



FUTURE OF FASHION

**Worker-Led Strategies for Corporate
Accountability in the Global Apparel Industry**



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This paper is based on an analysis of a variety of sources on the globalization of the apparel industry and its impact on workers. It is also the result of a review of various initiatives to address workers' rights in the apparel supply chain, particularly in relation to brands' practices. The analysis is informed by interviews with more than twenty workers' rights activists, union leaders, and practitioners in the fields of labor rights, corporate social accountability, and worker-driven social responsibility. It also builds on insight shared by participants from fifteen garment-producing countries who attended workshops held by ILRF in Washington, D.C. in May 2018 and Kathmandu in October 2018. The views expressed in the paper are ILRF's and do not necessarily represent the perspectives of the individuals or organizations consulted.

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Cover photos: Tazreen Fashions factory (top) and Dress and Dismatic factory union members (bottom). © ILRF

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Family members gathered in front of Ali Enterprises factory building on 6th anniversary of the fire. © ILRF



I. EXECUTIVE SUMMARY

On the morning of April 24, 2013, a poorly built, eight-story Bangladeshi factory complex called Rana Plaza collapsed, killing at least 1,134 apparel workers and leaving 2,500 others injured. Just a day earlier, workers reported seeing large cracks in the building's support walls, but were ordered back to work the next morning by managers desperate to finish orders for several notable North American and European clothing brands, including The Children's Place, Joe Fresh, and Benetton.

Unfortunately, the Rana Plaza disaster is not an anomaly in the global apparel industry. In the year prior, two factory fires — one in Pakistan's Ali Enterprises factory and another in Bangladesh's Tazreen Fashions factory — killed more than 350 apparel workers and left many others permanently disabled. Incredibly, all three of these factory buildings had recently passed inspections by corporate-funded auditors who failed to detect or address the building and safety hazards that ultimately cost workers their lives.

The global apparel industry is characterized by complex global supply chains operated by large multinational brands and retailers, like Gap and Walmart, in which production is outsourced to hundreds of factories in developing nations to take advantage of low wages and weak labor law enforcement. This model of outsourced, globalized production has enabled multinational brands and retailers to not only increase profits by lowering labor costs, but also to insulate themselves from legal liability for working conditions in the factories making their products.

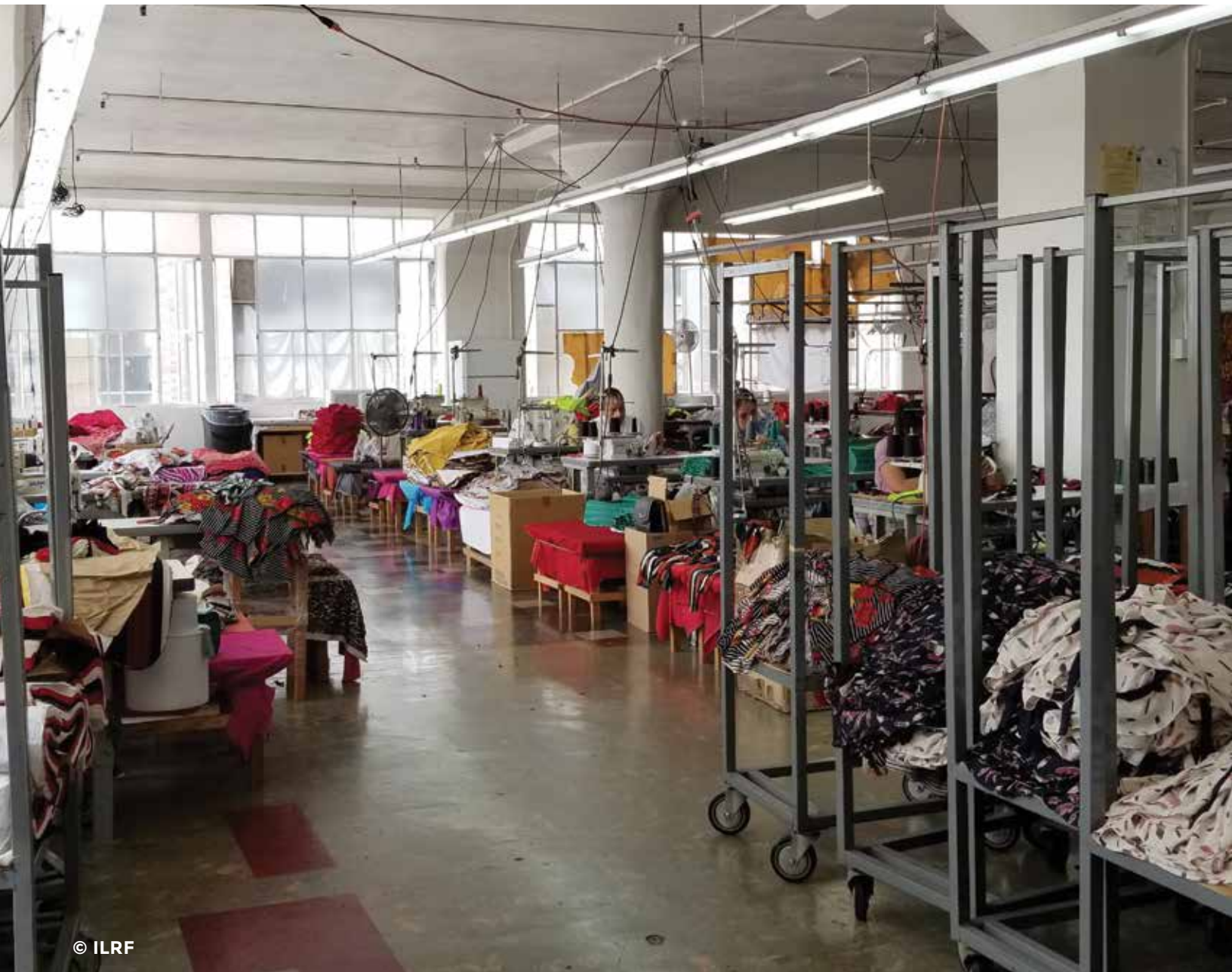
Responding to NGO campaigns, trade union pressure, and media exposés of sweatshop abuses in the 1990s, multinationals adopted private, voluntary codes of conduct that require their suppliers to comply with minimum labor standards. Monitoring of compliance with these codes is largely left to third-party social auditing firms that conduct short, annual visits to the factories to assess working conditions. Critics have pointed out the shortcomings of this model, including extreme time pressures on auditors leading to superficial “check-the-box” assessments, the absence of meaningful consultations with workers or trade unions during the audit process, a lack of transparency with regard to the audit results, and a failure to correct violations, even when serious problems are detected. There is significant evidence that this approach has largely been ineffective in improving conditions for workers and has particularly failed to address the most pervasive problems in the industry: low wages and the violation of freedom of association and collective bargaining rights. Indeed, corporate-led models based on social auditing have served primarily to protect corporate interests and image, rather than provide a counterbalance to the unequal power relations that are at the root of poor working conditions and labor violations in garment factories across the world.

With the failure of the traditional, corporate-led initiatives to address labor violations, new models have emerged to hold brands and retailers accountable for working conditions in their supply chains. Enforceable brand agreements (EBAs) differ significantly from corporate-led models because they

seek to address the features of the apparel supply chain that are at the root of poor working conditions and labor rights violations: namely, the absence of binding and enforceable commitments, lack of transparency, sidelining of workers and their elected trade union representatives, and how the brands' purchasing practices contribute to labor rights violations.

This paper explores the successes and challenges of three examples — in Indonesia, Honduras, and Bangladesh — of EBAs in the global apparel

industry, examining the context in which each was developed and how they address the deficiencies in the traditional CSR approach. It then outlines a four-part analytic framework, or essential elements, for identifying what a worker-centered, worker-driven model for advancing workers' rights in the apparel supply chain should include. Finally, it lays out a road map for transforming the global apparel industry through greater uptake of worker-led initiatives and other actions necessary to strengthen worker rights in the global apparel industry.





II. THE ROOT CAUSES OF LABOR RIGHTS ABUSES: POWER RELATIONS IN THE GLOBAL SUPPLY CHAIN

Apparel manufacturing is characterized by the organization of production in massive and complex supply chains that often stretch across several countries. The drive for increased profits through mass production at low costs and with cheaper raw materials has been the main factor in the decisions by apparel brands and retailers to “go global,” a move facilitated by the development of more sophisticated and cheaper transportation and communication systems and technologies.

Four defining and interrelated features of this scenario of globalized apparel production underlie the conditions for apparel workers in supplier factories across developing countries:

- 1) The disproportionate influence of multinational apparel brands and retailers;

- 2) The fragmentation of production into complex supply chains that lack transparency, making labor relations more precarious and obscuring the responsibility of brands to the workers who make their products;
- 3) The weakening of regulation and lack of enforcement of laws that protect workers; and
- 4) The overall deterioration of working conditions and erosion of workers’ rights, including the right to form unions and collectively bargain.

THE POWER OF MULTINATIONAL BRANDS AND RETAILERS

In the apparel industry, the big brands and retailers, typically headquartered in the United States, Europe, and Japan, drive the market, determining what gets produced, where, and at what prices. Brands design products and market them, but most often outsource production to independent factories located in regions of the world where labor costs are lower and social and environmental regulations are lax. Apparel brands and retailers have a disproportionately powerful role in this set-up, and their impact on international commerce and labor relations is significant.¹

While brands and retailers are generally not direct employers of the workers in the supplier factories making their products,² their sourcing model and practices strongly influence working conditions, including wages and working hours.³ These practices include short lead times on orders, last-minute changes in product design and specifications,



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FIVE PURCHASING PRACTICES THAT IMPACT WORKING CONDITIONS

A 2017 study by the International Labour Organization (ILO),⁴ based on the survey responses of 1,454 manufacturing suppliers in 87 countries, found that the following purchasing practices have a direct impact on working conditions and workers' rights:

- Contracts between buyers and suppliers that are vague with respect to items such as price, financial responsibility for delays, and other financial obligations;
- Unclear product specifications and changes in sampling and specifications without extending delivery deadlines;
- Insufficient lead times when placing orders, which forces suppliers to resort to excessive overtime, subcontracting, outsourcing, and casual labor;
- Prices for product that were too low to cover even production costs, thereby impacting workers' wages and job stability;
- Requirements for suppliers to meet social standards, but with no support or incentives from buyers to achieve them.

Among the impact on workers of these practices are:

- Suppressed wage
- Poor health and safety conditions
- Irregular working hours and excessive and mandatory overtime
- Unrealistic performance targets and quotas
- Precarious employment and lack of stable, permanent work
- Harassment (including sexual harassment) and abuse by management and supervisors

and rushes to meet product launches or replenishment. All of this has a direct, negative impact on textile and cut-and-sew workers.

