> Labor Code for Kingdom of Cambodia, § 279 (“Employers are forbidden to take into consideration union affiliation or participation in union activities when making decisions concerning recruitment, management and assignment of work, promotion, remuneration and granting of benefits, disciplinary measures and dismissal.”).

<sup>10</sup> Collegiate Licensing Company, Standard Retail Product License Agreement, Article 14, a (i) (“Legal Compliance. Licensees must comply with all applicable legal requirements of the country(ies) of manufacture in conducting business related to or involving the sign, development, sourcing, use, manufacture, production, sale, license, distribution, or other commercialization of Licensed Articles.”); and Lululemon, *Vendor Code of Ethics and Benchmarks* (“The Vendor shall adopt and adhere to rules and conditions of employment that respect workers and, at a minimum, safeguard their rights under national and international labour and social security laws and regulations.”).

<sup>11</sup> Labor Code, § 95 (“Any layoff resulting from a reduction in an establishment's activity or an internal reorganization that is foreseen by the employer is subject to the following procedures: The employer establishes the order of the layoffs in light of professional qualifications, seniority within the establishment, and family burdens of the workers. The employer must inform the workers' representatives in writing in order to solicit their suggestions, primarily, on the measures for a prior announcement of the reduction in staff and the measures taken to minimize the effects of the reduction on the affected workers. The first workers to be laid off will be those with the least professional ability, then the workers with the least seniority [...].”).

positions for hiring on its production lines. Based on these facts, the WRC found that the management's claim that the union president was terminated due to lack of orders was clearly pretextual.

Given that Quantum Apparel was aware that the employee had been recently elected to union office and in the absence of any other plausible reason for the worker's termination, the WRC determined that the dismissal was in retaliation for his associational activities. Singling out an employee for dismissal because they are a union officer is a serious violation of workers' associational rights and of Cambodian labor law.

Cambodian labor law and university codes of conduct prohibit employers from discriminating on the basis of union membership or officer position when terminating workers.<sup>12</sup> Furthermore, under Cambodian law, employees who have been elected to a union office and/or are the founding members of a union may not be dismissed by their employer for a defined time period thereafter, unless that employer first obtains authorization to terminate the employee from the Cambodian labor authorities.<sup>13</sup> The WRC did not find any evidence that the factory had obtained such permission to terminate the union president. Therefore, Quantum Apparel clearly violated these laws and, by extension, university and brand codes of conduct, by terminating the union president for his union activities.<sup>14</sup>

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<sup>12</sup> Labor Code, § 12.

<sup>13</sup> Law on Trade Unions, § 67: ("Protection from Dismissal: All workers who stand as candidates for elected leadership [and] management positions shall enjoy the same protection from victimization and dismissal as shop stewards. Such protection begins 45 (forty-five) days prior to the election and ends 45 (forty-five) days after the election if he or she is not elected. In order to enjoy such protection, the union shall notify the employer of the candidacy and submit a copy to the Ministry in charge of Labor, by any certified means. The employer shall only be required to comply with these provisions once for each election of union leadership. From the time that the application for a registration is submitted, founders or workers who voluntarily become members of the union during the application period shall enjoy the same protection as shop stewards. This protection shall last for a period of up to 30 (thirty) days following the date on which the Ministry in charge of Labor has officially issued a union registration. Beyond the date specified in the preceding paragraph, this protection shall be extended to the leader, vice leader and secretary of the union. In order to enjoy such protection, the union shall notify the employer by any certified means, of the names of the individual persons to be protected. A copy of this notification shall also be sent to the Ministry in charge of Labor.").

<sup>14</sup> Collegiate Licensing Company, Standard Retail Product License Agreement, Article 14, a (ii) I ("Freedom of Association and Collective Bargaining).



## **IV. Recommendations for Corrective Action, Factory and Buyer Response, Remediation, and Current Status**

### **A. Recommendations for Corrective Action**

To remedy the violations of Cambodian law and university and brand codes of conduct detailed in the prior section of this report, the WRC recommended to Quantum Apparel that it take the following corrective actions:

- Reinstatement of the employee union president to his original position with full back pay for the time since he was terminated until his return to work;
- Rescind the job transfers of the employee union secretary and return her to her previous position at the factory;
- Cease the use of contracts of extremely short duration (i.e., two months) and provide the employee union leaders with long-term contracts (UDCs) to ensure short-term contracts are not used to violate workers' associational rights; and
- Communicate, via an announcement to workers, Quantum Apparel's commitment to respect workers' associational rights and recognition of the C.CAWDU-affiliated union.

### **B. Factory and Buyer Response**

The WRC communicated our preliminary findings and recommendations for remediation regarding the violations at the factory to Inqube, the factory's owner, on September 1, 2023, and requested that, absent providing evidence contrary to the preliminary findings, that the factory takes the necessary remedial measures. Because Inqube did not provide any response to this initial communication, the WRC also communicated our preliminary findings of violations to the university licensee, Lululemon, on September 12, 2023.

Lululemon, to its credit, after receiving the WRC's preliminary findings and recommendations for remediation, did engage with the factory management and communicated the need for remediation of the violations the WRC had reported.

### **C. Remediation and Current Status**

On October 18, 2023, Quantum Apparel reinstated the union president it had illegally fired. The company also provided him with full back pay, totaling US\$648, which is equivalent to three months of wages. In line with the WRC's recommendations, the union president was employed under an UDC.

In February 2024, Quantum Apparel provided the union secretary and vice president with UDCs. The company also reached an agreement with the employee union secretary concerning her job assignment moving forward. Although she was not reinstated to her former position, the worker communicated to the WRC that she agreed to continue working in her current position with this increased level of job security.

Quantum Apparel did not implement the WRC's recommendation that it issue a statement of respect for freedom of association to the workers, and the WRC is currently following up with the licensee regarding this. Nevertheless, the company did recognize the new union as the representative of the workers who are its members and has refrained from further discrimination against the workers who have since joined it.

Workers have expressed to the WRC that they feel greater security exercising their associational rights since the employee union president was reinstated. As evidence that the corrective actions that the factory did take have improved the environment in the workplace with regard to freedom of association, more than 60 workers have joined the new union since the employee union president was reinstated in October 2023.

As a result, the WRC finds that the violations of Cambodian law and university codes of conduct discussed in this report have been substantially remedied. The successful outcome was achieved through the cooperation of Lululemon and its engagement with factory management in response to the WRC's investigation.