The economic power of multinational corporations translates into political leverage with regulatory bodies and governments, both in their home countries and in the nations where they invest and produce their goods. In addition to supporting lower tariffs, benefiting from weakened labor laws and maintaining low worker salaries, corporations have wielded their power in the negotiation of trade agreements, ensuring that labor and environmental provisions do not get in the way of profits, and overriding national sovereignty in the process.

FRAGMENTATION OF PRODUCTION AND LABOR

A principal feature of economic globalization is the fragmentation of production in manufacturing

industries into complex multiple sourcing arrangements characterized by a lack of transparency. What formerly were workplaces that were all-inclusive, vertically-integrated operations based in one country (mainly in the industrialized Global North), became increasingly atomized, with most of the production stages and activities allocated to factories located in the Global South: assembly, logistics, financial services, inputs, repair, and maintenance.⁵ Furthermore, the unity of the integrated workplace was disrupted with the emergence of "triangular" relations of employment.⁶ Today workers located in the same workplace can be under different contracts, different employers, and different modalities of employment, i.e., permanent full-time contracts, part-time fixed-term contracts, short-term contracts, or their legal status in a country may be tied to their job. The consequences of these increasingly precarious employment arrangements is a weakening of workers' bargaining power. Exacerbating the problem is the

lack of supply chain transparency that has enabled multinational companies to distance themselves from their responsibility for the risks and poor conditions for workers in the factories where their products are made. Given that the globalization of production involves multiple layers of sourcing, all too often companies will attempt to claim that off-shored or contracted jobs no longer fall under their responsibility, but are rather the concern of a different employer.

WEAKENING OF REGULATION AND THE “RACE TO THE BOTTOM”

The globalization of apparel production was enabled by new rules of trade, promoted by multinational corporations, which allowed those corporations to operate in more and often far-flung geographic locations, mostly in the Global South.

Many nations in those regions — home to cheap raw materials and low-cost labor — were emerging from colonial domination, underdevelopment, and debt, and have often pursued strategies promoted by international development banks to “open up” their economies to foreign direct investment in order to stimulate industrial development, business opportunities, and the creation of employment. Measures to that effect have included lowering or eliminating taxes on foreign investment, keeping wages low, and making labor and environmental laws more “flexible” — including ignoring safety and environmental regulations and creating export-processing zones where labor regulation is often weaker than in the rest of the country. This development, often described as a “race to the bottom,” has developing countries compete with each other to establish themselves as attractive to multinational brands and buyers. These measures

WORKING CONDITIONS IN GARMENT INDUSTRY SUPPLY CHAINS

Although the value of apparel and textile trade exceeds \$700 billion dollars a year,¹⁰ millions of workers are subject to substandard conditions and labor rights violations. These include poverty wages, excessive working hours, poor health and safety conditions, precarious and unstable employment, routine violation of the right to freedom of association, and sexual harassment.

- Apparel industry workers across the globe earn wages that keep them living in conditions of poverty. They earn minimum wage or slightly more, which is not sufficient to cover their basic needs (food, housing, transportation, utilities, education, etc.) for themselves and their families.¹¹
- Workers in the garment industry work extremely long hours. Excessive overtime is a pervasive problem in the industry. Seeking to supplement low regular wages, workers often do not have a choice but to work overtime on a regular basis to help make ends meet. Additionally, factory managers deal with spikes in production demands by requiring overtime. The long hours have a negative impact on workers' health and well-being, and also contribute to an increase in accidents and injuries.¹²
- Short-term contracts are common in the industry and the source of precarious, unstable employment, which inhibit workers' ability to exercise their rights, especially freedom of association and collective bargaining.¹³
- Violations of the right to freedom of association and collective bargaining are rife in the sector as is retaliation against leaders of independent, democratic trade unions.¹⁴
- Although women make up the majority of apparel workers in most countries, they earn less than men performing the same jobs.¹⁵ Sexual harassment is common in the industry,¹⁶ yet rarely captured in corporate-led audits.

have further enhanced the multinational companies' economic and political power,⁷ while making conditions for workers worse and more precarious and weakening the structures and organizations that protect them.

For apparel, the 1995 replacement of the General Agreement on Tariffs and Trade (GATT) with the World Trade Organization (WTO) ended a period in which the apparel industry was heavily regulated. Ten years later, the final phase-out of the Multi-Fiber Arrangement (MFA), which had established quotas on exports and lowered tariffs on certain products manufactured in specific countries, made it possible for firms to source textiles and apparel anywhere in the world. The combined effect of the end of restrictions on how much apparel countries could export and China's entry into the WTO in 2001 meant a considerable shift in the geography of apparel production, first to China⁸ and then increasingly to countries with even lower labor costs, such as Bangladesh, Indonesia, and Vietnam. Elsewhere in Asia and in Central America, several countries have maintained their competitiveness in the export market to the United States by keeping their production and labor costs low while repressing unions.

THE EROSION OF WORKERS' RIGHTS

The growth of the textile and apparel industry was a significant historical step in industrial development. Because it is labor-intensive and employs large numbers of workers in jobs that do not require high levels of formal education, the industry provided opportunities for more people — especially women — to enter into the formal economy. But the increasingly unregulated national and international environments have had a detrimental effect on working conditions, including access to redress for labor rights violations. As governments in developing countries prioritized export growth, foreign investment and bulk job creation, job quality and labor rights suffered. The creation of segregated export-processing zones, separate from national economies, has both limited sustainable long-term economic development and engendered laws and regulations that are unfriendly to workers, most notably restrictions on freedom of association, unionization, and collective bargaining.⁹ As a result, low wages, excessively long hours, unsafe working conditions, and violations of freedom of association and collective bargaining rights are all emblematic of the apparel industry worldwide.



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THE FAST FASHION FACTOR

The main features of the globalized apparel supply chain described above have been further exacerbated and accelerated by the emergence of “fast fashion,” a trend led by large apparel giants like H&M and Zara, in their push towards greater profits in tandem with a rapidly changing consumer market.

For example, in 1991, each person in the U.S. purchased an average of 40 garments a year. In comparison, in 2016 that number was 65.8 – a 65% increase over the past 25 years.¹⁷ Brands used to have two to four lines of clothing a year, to correspond with the seasons. That is no longer the case for many companies. Some brands are now introducing up to 18 collections a year, with new lines and fashions every two or three weeks.¹⁸ Fashion retailers have responded by renewing their inventories more quickly: in the past it took about six months for a garment to go from design to the store, and in some cases this time has been reduced to two or three weeks, regardless of the season. Lead times for orders are no longer planned in months, but in weeks, which means suppliers scramble to take on the orders, often resorting to increases in required overtime for workers or subcontracting out the work they can't handle on time to sub-suppliers.

This shortened lead and timeline for production increases pressure on workers to do overtime hours to meet production and shipping deadlines. Faster-changing fashion also means that workers need to learn new patterns and new styles more quickly, requiring a learning curve at the same time that management increases production quotas. This has also meant more instability for factories, as brands will switch from one supplier to another to meet their demand. In addition to excessive working hours and hard-to-achieve production quotas, increased demand to meet tighter production deadlines often goes hand in hand with other violations, such as verbal abuse, as well as risky practices like unauthorized subcontracting, and temporary, short-term contracts.

Fast fashion has exacerbated the problems in the global supply chain. Brands and retailers work with an extensive – and shifting – network of suppliers, to which they outsource production through vendor conglomerates or agents. Factories are forced to accommodate the new demands of brands and retailers, often without the infrastructure, technical capacity, or financial incentives, to deal with them. The pressure ultimately comes down on the workers. In sum, fast fashion has made the industry more complex and fragmented, less transparent, and more abusive to workers.

POVERTY WAGES ARE THE APPAREL INDUSTRY NORM

Workers in the garment industry earn far less than what is required to cover the basic needs for themselves and their families. For example, in Bangladesh, the industry minimum wage in 2014 represented only 19% of what a living wage should be.¹⁹ In some garment-exporting regions, some suppliers do not even pay workers the required minimum wage. As recently as 2017, the U.S. Department of Labor documented wage violations at 94% of sewing facilities investigated in southern California during the year; these manufacturers failed to pay their employees the legally-required minimum wage or overtime.²⁰ The ILO estimates that non-compliance with the minimum wage requirements in the garment factories in Asia can be 25% and sometimes even over 50%.²¹ Women typically earn lower wages than men for the same work²² and tend to be relegated to lower-skilled, lower-paying jobs. Low wages mean that most apparel industry workers and their families live in conditions of poverty. More often than not, garment workers have to work overtime in order to supplement their regular wages, with negative consequences for their overall health and well-being.



Mother of an Ali Enterprises worker. © ILRF



III. FATALLY FLAWED: CORPORATE-LED SOCIAL RESPONSIBILITY

CORPORATE CODES OF CONDUCT

Starting in the 1990s, a multitude of corporate-led initiatives emerged, claiming to address the impacts of the rapid pace of economic globalization and its negative effects on working conditions in supplier factories in developing countries. Initially responding to media exposés of exploitative conditions in factories in China and of child labor in Central America and Pakistan,²³ major brands like Gap, Nike, Levi's, and Walmart developed corporate codes of conduct for their overseas suppliers, together with the first factory-level monitoring programs. The codes of conduct are a voluntary set of standards — often based loosely on international labor standards — which the brands enforce to different degrees. In response to growing pressure from consumer movements in the U.S. and Europe for brands to take responsibility for working conditions in their supply chains, more and more brands and retailers joined in, creating a myriad of codes and monitoring systems. Today, most large apparel brands have a code of conduct for their supplier factories.

The driver behind these private, voluntary governance initiatives was mainly the desire of brands to reduce reputational risk by association with human rights abuse in their supply chains. Many stakeholders in the field of corporate social responsibility (CSR) thought that through corporate codes they had found a way to address the “governance gap”: the weakness of government enforcement of labor laws in producer countries. Proponents of the CSR tools argued that they offered more flexibility and efficiency — a more direct approach to identifying and addressing

workers' rights violations in a company's supply chain — than relying on state or supra-national regulation, and were thus better suited for the more flexible, global mobility of supply chains. They claimed that market mechanisms of reward and punishment were sufficient incentives for suppliers and brands to comply.²⁴

The early corporate codes of conduct focused mainly on prohibiting child labor and varied on whether they included provisions for freedom of association and collective bargaining. In 1998, for example, an ILO report revealed that out of 200 codes analyzed, only 15% mentioned freedom of association and collective bargaining rights.²⁵ With time — and as a result of pressure from labor rights organizations and activists — most codes converged in their content to reference the ILO core labor standards (prohibition of child labor, prohibition of forced labor, non-discrimination, freedom of association and collective bargaining) as well provisions for working conditions (wages, working hours, occupational safety and health, and human resource management systems).

Two other industry-driven initiatives created in the early 2000s — a certification program called Worldwide Responsible Apparel Production (WRAP, which later changed its name to Worldwide Responsible Accredited Production) created by the American Apparel and Footwear Association; and the Business Social Compliance Initiative (BSCI), created by Europe's Foreign Trade Association — have been dismissed by labor advocates and worker organizations as ineffective to improve workplace conditions. While the latter

has had some NGO and union participation on its stakeholder council, both of these initiatives serve more to uphold the image and interests of business rather than the interests and rights of workers.²⁶

MULTI-STAKEHOLDER INITIATIVES

Multi-stakeholder initiatives (MSIs) are a second-generation effort that attempted to address some of the shortcomings of corporations' solitary efforts by creating more coordinated, systematic approaches to supply chain monitoring. They attempted to standardize the multiplicity of corporate codes and created governance structures that included other stakeholders in addition to the brands. Unfortunately, the brands have retained a controlling role in the MSIs, both as a main source of financing and the main driver of business to the MSIs. As a result, the MSIs have remained voluntary — without mechanisms for ensuring compliance — and focused mainly on monitoring suppliers rather than addressing the brands' role in driving labor rights violations. In that sense, they have not signaled a significant shift away from corporate-led models focused more on protecting brand reputation than truly addressing labor rights violations.

The U.S.-based Fair Labor Association (FLA) is one of the early labor rights focused MSIs. It was created in 1999, in response to consumer and student outrage over poor conditions in international garment factories — and in particular, pressure on universities and apparel firms by United Students Against Sweatshops. Among its members are major U.S. apparel and footwear companies, civil society organizations, and nearly 200 U.S. colleges and universities that license collegiate apparel. U.S. unions had originally been at the table during the creation and initial negotiations to establish the FLA, but the apparel sector unions withdrew their support when the companies refused to give meaningful attention to issues such as living wages and freedom of association.²⁷

Other MSIs that emerged during this period include Social Accountability International (SAI),

whose certification standard has been adopted in suppliers across different industries, and the Ethical Trading Initiative (ETI), based in the UK. ETI publishes case studies focused on best practice examples of brands' supply chain initiatives and FLA publishes anonymized factory audit reports grouped by brand. SAI is focused on factory-based certifications and publishes the name and location of each facility certified. ETI and FLA establish direct requirements for brands' obligations whereas SAI's programs place more emphasis on factory obligations. None of these initiatives, however, require brands to commit to their suppliers over time or until full compliance is achieved. Despite 20 years of MSIs, a multiplicity of codes and repetitive audits continue and the MSIs have largely failed to demonstrate their impact in improving workers' rights, especially their core organizing and collective bargaining rights.

More recently a new convergence initiative, recently spun off from the Sustainable Apparel Coalition (SAC), called the Social and Labor Convergence Project (SLCP), aims to address the multiplicity of codes and duplicative auditing models. According to the SLCP, this panoply of initiatives do not necessarily lead to change, so what is needed is to “change the way we work.”²⁸ Their aim is to create a “converged assessment framework” that would simplify audits through the deployment of a “standard-agnostic tool” to free up resources for sustainable remediation. It is not clear how this goes beyond any other factory-focused auditing endeavor, as the main goal “to create an efficient, scalable, sustainable solution to social audits” is not new. Yet the SLCP is gaining momentum, with 160 signatories including over 60 brands and retailers, plus manufacturers, agents, commercial auditing firms, industry associations, and two governments.²⁹ Notably, however, the signatory civil society organizations do not include labor rights organizations or trade unions. Other issues not addressed in the SLCP's proposals for change are requirements for transparency — both supply chain transparency and transparency on working conditions — or improved mechanisms to enforce commitments to remediate.

CORPORATE-LED FACTORY MONITORING

Whether they participate in one or more MSI, manage their own code of conduct monitoring program, or contract supply chain auditing firms directly, most of the large apparel brands and retailers use auditing or monitoring systems to assess compliance with their codes of conduct in their suppliers. Although the exact value is unclear, some estimate that the auditing industry has grown in the past 20 years into a multibillion dollar industry.³⁰

This way of attempting to assess compliance and address labor issues, whether through self-monitoring or the use of commercial third-party auditing firms is ineffective due to conflict of interest and lack of objectivity. The approach is flawed on both technical and structural levels.

The technical flaws of corporate-led monitoring include:

- *The information gathered during audits comes largely from management, and documentation provided by management, yet many factories maintain double books. Excessive working hours frequently go unidentified due to double books or falsified time cards, which auditors often miss or fail to corroborate through worker interviews.³¹ Low wages and non-payment of guaranteed bonuses and benefits are also overlooked, by taking at face value the documentation presented by management.*
- *Workers are not sufficiently or effectively interviewed. They are often selected by management, summoned by management to interviews, prepared by management in*



advance of interviews, and management may even be present during interviews. Off-site anonymous interviews with workers in confidential settings, conducted by people whom workers feel they can trust, are rare.

- *Audits are often only one or two days, which can be so condensed that major issues are missed.* Audits rarely capture the freedom of association and collective bargaining violations that are prevalent in the industry. Auditors rarely pursue the reasons why there is no union or collective bargaining in a factory, or they fail to grasp the ways in which efforts to organize can be thwarted.
- *Auditor expertise is insufficient to assess some of the core compliance requirements.* Standard auditing methodologies are unable to capture issues such as sexual harassment and discrimination. Fire, electrical, and structural safety are typically

assessed as a subsection of a long checklist, by all-purpose auditors rather than by qualified engineers.

The structural flaws stemming from the auditing agreements and procedures include:

- *A basic conflict of interest is inherent in auditor contracting.* Because most audits are paid for by factory owners so that they can attract business, auditors that are too rigorous risk losing their auditing contract.
- *Audit reports and complaint resolutions are rarely reported to workers.* Traditional auditing programs, whether conducted by the brand itself or by third parties, keep the audit results and audit reports confidential between the brand, the auditor, and the factory. Workers do not have access to audit results in real time and the public receives very little specific factory-level information, if any.³² This prevents workers, their advocates, and their representatives from being able to use the audits to take action to press for remediation and change.
- *Auditors, essentially brought in to address the lack of government enforcement, do not share audit findings with government inspectors or necessarily check for compliance with local regulations.* Although social compliance auditors tend to issue the largest number of their non-compliance findings for occupational safety and health issues, none of the more than 1,600 factories inspected by the Accord on Fire and Building Safety in Bangladesh had fireproof doors, despite being required by the Bangladesh National Building Code.
- *Impact reporting by supply chain compliance initiatives is sporadic and weak.* Some impact studies have shown that codes and monitoring can have some influence in changing occupational safety and health practices. Yet all of them missed the fact that no Bangladesh factories met the fire



safety code requiring fireproof stairwell doors.³³ Codes of conduct also seem to bring improvements in terms of “good housekeeping,” such as better management of contracts and pay slips, but there are no reports that these systems resulted in better wages or grievance handling.

- *There is no obligation for brands to take action when violations are uncovered by auditors.* Even when audits are effective in identifying violations and abuses, brands are not under obligation correct them, nor are they made responsible for not taking corrective actions to remediate them.

Beyond the technical and structural critique of these approaches, there is empirical — and deeply tragic — evidence that dramatically illustrate the failures of factory monitoring. The massive factory collapse and fires in South Asia during 2012 and 2013, preceded by dozens of smaller injurious and deadly incidents over a decade, combined with an overall lack of impact reporting, compiles a significant indictment of these initiatives on the whole. The fire at the Ali Enterprises factory in Karachi, Pakistan, which killed at least 257 workers on September 11, 2012, was one of many preventable garment industry disasters that exposed the failures of corporate-led monitoring and factory certifications to protect workers. Just six weeks prior to the fire, the factory had received an SA8000 certificate from RINA, an SAI-accredited auditing firm.³⁴ The factory had also been audited by Worldwide Responsible Accredited Production (WRAP). Two months later, 112 workers died in a fire at Tazreen Fashions in Ashulia, Bangladesh, at a factory that had been audited by UL Responsible Sourcing and multiple times by Walmart. Audits of two factories in the Rana Plaza building in Savar, Bangladesh, carried out against the Business Social Compliance Initiative (BSCI) code of conduct failed to identify the flaws and the illegal construction of the building that led to its collapse and the loss of at least 1,134 lives on April 24, 2013.³⁵ Sadly, it was not until this tragedy — the worst in the history of manufacturing — that more

than a couple of industry leaders began to seriously consider a significantly different approach. More than 220 brands and retailers went on to sign the jointly-governed, union-brand Accord on Fire and Building Safety in Bangladesh, making a time-bound commitment to ensure that their factories fulfill compliance requirements detailed in the agreement and report transparently on progress.³⁶

Nonbinding and ineffective multi-stakeholder programs unfortunately take up a substantial amount of space in the supply chain and among the business and human rights community, thus “crowding out” the few successful initiatives that do exist from expanding and bringing their real protections to workers in new sectors and new countries. They divert attention from workers’ own efforts to organize and bargain collectively. And by pursuing social dialogue through mechanisms other than trade unions, some initiatives can foster alternative, weaker avenues for worker engagement, sometimes directly undercutting workers’ efforts to form trade unions. To date, none of the MSIs have documented a system-wide, positive impact on workers’ rights to organize and bargain collectively.

Ultimately, corporate-led factory monitoring has failed to provide sustainable improvements to factory conditions or to advance worker rights and empowerment, largely because it is based on the assumption that labor violations and non-compliances occur because of faulty practices by factory management. So, while brands’ purchasing departments continue to squeeze factories on price, shorten order timelines, demand last-minute design changes, and expect product quality to remain high, their social compliance officers audit the factories without evaluating their brand’s impact on the poor working conditions and rights violations.³⁷ In the end, factory monitoring programs will always be limited because they generally do not focus on the broader factors causing the downward pressures — and subsequent violations — on workplaces.





IV. OTHER EXAMPLES OF ENGAGEMENT WITH BRANDS

Other supply chain initiatives have sought to address some of those broader factors. The ILO's Better Work Program, for example, seeks to foster social dialogue and work with the local ministry of labor to improve monitoring and compliance capacity in the country. Global framework agreements are also important initiatives to engage brands in a form of transnational industrial relations, wherein global union federations press brands to respond when rights are violated in their supply chains.

BETTER WORK

Better Work is a partnership between the ILO and the International Finance Corporation (IFC), a member of the World Bank Group that is devoted to supporting the private sector in developing countries. It is currently being implemented in the apparel sector in eight countries.³⁸ Better Work seeks to improve upon previous CSR projects and factory monitoring, with the aim of improving labor standards and increasing competitiveness in global supply chains in the apparel industry. It does so by following the ILO's tripartite structure, engaging governments, employers, trade unions and brands. The program consists of detailed factory compliance assessments and reports,³⁹ as well as advisory and training services for remediation. At the global governance level, the Better Work Advisory Committee includes representatives from the International Trade Union Confederation (ITUC) and the global union federation IndustriALL, in addition to representatives from donor governments, brands and the International Organization of Employers. Each country program has a Project

Advisory Committee, which also includes government, employer and trade union representation.

The Better Work program reaches further than corporate-led supply chain initiatives and MSIs because it aims to not only monitor factories for compliance with national labor law and international labor standards, but also to foster factory-level social dialogue and strengthen industrial relations among employers, unions and governments. The program has played an important role in the prevention of abusive practices, reducing excessive overtime and closing the gender pay gap.⁴⁰ Better Work has also helped to increase transparency around compliance data.⁴¹ Nonetheless, several other challenges remain, such as the need to convince brands and — in countries where the program is not mandatory, factories⁴² — to participate. Under the program, brands make commitments not to withdraw orders from factories based on non-compliance, but rather to remain and support remediation. While these are important steps for brands, Better Work has yet to otherwise address brands' sourcing and purchasing practices and the role they play in contributing to labor violations. Another area where the program has room for improvement is by engaging more directly with unions and other worker organizations in the assessment process through, for example, more systematic off-site interviews, and — importantly — developing mechanisms for presenting and responding to workers' direct complaints.⁴³ Also, the program has faced challenges in countries where union autonomy and genuine collective bargaining are restricted,⁴⁴ and where labor rights violations stem from structural level problems, such as



the short-term contracts and the heightened repression of independent unions, as in Cambodia.⁴⁵ Incorporating its monitoring program into the local government's labor law enforcement also remains a challenge, with the risk of Better Work remaining a parallel, brand-driven response to weak government inspection systems.⁴⁶

GLOBAL FRAMEWORK AGREEMENTS

Global framework agreements (GFAs)⁴⁷ are negotiated contracts between global union federations (GUFs) and top management of multinational brands under which the company agrees, within its global operations, to adhere to a set of standards on trade union rights, health and safety, and labor relations principles — regardless of the legal standards in the producer countries. They differ

from corporate codes of conduct in that they are the result of negotiations between organized labor and companies and they attempt to remedy the content and procedural deficiencies associated with unilaterally implemented corporate codes. Most companies that have signed a GFA continue to use a classical corporate-led audit system alongside their GFA implementation, with most if not all of the shortcomings described above.

Typically, GFAs reference ILO labor standards and other relevant international human rights and labor rights instruments.⁴⁸ While most GFAs specify brands' responsibilities generally with respect to core labor standards and other fundamental rights at work, they place more emphasis than other supply chain initiatives on freedom of association and collective bargaining rights based on the

promotion of social dialogue and strong industrial relations. The agreements establish the signatories as legitimate social partners and are predicated on the principle that this continuous relationship between corporations and trade unions can help ensure effective and sustainable conditions for workers' rights and decent working conditions. Global framework agreements are meant to serve as a vehicle through which conditions in the supply chain can be monitored, communicated and — in the case of grievances needing redress — addressed through conflict resolution procedures detailed in the agreements.

Many global union federations consider GFAs to be important tools for creating an enabling environment for organizing and bargaining collectively. Although the global unions do not consider them to be a replacement for workplace-based collective bargaining agreements, they do believe that GFAs help create the space for facilitating the exercise of freedom of association, trade union organizing, and collective bargaining. GFAs can also be used to create links between workers across different countries working for the same company or its supply chain, and can serve as platforms to build and strengthen transnational union solidarity and networks. In the apparel and footwear industry, IndustriALL has signed six GFAs — with Inditex, Mizuno, H&M, Tchibo, Asos, and Esprit.⁴⁹

GFAs are qualitatively different from CSR initiatives that lack participation and oversight from trade unions. In Peru and Cambodia, unions used the GFA with Inditex to help facilitate local organizing efforts and the reinstatement of illegally dismissed workers.⁵⁰ In Myanmar and Pakistan, unions leveraged the GFA with H&M to reinstate workers who had been sacked for demanding their rights. In the Myanmar case, the agreement also included the recognition of the local union.⁵¹

Because they are negotiated, GFAs have varied and evolved over the past 20 years. For example, among the apparel industry GFAs, there are some differences in the provisions for local union

involvement. Owen Herrnstadt identifies four criteria for making GFAs effective:

- Content needs to be pegged to ILO standards in order to avoid a 'sliding scale' that could be weakened in countries, like the U.S. or China, where national laws undercut those standards.
- Coverage of all levels of the supply chain should be included.
- Implementation needs to include communications and educational activities with the local unions and workers meant to benefit.
- The agreement needs to be enforceable, which requires transparent monitoring and binding arbitration or other forms of effective dispute resolution.⁵²

Notably, the GFAs have limited enforcement mechanisms.⁵³ Breaches to an agreement cannot be pursued in a court of law, nor are the companies subject to legal or market sanctions in cases of non-compliance or failure to implement. Conflict resolution is dealt with through joint investigations and mediation, but the resolutions are not binding.

GFAs have advanced transparency between signatories, but they could be further strengthened by requiring participating companies to publicly disclose their supplier lists, in line with the IndustriAll-endorsed Transparency Pledge.⁵⁴ Future GFA transparency requirements could also seek to secure public disclosure of audit findings and investigation reports — as well as their impact at the factory level — so that outside parties would be able to more directly evaluate signatory companies' compliance with their commitments. Finally, most GFAs signed to date do not address the role brands' purchasing practices play in fostering labor abuses in the supply chain.⁵⁵





V. FACTORY MONITORING THAT WORKS FOR WORKERS

Despite the demonstrated shortcomings sited above, brands continue monitoring their suppliers through voluntary, nonbinding initiatives even while acknowledging that this has not served to make substantial improvements. These limitations are particularly evident for endemic issues in the apparel supply chain: low wages, excessive overtime, discrimination, sexual harassment, and repression of freedom of association and collective bargaining. If factory monitoring is to be truly effective to uncover and remediate violations — and brands *should* be held responsible for mitigating human rights risks in their supply chains — it needs to be fundamentally restructured.⁵⁶ For factory monitoring to contribute to securing workers' rights, it needs to stop undercutting the role of workers' organizations. It needs to be done in ways that create avenues for workers' effective access to legal remedy, enable workers to fully participate in ongoing vigilance of factory conditions, foster greater transparency, and address the role of brands' purchasing practices as root causes of violations.

In addition to structural reforms such as greater transparency and better governance, worker-centered factory monitoring also requires a much more rigorous approach to factory visits. The following list outlines basic safeguards and guarantees that could make the monitoring process more effective.

- 1) Workers' meaningful participation in the monitoring process, including the planning process and participation in the monitoring team at key points (e.g. worker interviews).

If there is a union in the factory, it needs to be involved in the entire process.

- 2) An up-to-date human rights risk analysis of the country and area where the workplace being monitored is located.
- 3) Off-site consultation — prior to the assessment — with trade unions and labor rights NGOs to develop knowledge of contextual issues, as well as background on area industrial relations and information-sharing about particular factory-level grievances.
- 4) A composition of the monitoring team that reflects the demographics and gender make-up of the workforce, that has language competencies and subject matter expertise, as well as an understanding of local industrial relations.
- 5) Independent selection of workers for interviews, with the involvement of workplace-based union(s) in worker selection and interview process, and without management interference.
- 6) Inclusion of off-site interviews with workers in their communities.
- 7) Guarantees of non-interference by management in worker selection for interviews and interview process.
- 8) Guarantee of non-retaliation against workers who are interviewed or otherwise participate in monitoring, and the capacity to support workers in case such guarantees are violated.

- 9) Ensurance that workers, unions, and the broader public have access to detailed supplier-level audit/monitoring reports, including names and addresses as well as audit findings. Reports and findings should be accessible to workers, in other words available in local languages, aided with illustrations, etc.
- 10) Mechanisms for analyzing and addressing root causes of violations — including those resulting from buyers' purchasing practices — involving workers and managers.
- 11) Time-bound remediation plans, with factory-level worker and union involvement in the technical review and oversight of progress.
- 12) Integrated approaches to addressing problems that are rooted beyond the suppliers' sphere, such as partnerships with

trade union experts, industrial relations experts, NGOs with expertise in gender, disability, and others for training and awareness-building; and coordination with government and non-governmental organizations to address issues such as remediation of child and forced labor.

Notably, several of these steps cannot be implemented effectively by just any outside monitor. It matters who conducts the monitoring in order to establish trust, understand the local context and ensure workers are involved in a meaningful way. One organization that has been able to conduct rigorous factory monitoring while building trust with workers locally is the Worker Rights Consortium. The WRC model has proven effective in defending workers' rights to organize in dozens of cases and helped support the development of the enforceable brand agreements featured in the case studies in this report.



CC: ILO

THE WORKER RIGHTS CONSORTIUM: A WORKER-DRIVEN, WORKER-CENTERED APPROACH

The Worker Rights Consortium (WRC) has pioneered rigorous, worker-centered factory monitoring methodologies that build on worker testimonies and complaints often documented in real time by local unions and grassroots worker rights advocates. The WRC model has proven effective in defending workers' rights in numerous cases and helped support the development of the enforceable brand agreements featured in the case studies in this report.

The Worker Rights Consortium was founded in 2000 by students, university administrators, and international labor rights experts seeking to protect the rights of workers producing university logo apparel. United Students Against Sweatshops (USAS), in cooperation with the North American garment workers' union UNITE and the AFL-CIO, together with human rights, labor, and religious NGOs, played a central role in designing the WRC as an independent fact-finder that would operate free of corporate influence. The WRC's strength is predicated on the power of the student movement to hold universities accountable for respecting labor rights in the production of collegiate-branded apparel and on universities' willingness to make the right to produce the clothing conditional on compliance with university codes. Currently, there are 193 colleges and universities affiliated with the WRC.⁵⁷ The WRC encourages those colleges and universities to adopt codes of conduct based on the WRC model code. These universities then require that brands that are licensed to produce clothing with the university logo disclose the locations of their supplier factories and ensure compliance with university codes. The WRC is empowered to investigate compliance at the covered factories and report to schools and the public on its findings. WRC's code has strong provisions for freedom of association, living wages, and the rights of women workers.

The WRC does not certify factories or accredit monitors. Rather, it investigates factory conditions, primarily in response to complaints from workers, and conducts in-depth investigations. It relies on close collaboration with local independent trade unions, as well as labor rights and women's rights NGOs.

Despite its modest budget and size, the WRC has had an impressive record of remediating labor rights violations through its process of investigating complaints and pressing for redress, particularly in cases of violation of trade union rights and wage theft, including the failure to pay legally-owed severance to laid-off workers following factory closures. The WRC's work has won improvements covering more than 250,000 workers, including winning reinstatement of more than 1,500 workers who had been subjected to retaliatory termination. The WRC has also recovered more than \$25 million in back pay for workers around the world.⁵⁸

The effectiveness of the WRC's approach is based on several features:

- **Worker-centered:** The WRC's mission and code has workers' rights, such as freedom of association and collective bargaining, living wage, and women workers' rights, at its heart.
- **Worker-driven:** The bulk of the WRC's work is driven by complaints by workers. The WRC's field representatives build long-term relationships of trust with unions, workers' rights groups, and women's organizations that serve as a bridge to workers. These organizations provide ongoing vigilance and communication on labor rights violations.

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- **Independence:** Factory investigations are conducted by the WRC, in some cases in coordination with local, independent labor rights organizations with solid experience and credibility. All investigations are free from any corporate involvement or influence. The WRC does not accept funding from apparel corporations nor do companies serve on its board.
- **Transparency:** Factory-level reports are transparent and public. The WRC posts reports of investigations and follow-up findings on its website for public access, including the factory names, location, and associated brands.

Unlike voluntary codes of conduct, the codes imposed by universities on their apparel licensees are legally binding, and violations of those codes can result in financial consequences for the brands. This, combined with an investigative approach that creates the trust necessary with workers in order to encourage them to speak openly about violations, has enabled the WRC to press multinational apparel companies to take steps unprecedented in the apparel industry, such as paying severance owed to workers and reopening a factory closed in retaliation for worker organizing.

This focus on emblematic cases is strategic because monitoring the whole supply chain is impossible. Nor is it possible to respond to all complaints from factory workers. That is why it is important to focus on a manageable number of select cases that are examples of high risks to brands, and encourage the brands to work with the factories on remediation and improving working conditions.

The WRC's investigations overcome some of the aforementioned problems inherent to traditional factory monitoring by conducting highly thorough on-site and off-site research, which they compile in detailed reports. Some complaints may require lengthy follow-up, over the course of a year or more, to ensure that remediation of violations is effectively implemented. The WRC is able to do this because it maintains regular contact with independent worker organizations in the apparel-producing countries. This is a very different approach than that of traditional monitoring firms, in that there is an organic and supportive relationship with these organizations, rather than merely "consulting" them or contacting them for input as a part of an audit protocol.



VI. WORKER-DRIVEN SOLUTIONS: ENFORCEABLE BRAND AGREEMENTS

The well-documented failures and flaws of traditional corporate social responsibility have led workers and their allies to pursue more effective strategies to address workers' rights and poor working conditions in the apparel supply chain. These initiatives, to date, are locally rooted and include local unions as well as international worker advocates in their development, implementation, and governance.

In recent years, workers, unions, and their advocates have successfully forged several agreements with brands to address specific situations — such as fire and building safety and freedom of association — in the apparel supply chain. These types of agreements emerge from particular circumstances in one country, or situations in a factory or group of factories supplying to one brand or a group of brands. They include — in differing degrees — provisions for worker inclusion, transparency, and disclosure of information on factory conditions. In some cases, these agreements have addressed aspects of brands' sourcing and purchasing practices. We examine three initiatives of this type below: the Fruit of the Loom Agreement in Honduras, the Accord on Fire and Building Safety in Bangladesh, and the Indonesia Protocol on Freedom of Association. In reviewing each initiative, we provide local context and a look at how they are helping address the four structural flaws identified in the analysis of corporate social responsibility provided above, namely the need for binding commitment with legal and market consequences and enforceability, transparency, worker involvement, and whether and how they address brands' purchasing practices.⁵⁹

These models are significantly different from the failed corporate-led codes and auditing systems and they chart important ways forward in addressing the root causes of poor working conditions and labor rights violations. Unlike traditional CSR, these worker-led models address the challenges of labor rights and working conditions by requiring checks and balances of power on one end of the supply chain, and by strengthening workers' ability to engage on the other.



Signing the Indonesia FOA Protocol.
© Clean Clothes Campaign

INDONESIA: FREEDOM OF ASSOCIATION PROTOCOL

BACKGROUND: The negotiations that resulted in the Indonesia Protocol on Freedom of Association were the result of pressure generated by the Play Fair Campaign,⁶⁵ especially around the Beijing Olympics in 2008. The resulting Protocol is an agreement between five Indonesian unions,⁶⁶ six global sportswear brands (Nike, Adidas, Pentland, Puma, New Balance and ASICS), and four major Indonesian footwear manufacturers.⁶⁷ In December of 2017 three more brands signed onto the Protocol.⁶⁸

Activists chose Indonesia for this first campaign for a multi-brand country-wide agreement on freedom of association because Indonesia is a global leading producer of sportswear and athletic footwear. Indonesian unions and labor rights NGOs have long played an important role in contesting sweatshop practices in the global garment and sportswear industry, with a history of involvement in transnational campaigns and engaging major athletic brands since the early 1990s. The campaign represented an opportunity to address a labor problem at the national level, involving all the major actors. Initially, the unions' demands were that the protocol cover freedom of association, precarious employment and wages, but brands agreed only to address freedom of association in the Protocol, indicating that the other two issues could be returned to at a later date.

The Protocol established practical guidelines to ensure that apparel and footwear workers in Indonesian factories supplying the six member companies are able to organize and bargain collectively for better conditions in their workplaces. It also protects union organizers and members from discriminatory or retaliatory actions. Importantly, it describes the rights union members have at the factory level in much greater detail than the national law or codes of conduct. These rights consist of the ability for unions to engage in the following:

- Request the release of union representatives from work duties in order to undertake union organizational activities
- Make use of company meeting space for union activities
- Make use of communication facilities (telephone, fax, internet)
- Make use of company vehicle
- Display their organizations' flag
- Display union signboard
- Receive visitors from union organizations other than those inside the factory
- Request company assistance in deducting union dues

INDONESIA

- 4th country in terms of volume and value of apparel exported to the U.S.⁶⁰
- Apparel industry valued in \$12.1 billion⁶¹
- 1.4 million workers are employed in the apparel and footwear sector⁶²
- A considerable number of apparel factories are in violation of labor law in regards to wages and payment of overtime.⁶³
- "Legacy unions"⁶⁴ and repression of freedom of association pose challenges to forming independent unions
- Recent support for freedom of association and collective bargaining through the signing of a freedom of association protocol with major sports brands
- Other labor challenges: low wages and excessive overtime



- Have access to a furnished room that can be used as a union secretariat
- Negotiate a collective bargaining agreement
- Distribute union information to workers
- Attach information to union notice boards without prior permission
- Support and facilitate union activities during working hours by allowing routine scheduled meetings, ad hoc meetings and union educational activities
- It details specific actions at the factory level, that address the issue of FOA in a proactive way, rather than reacting to a violation
- Different unions worked together collaboratively in the process

Among the key strengths of the protocol are the following:

- It is a negotiated brand agreement that defines specific priorities, goals and targets
- It was negotiated in a participatory process, involving all concerned actors
- It is enforceable through Indonesian law

BINDING NATURE: As the first agreement of its kind, the Indonesia Protocol is more focused on strengthening workers' ability to leverage national laws. The Protocol's Article 2 states that it "*binds* the parties in the matter of upholding freedom of association," yet the Protocol's mechanism for grievance resolution and violations remains untested in courts. In some factories, the elements of the Protocol have been incorporated into collective bargaining agreements, and as such they can be enforced by Indonesian law.

WORKER INVOLVEMENT: The Protocol is implemented through a standard operating procedure and a dispute resolution committee. At the factory level,

worker-manager factory committees oversee and report on the implementation of the protocol. At the national level, a Tripartite National Committee, consisting of trade unions, manufacturers and brand representatives, provides mechanisms for resolving conflicts that cannot be settled at the factory level. Though no cases have yet come to the committee, the presence of the mechanisms has served as an incentive for companies to resolve conflicts at the factory level.⁶⁹ The development of the protocol involved different Indonesian unions — both government-backed “legacy unions” and independent unions — working together. Legacy unions tend to be more “management friendly” and often impede the entry of independent unions into the workplace. While the Protocol will not single-handedly end these practices, it can generate discussions at the national level and with the brands, which helps strengthen the participation of the independent unions in national social dialogue.

TRANSPARENCY: The brand signatories to the Protocol are required to share the names of their Indonesian suppliers with the Tripartite National Committee, but the supplier list does not become public. The Tripartite National Committee conducts investigations, produces reports and provides recommendations for the resolution of issues. The Play Fair Campaign reports publicly on how individual brands are performing in terms of meeting their protocol commitments.

BRANDS’ PURCHASING PRACTICES: The protocol does not address buyers’ purchasing practices. To the extent that the Protocol enables collective bargaining agreements, however, workers and managers could discuss the aspects of how brands’

purchasing practices affect working conditions and seek to address them with the brands.

In a 2016 report on the impact of the Protocol,⁷⁰ trade union leaders interviewed stated that the Protocol had helped to create an enabling environment for them to claim their rights and challenge anti-union discrimination. The same report describes a case in which Protocol mechanisms served as a vehicle to put an end to violent, anti-union intimidation, and create an environment in which they could now organize and negotiate. Workers value the Protocol as a way to be able to raise grievances with factory management and brands. In several factories, unions have been able to use the Protocol processes to halt efforts by their employers to seek exemptions to increases in the minimum wage.

The Protocol has faced a number of other challenges to its implementation. While it has enabled the informal resolution of a number of workplace grievances, in many cases the factory committees charged with monitoring the Protocol’s implementation and managing disputes have not been effective. Even though some collective bargaining agreements incorporated the Protocol into their clauses, many employers have resisted abiding by it. Generally, the Protocol signifies an additional cost for employers and they have not received positive incentives from the brands for adherence to the Protocol. Another weakness is the fact that the Protocol is restricted in scope to Tier 1 factories, leaving out the large arena of subcontractors. Furthermore, it does not address the issues of living wage and short-term contracts, which are of critical importance to Indonesian unions.



HONDURAS: FRUIT OF THE LOOM AGREEMENT

BACKGROUND: The 2009 agreement between Fruit of the Loom, the Central General de Trabajadores (CGT), and CGT's affiliate, the Sitrajerzeesh union, was the result of a successful cross-border campaign led by United Students Against Sweatshops (USAS).⁷⁶ Global awareness was drawn to the case after the Worker Rights Consortium responded to workers' complaint by launching an in-depth investigation, which found that Fruit of the Loom had retaliated against worker organizing by closing an entire factory to prevent unionization. For more than a year, the WRC stood by these findings as the company continually denied any wrongdoing and enlisted the Fair Labor Association to defend its behavior. The WRC recommended that, under university codes of conduct, the company remedy this violation by reopening the plant, an unprecedented step for an apparel company to take.

At the time of the factory closure, Fruit of the Loom and its major brand, Russell Athletics, owned nine factories in Honduras. It was and continues to be the largest private sector employer in

the country. Russell is the parent company of several major sports brands, including Jerzees, that produce collegiate apparel under license with colleges and universities affiliated to the FLA and the WRC. When workers at one of those Honduran factories attempted to unionize, Fruit of the Loom closed the factory. An initial investigation by the FLA determined that the closure was due to "economic reasons." However, two subsequent investigations by the WRC and an ILO expert, contracted by the FLA, after they came under fire for their initial poorly executed investigation, determined that the closure was indeed a discriminatory act in response to unionization. A coordinated international campaign by Sitrajerzeesh (the factory workers' union), the CGT, and USAS convinced which convinced 132 universities to take action, including termination of their contracts with Russell Athletics in response to the company's initial refusal to reverse its course on the factory closure. This led to Fruit of the Loom's first-ever collective bargaining agreement in their global supply chain.

HONDURAS

- 5th country in terms of volume of apparel exported to the U.S., and 7th in terms of value⁷¹
- Largest textile and apparel industry in Central America⁷²
- Apparel accounts for 40% of Honduras' exports⁷³
- The apparel industry, which employs more than 120,000 workers, 54% of whom are women, is the largest private-sector employer in the country
- History of violence against trade unionists⁷⁴
- Recent successes in unionizing Fruit of the Loom, Hanes, and Gildan plants owned directly by those brands
- There are now 18 unionized factories with collective bargaining agreements, whereas a decade ago there were two, with no CBAs
- A network of the *maquila* unions have engaged the employers' association in a bi-partite commission that has negotiated a base wage and benefits agreement for the sector, starting in 2012, with renewals every three years
- A new Law on Inspections recently increased the ability of Ministry of Labor inspectors to enter workplaces and the fines for an unjustified firing of any union member has increased a hundred-fold, creating a significant deterrence⁷⁵

After a year-long campaign to bring attention to the company's failure to comply with the codes of conduct, Fruit of the Loom sat down with worker representatives to discuss remediation. The result was an agreement that pioneered a new approach. Fruit of the Loom committed to reopen a factory (Jerzees de Honduras, which had been closed down in response to worker organizing), rehire the workers, and recognize the union and engage in collective bargaining. In addition, the company went beyond this single factory, committing to fully respect workers' associational rights at *all* of its factories in Honduras, including providing joint trainings by the CGT and the management to all workers that made it clear that the company would not retaliate against any worker forming or joining a union. Finally, the parties created a structure and mechanism whereby the employers (brand representatives and factory management) and the unions (local confederation and international union partners) provide governance and ongoing accountability for the agreement.

Among the factors that helped achieve a successful resolution of the Sitrajerzeesh case was the

fact that Russell's consumer market was primarily universities, where student pressure played a crucial role in pressing for remediation. Furthermore, Fruit of the Loom owned its factories, and therefore had direct control over local management. The CEO of Fruit of the Loom ultimately became convinced that recognizing the union and negotiating with it would benefit the company.⁷⁷

The Sitrajerzeesh case is an example in which the government was ineffective in remediating violations of freedom of association and other actors had to step in. In fact, in this case, pressure and action outside of the political arena turned out to be more expedient and effective than if the case had been taken through other complaints channels or government mechanisms for labor justice.

BINDING NATURE: The agreement between CGT and Fruit of the Loom, which the parties refer to as the "Washington Agreement," was negotiated in accordance with Honduran law and included a binding mechanism, whereby labor disputes that are not resolved through good-faith and constructive communication can be taken to arbitration. In

the eight years since adoption of the Washington Agreement, no such arbitration has been invoked. Currently there are collective bargaining agreements at three Fruit of the Loom facilities in Honduras.

WORKER INVOLVEMENT: The Agreement has an oversight mechanism composed of representatives chosen by Fruit of the Loom and the CGT. As of this writing, the CGT has chosen representatives of a local women's rights organization and the Solidarity Center as its representatives to this committee.

Meaningful representation by workers is made possible by Fruit of the Loom's commitment to fully respect workers' associational rights. Among the most crucial elements of this was trainings for workers in which company representatives and union representatives appeared together before the workforce of all Fruit of the Loom owned factories in Honduras to explain workers' associational rights and assure workers that there would be no retaliation against workers for exercising these rights. Labor activists who participated in this process attest that the fact that union

representatives delivered this message in the presence of company management sent a strong signal to workers that significantly emboldened them to exercise their associational rights and raise workplace issues.

TRANSPARENCY: Separate from the main Agreement, Russell signed another agreement with the Worker Rights Consortium (WRC) reinforcing the company's commitment to resolving freedom of association violations.⁷⁸The agreements represented the culmination of the WRC's investigation and remediation efforts. The WRC continues to monitor Fruit of the Loom's compliance with its commitments and has published periodic updates on the company's compliance with the key commitments made in the agreements. These reports are disclosed to the public.⁷⁹

BRANDS' PURCHASING PRACTICES: As these plants are directly owned by Fruit of the Loom, the brand has been able to get involved with purchasing practices that affect workers in a way that is not possible at subcontracted plants. This direct ownership creates greater stability in sourcing. Furthermore, the fact that there is a collective



Fruit of the Loom factory employees. © ILRF



bargaining agreement in place has opened up the possibility of workers and managers discussing issues such as lead times, production quotas, and overtime.

In terms of the broader outcomes of this case, beyond the reopening of the factory, the rehiring of workers, recognition of the union and signing of the collective bargaining agreement, both worker and employer representatives concur that the agreement has had significant impact, including:

- The factory is now a highly productive factory in Honduras: both sides benefited.
- There are a total of five Fruit of the Loom factories in Honduras where workers are represented by a union; three have signed collective bargaining agreements.
- The agreement set an example and vindicated the strategy of engaging the brand to remediate a case when freedom of association rights were violated.
- The effects of the agreement are being felt in other countries: Fruit of the Loom has

signed a similar agreement with a union in El Salvador after workers reported initial challenges while organizing a union at one of its plants in this country. Fruit of the Loom has also become more thorough in its approach to worker rights more broadly, including responsibly addressing issues at a contracted plant in El Salvador. After the Worker Rights Consortium informed Fruit of the Loom that this plant had gone out of business without paying the workers legally required wages and termination benefits, Fruit of the Loom, along with other buyers, ultimately provided funds to ensure that the workers received the full amount that they were owed.

- The agreement has served as an example for other brands, especially those that own their factories, such as Hanes and Gildan. Unions have successfully formed at six factories owned by these two other brands. As of this writing, all six unions have either signed a collective bargaining agreement or are in the process to prepare for negotiation of an agreement.

BANGLADESH: ACCORD ON FIRE AND BUILDING SAFETY

BACKGROUND: The Accord signals a significant departure from previous efforts to monitor and remediate violations in the apparel supply chain. With 222 apparel companies as signatories to the original agreement, two global unions and eight Bangladeshi trade unions as co-signatories, and with four NGOs serving as witnesses, the Accord has been endorsed by the UN Secretary General, the ILO, the OECD, and the European Parliament, among others. The signatories commit themselves to the “goal of a safe and sustainable Bangladeshi RMG industry in which no worker needs to concern herself or himself with fire hazards, building collapses and other catastrophes that can be prevented with the institution of reasonable health and safety measures.”⁸¹

With initial negotiations starting in the spring of 2011 in the wake of the That’s It Sportswear

(Hameem Group) factory fire in December 2010 and finalized in the aftermath of the April 2013 Rana Plaza collapse, the Accord, which was founded in May 2013, brings singular features into the vigilance and promotion of workers’ right to healthy and safe conditions of work, unprecedented in previous initiatives.

Signatory companies agreed to implement a joint fire, electrical, and structural safety inspection program under the direction of the Accord’s Chief Safety Inspector. To provide for the cost of inspections, the companies pay an annual fee based on their annual garment production turnover in Bangladesh. Because the Accord is a five-year contract between the unions and the signatory corporations, a company cannot unilaterally decide to terminate its commitments.

BANGLADESH

- 2nd largest apparel exporter, after China
- The industry is worth US\$30 billion and employs approximately 4 million workers
- The industry represents 80% of Bangladesh’s export earnings
- Minimum wage: 8,000 taka (equivalent to US\$95 per month), after the increase that went into effect in December 2018
- 12-14 hour workdays are common, and can be even longer when order deadlines near
- 85% of garment workers are women
- Close ties between the government and apparel employers’ associations
- After the U.S. suspension of Generalized System of Preferences (GSP) trade benefits in July 2013, more trade unions were able to register in Bangladesh, but since 2015 the majority of trade union registration attempts were rejected and dozens of trade unionists have faced retaliation, including harassment, beatings, death threats, falsified criminal charges, and/or imprisonment
- Collective bargaining agreements are rare in the sector and the systems for worker participation and grievance handling are weak⁸⁰
- Rana Plaza factory collapse in 2013 killed 1,134 workers; audits had failed to address the unsafe building conditions and workers’ right to refuse dangerous work was denied
- Since 2013, the legally-binding Accord on Fire and Building Safety in Bangladesh has involved scores of multinational brands in efforts to inspect and remediate hazardous conditions for workers

A key difference between the Accord’s monitoring systems and previous audit schemes is that the inspections are independent of corporate influence. A Chief Inspector — not the brands — oversees and commissions the inspections. This also addresses the issue of inspections by multiple brands. The inspections are carried out by engineers who have been directly trained and employed by the Accord, and who have the necessary technical expertise on fire, electrical, and structural safety. In addition to reducing costs by using local inspectors, the Accord will also leave trained independent experts in the country after the life of the program. The Accord employs more than 100 engineers on staff, who have inspected 1,685 factories and carried out over 7,500 follow-up inspections. As of September 2018, the Accord reported 89% of identified safety issues as fixed; 894 factories as having remediated more than 90% of the problems; safety committee trainings completed at 273 factories; and 291 safety and health complaints as resolved.⁸² Inspections are comprehensive and include the structural integrity of the building, emergency exits, stairwell access, and many more critical workplace safety issues that had previously been lacking throughout the garment industry in Bangladesh. If findings present a “severe and imminent” danger to worker safety, the inspector must inform the factory management, its occupational safety and health committee, worker representatives, the Accord Steering Committee and the union signatory to the agreement. Remediation plans are time-bound and implementation is a requirement under the program. If the factory has to shut down for reparations, the factory must continue to pay the workers for a maximum of six months.

The Accord covers all Bangladeshi suppliers that produce for the signatory companies. All in all, the Accord-covered factories employ approximately 2.7 million workers.

BINDING NATURE: The Accord includes a binding arbitration process⁸³ that is enforceable in a court of law of the country where the involved company is headquartered. This is the first agreement to have multiple brands make a binding

commitment to implement or ensure the implementation of the Accord Secretariat’s compliance requirements. Disputes are to be decided by majority vote of the Accord’s bi-partite steering committee within 21 days.⁸⁴ Awards resulting from the decisions are enforceable in a court of law.

The signatory companies to the Accord commit to “ensure that it is financially feasible for the factories to maintain safe workplaces and comply with upgrade and remediation requirements instituted by the Safety Inspector.” The openness of this language, in lieu of, for example, a requirement to provide grants or a strict evaluation of whether brands have adjusted their prices to include the cost of safety, and the market pressures many factory owners may feel to agree to finance agreements where they themselves cover the full cost of repairs, has contributed to significant delays in factories meeting many of the mandatory remediation deadlines.

In January 2018, a landmark settlement was reached after a two-year arbitration process with a participating brand for its delays in remediating life-threatening hazards in its suppliers. The settlement includes \$2 million to fix issues — such as locked gates, structural faults, and lack of fire doors and sprinkler systems — in more than 150 factories, as well as \$300,000 for the unions who brought the case, for the “Supply Chain Worker Support Fund.” This settlement has been hailed as evidence that legally-binding mechanisms that hold multinational apparel companies accountable — including financially — can work effectively.⁸⁵

TRANSPARENCY: The Accord has a unique level of transparency that goes beyond all other social monitoring systems. Unlike other systems, the Accord’s inspection reports are disclosed to the factory, the workers, and buyers within two weeks, and to the public within six weeks. The detailed information in the reports — which are available in English and Bangla, and include photos — can be used to help maintain pressure on the signatory companies to ensure timely completion of the



repairs. In addition to regularly updating the published corrective action plans for individual factories and posting the outcome of each safety and health complaint received, the Accord releases quarterly aggregated reports that summarize program-wide compliance data at the industry level. Although the Accord does not align brands with their supplier factories publicly, ILRF and the other NGO witness signatories to the Accord have been able to use the corrective action plan updates, combined with additional supply chain research, to identify brands with a significant number of factories falling behind schedule and ask them to increase their efforts to ensure compliance.⁸⁶

WORKER INVOLVEMENT: The Accord is governed by a Steering Committee with equal representation for companies and workers (three seats for each). It includes two Geneva-based global union federations and one union representative

(and an alternate) from Bangladesh. An ILO representative acts as the Steering Committee's neutral and independent Chair. The Steering Committee must arrive at its decisions by consensus or through majority votes. It is the main body that oversees and administers the implementation of the Accord.

There is also an Advisory Board that has representatives from involved brands, suppliers, retailers, government agencies, trade unions and NGOs, which provides feedback and input to the Steering Committee.

The Accord also supports the formation and training of joint worker-management Safety Committees, which are required to exist by Bangladeshi law. Ensuring these committees are effective and useful to workers is important for ensuring the longer-term sustainability for the

program's aims, as well as providing a vehicle for monitoring and addressing safety and health issues on an ongoing basis. There is also a training program for workers, with the involvement of trade unions and specialized local experts. The purpose of the program is to empower workers and support factory management to take ownership for keeping their factory safe. Accord. At the moment of this writing, the Accord had conducted 2,838 factory-based Safety Committee training sessions, and 219 participating factories had gone through the complete 7-session training program. In addition, the Safety and Health Complaints Mechanism had resolved 197 complaints. A total of 614 complaints have been filed through the mechanism, 184 of which were non-health and safety related. One hundred and twenty-four complaints were under investigation.⁸⁷

BRANDS' PURCHASING PRACTICES: The



A Rana Plaza survivor in her community. © ILRF

Accord addresses issues of financing and brands' commitment to maintain their volumes of sourcing. On the financing of mandated factory repairs and renovations, the wording remains flexible. On sourcing, the Accord states that the signatories are committed to long-term sourcing relationships with Bangladesh, which requires them to continue business at order volumes comparable to or greater than those that existed in 2013 for the duration of the Accord. While for labor groups this aimed to prevent companies from "cutting and running" from a particular factory, many signatory companies seemed to interpret this as meaning the volume requirement is applied to Bangladesh as a whole and not to individual factories.

Despite the strengths of the Accord, it has faced a number of challenges in implementation. One has been a slow remediation process and obstacles to addressing the findings. Some have had to do with the lack of clarity about the financing of improvements: brands' responsibility on this aspect was not clear in the written agreement. Worker organizations in Bangladesh and labor rights groups internationally have pointed out that the scope of the Accord — which covers only fire, electrical, and structural safety, leaving out other important safety issues such as boiler safety⁸⁸ — is limited in its promotion and protection of freedom of association and collective bargaining rights.

In late June 2017, the global union federations, IndustriALL and UNI, announced agreement with brand and retailer representatives on the language of a renewed Accord on Fire and Building Safety in Bangladesh.⁸⁹ As of September 2018, 192 companies have signed the Transition Accord.⁹⁰ The new Accord, which took effect in June 2018 after the original Accord expired, extends the program for an additional three years. This means the continuation of robust, independent safety inspections to ensure that progress achieved under the first agreement is maintained and that factory owners cannot return to the unsafe practices of the past. It is also an opportunity to continue supporting the development of more trained and active

occupational health and safety committees.

For workers, the 2018 Transition Accord features notable improvements to the original, including a mandate that factories pay severance when they close or relocate due to safety issues, protections for union members who face retaliation from their employer when they advocate for improved

safety, and enhancements to the dispute resolution mechanism, which holds brands accountable to their commitments. The new Accord also opens the door to a possible negotiated expansion of scope, to include factories that make related products like home textiles and footwear, as well as thread and cloth.⁹¹

WORKER-DRIVEN SOCIAL RESPONSIBILITY NETWORK

The Worker-driven Social Responsibility Network (WSR Network) launched in 2017 to confront the failures and deficiencies of traditional corporate social responsibility (CSR) and put forward worker-driven alternatives. According to the WSR Network, effective programs to protect the rights of workers in contracted supply chains must be based on the following principles:⁹²

1. Labor rights initiatives must be worker-driven;
2. Obligations for global corporations must be binding and enforceable;
3. Buyers must afford suppliers the financial incentive and capacity to comply;
4. Consequences for non-compliant suppliers must be mandatory;
5. Gains for workers must be measurable and timely; and
6. Verification of workplace compliance must be rigorous and independent.

The WSR Network explains the meaning of worker-driven under the first principle:

“...workers and their representative organizations – global, national or local labor unions, worker-based human rights organizations, or other organizations that genuinely represent workers’ interests – must be at the head of the table in creating and implementing the program, including its priorities, design, monitoring and enforcement.”

Building on the successful agreements obtained in the agricultural sector in Florida by the Coalition of Immokalee Workers (CIW),⁹³ the WSR Network promotes the development and adoption of WSR as a practical and actionable alternative to CSR and MSIs.

The WSR Network also upholds the Accord on Fire and Building Safety in Bangladesh, profiled above, as another example of the WSR approach. So far, 62 organizations – including the AFL-CIO and ILRF – and individuals from the human rights and labor rights fields have endorsed the principles.⁹⁴





VII. A ROAD MAP TO TRANSFORMING CORPORATE ACCOUNTABILITY

Corporate-led efforts to address the negative impacts of globalized production on the workers who make products for multinational apparel brands and retailers have been ineffective at rectifying and eliminating the rampant rights violations. Corporate codes of conduct, multi-stakeholder initiatives, and corporate-led factory monitoring systems are now decades old, but they have not led to significant improvements for workers. In the worst-case scenarios, they have failed catastrophically, as when they did not detect or remedy the problems that led to the deaths in the fires at Ali Enterprises and Tazreen, and the collapse of Rana Plaza. Factory monitoring can only work if it is truly worker-centered and worker-driven and connected to contractual obligations to respect workers' rights, including the rights to freedom of association and collective bargaining.

The initiatives in Honduras, Indonesia, and Bangladesh profiled in this paper are distinct from other supply chain monitoring initiatives because they hold the most powerful actors in the supply chain — brands and retailers — accountable for ensuring reforms are made. These three initiatives also help strengthen local worker organizations to play a role in program governance and implementation. The four criteria we used to analyze each initiative — binding commitments from corporations; high levels of transparency; worker representation and involvement in all aspects; and changes to buyers' purchasing practices — serve as a road map toward stronger corporate accountability. The following outline builds out four essential elements needed to help advance a worker-driven, worker-centered approach to advancing labor rights in the global apparel sector.

Four essential elements to transform corporate accountability:

1. BINDING AND ENFORCEABLE COMMITMENTS:

- a) Voluntary commitments have proved limited in their impact in terms of holding brands accountable, as they always allow brands or their suppliers an “out” when they are found to be non-compliant: they can either remediate the violation, or not. **Legally-binding agreements** ensure that parties can be held accountable for not fulfilling the terms of the agreement.
- b) **Enforcement mechanisms:** This feature helps ensure that the brands agree to fulfill their commitments, or there will be legal or market consequences. Without meaningful consequences for the brands, factory owners have no support for making reforms and workers have no assurance that if they report problems, they won't lose their jobs because the brand leaves.

2. WORKER REPRESENTATION AND INVOLVEMENT IN GOVERNANCE AND IMPLEMENTATION:

- a) Negotiations of agreements with brands must include local unions or other representative worker groups from their initial stages. The role and participation of trade unions can vary, depending on a particular country's industrial-relations context, and brands should not engage directly without

understanding the context. Thus it's important to engage organizations, which are not compromised by corporate influence.

- b) Agreements with brands should have co-governing bodies and mechanisms in which workers have equal footing and say. Both the Bangladesh Accord and the Fruit of the Loom Agreement are good examples of this.
- c) Workplace-centered strategies require the full participation of workers and unions, which should include participation in monitoring, access to reports, and transparent remediation processes. Unions and/or representative worker organizations need to be involved in the design of any assessment tools for monitoring or auditing so their perspectives are fully reflected. They need to be aware of and trained on the legal and regulatory basis of those monitoring tools and active participants in assessment processes. The results of the inspections should be made available to them, and they should be part of discussions on remediation, including root-cause analysis and the proposal of solutions.
- d) Effective worker participation in the above-mentioned processes requires resources for worker training and empowerment that is focused on the specific challenges of global supply chains, the dynamics of multinational corporations and how to engage them.
- e) Capacity-building and organizing strategies require cross-border solidarity and coordination with workers in other countries in order to advance workers' rights effectively.

3. TRANSPARENCY:

- f) Public reporting by brands and retailers on where they are sourcing their apparel and what conditions are in those factories is fundamental for ensuring that workers' rights are respected. Publishing supply chain information builds the trust of workers, consumers,

labor advocates, and investors, and signals that the apparel company is prepared to take responsibility when labor rights abuses are uncovered in its supply chain. Disclosing basic information about factories (name, address, parent company, number of workers employed, etc.) is a fundamental first step to enabling garment workers, unions, and nongovernmental organizations to connect violations in factories to the sourcing brands, in order to press for an end to abuses and remedy for workers. The Transparency Pledge described in the text box is an essential first step as it will make the data more useable and facilitate communications between brands worker advocates.

- g) In addition to revealing supplier addresses, brands need to disclose information about working conditions in factories as well as about purchasing practices and commitments.

4. PURCHASING PRACTICES:

- h) Effective remediation requires that brands make financial commitments to factories. Lessons from the Bangladesh Accord reflect the need to be specific about allocation of resources for this purpose. Brands, the main beneficiaries in the supply chain, should pay — or at least provide low-cost financing or other financial incentives — for the repairs and upgrades needed for factories to be fully compliant.
- i) Brands should also be prepared to pay for legally-owed severance when factories close and compensation for death and injury when factories burn or collapse.
- j) Commitments must also be made by brands to analyze, address, and make changes in their purchasing practices — price negotiation, lead time, production planning, contractual responsibilities, etc. — so that they do not contribute to labor rights violations, but rather address and remediate them.

ENSURING GREATER TRANSPARENCY

Brands have created and taken advantage of a supply chain system in which labor relations and conditions and the location of their suppliers are obscured. The opacity and complexity of the supply chain hides exploitative working conditions and allows brands to distance themselves from those conditions. Transparency of supply chains and working conditions is a fundamental and necessary feature for the success of any initiative aimed at improved corporate accountability and advancing workers' rights in industries reliant on subcontracted or outsourced workforces. Knowledge of where brands make their products allows workers and their advocates to raise concerns about risks to workers' rights and engage brands in the solutions.

Labor rights advocates have called for apparel companies to disclose their suppliers since the beginning of the movements pressing brands for accountability. Several apparel brands have been publishing information on their supplier factories for more than a decade. The push for supply chain disclosure has gained momentum recently with the Transparency Pledge campaign. Spearheaded by nine workers' rights and human rights organizations, including ILRF, the campaign calls on apparel companies to sign a Transparency Pledge, in which they commit to publishing on their websites on a regular basis (twice a year) in an open data format the names of their authorized production units and processing facilities, the site addresses, the parent company of the business at the site, the type of products made, and number of workers at each site.⁹⁵ According to the latest published information, 17 companies have aligned with the pledge and committed to all actions. A larger number of companies are disclosing factory names and at least some information about the factory locations.⁹⁶

Public disclosure of factory conditions and publication of monitoring or investigation reports is a more detailed level of transparency. Generally brands and MSIs do not make factory-level audit reports publicly available on their websites with factory names and locations included. The Fair Labor Association publishes factory assessment reports, but addresses are not included. Examples of transparency at the factory level are the fire, electrical, and structural safety inspection reports and the regularly updated corrective action plans produced by the Bangladesh Accord,⁹⁷ the reports of the investigations of the WRC,⁹⁸ and the Transparency Portal of the Better Work program.⁹⁹

Disclosure beyond the factory would include shining a light on brands' purchasing practices, how those are impacting labor conditions, and what can be done to change that dynamic.





VIII. CONCLUSION AND RECOMMENDATIONS

The persistent exploitation of millions of apparel industry workers, and the failures of corporate social responsibility and multistakeholder initiatives to provide effective and sustainable remedy, require a new framework for corporate accountability in order to ensure workers' rights. A new approach must move away from voluntary codes of conduct, flawed social auditing schemes, and programs that exclude the agency of workers and their organizations. It requires addressing the root cause of the problem: the unequal balance of power between the corporate actors, who have created — and benefited from — the global supply chain system, and the workers who remain in precarious working conditions and are living in poverty.

In this paper, we have identified four essential elements that initiatives for corporate accountability need to incorporate in order to ensure decent working conditions and respect for workers' rights. These are:

- 1) Legally-binding, enforceable commitments for corporations to ensure workers' rights in their supply chains;
- 2) Meaningful worker representation and involvement in all aspects of initiatives to improve working conditions and advance workers' rights;
- 3) Transparent disclosure of factories and working conditions; and
- 4) Analysis of and changes to brands' sourcing and purchasing practices that contribute to violations.

The strength of the union-brand agreements described above lies in that they address the accountability of the most powerful players, and hold them to commitments to ensure specific rights of workers in their supply chains, with market or legal consequences if they fail to do so. They establish procedures and mechanisms to ensure that workers and their unions have a central role in their governance, oversight, and implementation. Although they could be further strengthened and expanded — by incorporating more brands in the agreements, expanding the scope of their coverage, and increasing transparency and addressing purchasing practices more comprehensively — they serve as positive examples of a new generation of corporate accountability that seeks to address the power imbalances of the apparel supply chain.

Achieving enforceable brand agreements is not easy, and requires a combination of factors and forces, including exposure of the problems, consumer and activist pressure (both locally and internationally), and positive and negative incentives for brands and retailers, among other strategies. These agreements have taken enormous amounts of time, coordination, advocacy efforts, and resources to win and to sustain.

There are specific actions that brands and retailers, suppliers, and workers' rights advocates can take in the short and medium term to build towards the requirements of the four elements. Here are some recommendations:

For global brands and retailers:

- Publicly recognize that true accountability to workers' rights in their supply chains requires bold, new solutions. Participation in multi-stakeholder initiatives that are financed by brands or established to support brands' compliance goals is not sufficient
- Move away from voluntary, confidential social auditing programs and instead adopt worker-centered, worker-driven models of monitoring and remediation.
- Engage in direct, meaningful, and ongoing dialogue with local and international trade unions, representative worker organizations and worker rights advocates.
- Publicly disclose the factories in their supply chains according to the requirements of the Transparency Pledge, and make sure audit and investigations reports are available to workers and to the public at large.
- Conduct serious analysis of their sourcing and purchasing practices (including the prices they pay to their suppliers) to determine how they may be contributing to the presence of labor rights violations, and make the necessary changes.
- Ensure transparent, effective and efficient grievance and complaints mechanisms for workers in factories in their supply chains, and disclose publicly the corrective actions undertaken.
- Ultimately, brands and retailers should enter into binding agreements with unions and representative worker organizations that encapsulate the full expression of the four essential elements.

For suppliers and factory management:

- Comply with national and international legal requirements to ensure an enabling environment for labor rights.
- Take a proactive stance in protecting the

right to freedom of association, collective bargaining, and worker organizing.

- Install strong communications policies and grievance mechanisms, where workers feel safe to present complaints without the fear of retaliation.
- Welcome unannounced monitoring and investigations by independent third parties. Then they can share reports and findings, and create spaces for joint discussion and solutions for remediation.
- Engage brands to discuss where brand purchasing practices and pricing policies may be contributing to excessive overtime, unauthorized subcontracting, unreasonable production targets, and other unfair conditions for workers.

For worker rights advocates:

- Strengthen links and coordinate closely with local and international independent trade unions and labor rights groups, to seek to ensure local labor movement involvement from the initial phases of visioning and negotiation.

Addressing the governance gap

The initiatives reviewed and the essential elements outlined above are focused on agreements between global brands and local and international trade unions. Future agreements could more actively engage and encourage government support for these solutions. The emergence of enforceable brand agreements is not a substitute for governments' essential role in labor law enforcement, but these agreements can help improve the industrial relations climate in the country and increase transparency in a way that supports improved governance.

Cultivating international and national regulatory mechanisms, requiring mandatory human rights due diligence, and strengthening labor justice institutions in apparel-exporting countries should

be encouraged by emerging initiatives. As described earlier, governments are often unwilling or unable to take strong positions on enforcing labor laws, especially when they are competing for foreign investment to generate employment. Local labor-justice mechanisms may often be slow, bureaucratic, corrupt, and biased against workers. For workers seeking redress, it may take a very long time to navigate a case through local labor courts. These are all symptoms of the global governance gap described earlier in this paper. Given brands' interest in resolving labor conflicts in ways that will keep them in a good standing with their customers, brands' engagement is often necessary to reach resolution of those conflicts and redress in cases of violations. Conversely, when brands disengage after violations are exposed, local employers may perceive that as tacit support from the brand to continue harassing and retaliating against workers who organize to seek improvements in their workplaces.

Ultimately, governments have the primary responsibility to implement and enforce labor laws and ensure compliance with international labor and human rights standards.¹⁰⁰ One notable trend in this direction is the proliferation of laws which seek to promote greater corporate action and accountability for addressing forced labor and other forms of “modern slavery” in global supply chains.¹⁰¹ Although many of these laws merely require corporations to disclose basic information about their supply chain management practices,¹⁰² some require companies to perform more robust human rights due diligence, including working directly with workers and trade unions to construct more effective systems to monitor, enforce, and remedy labor abuses in supply chains.¹⁰³ Companies seeking to comply with these laws will need to demonstrate they are going beyond the traditional CSR audit approach, creating new opportunities for the implementation of worker-driven approaches as real solutions.



CC: ILO



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- 70 Annie Delaney, Tim Connor and Sarah Rennie, “The Freedom of Association Protocol: A Localised Non-Judicial Grievance Mechanism for Workers’ Rights in Global Supply Chains,” Non-Judicial Redress Mechanisms Report Series No. 19, December 23, 2016, https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2889112.

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“This comprehensive report describes the limitations of codes of conduct, CSR, MSIs, certification, and non-binding agreements. It also tells us how important it is to put workers front and center in efforts to ensure better wages, safe workplaces, improved livelihoods for workers, and real corporate accountability.”

- Kalpona Akter, Founder and Executive Director, Bangladesh Center for Worker Solidarity

“Since brands’ CSR has clearly been weak in protecting and promoting labor rights in practice, it’s time for us to think about worker-led social responsibility to end ongoing modern day slavery in the supply chain.”

- Tola Moeun, Executive Director, Center for the Alliance of Labor and Human Rights, Cambodia

“A comprehensive overview of efforts to improve working conditions in the global garment industry. Advocates will find it especially valuable for its analysis of the factors that distinguish meaningful initiatives from corporate whitewash — an approach that will be relevant to efforts to drive accountability in many other sectors of the global economy.”

- Ashwini Sukthankar, Director of Global Campaigns, UNITE HERE

“In this report, ILRF puts to rest the notion that voluntary CSR efforts have made or are making any significant advances for workers in the apparel industry. Indeed, prevailing audit regimes fail to identify, document, or remediate most if not all of the main human rights violations in the garment sector.

Exploring the elements of ground-breaking, worker-led alternatives in Bangladesh, Honduras, and Indonesia, the report makes a compelling call to move from ‘Audit and Ignore’ to ‘Inspect and Remedy.’”

- Ben Vanpeperstraete, Lobby and Advocacy Coordinator, Clean Clothes Campaign

“Careful and comprehensive, this well-documented report exposes the flaws of voluntaristic ‘social responsibility’ policies that fail to protect workers from physical dangers and exploitative conditions.

Beyond criticism, this well-crafted report examines real-world solutions that include enforceable standards and the inclusion of worker representation in workplace affairs.”

- Robert J.S. Ross, author of *Slaves to Fashion: Poverty and Abuse in the New Sweatshops*

“ILRF’s new report is a must-read for anyone working on human rights abuses in the apparel industry.

The report expertly lays out the root causes of labor rights abuses in apparel supply chains and highlights the deficiencies of tick box auditing and certification systems. It also goes beyond pointing out the problems of the current mainstream model by providing a clear path forward towards worker-centered and worker-driven corporate accountability.”

- Nicole Vander Meulen, Legal and Policy Coordinator, International Corporate Accountability Roundtable

