



## WORKER RIGHTS CONSORTIUM

To: WRC Affiliate Universities and Colleges

From: Scott Nova and Ben Hensler

Date: February 28, 2013

**Re: Renewed Violence at E Garment/Yee Tung Group (Cambodia)**

This update details recent violence at the E Garment factory in Kandal Province, Cambodia, against factory workers and staff of the independent union, C.CAWDU. E Garment, which employs roughly 2900 workers, has been disclosed by VF Corporation as a supplier of university logo apparel.

The factory also produces non-collegiate-licensed garments for Marks & Spencer, Bon-Ton Stores, Esprit, Dress Barn, Diesel, C&A, Reitmans (Canada), Matalan (UK), ID Group (France), and Gruppo Coin (Italy). E Garment is owned by the Hong Kong-based Yee Tung Garment Company, Ltd. (“Yee Tung Group”), which is a “participating supplier” member of the Fair Labor Association (FLA).

The recent acts of violence occurred with the complicity of the factory’s management and targeted employees who are members of C.CAWDU and members of that union’s staff. The direct perpetrators were police acting at the behest of factory management and thugs associated with the company-sponsored gangster union, MKKU (formerly VKYFTU), most of whom are on the factory’s payroll.

While the primary focus of this update is specific acts of violence which have been committed at the factory and/or with the collusion of its management in the past month (February 2013), we first present some background information to situate these incidents within the context of ongoing repression of associational rights by the company over the past several years. This information can also be found in the WRC’s December 2012 [report](#) on this factory.

## **I. Background**

### **A. Previous Findings of Labor Rights Violations**

The WRC's December 2012 report found serious and ongoing violations by E Garment's management of its workers' associational rights. As detailed in that report, these violations include, most significantly:

- Since 2007, systematic and targeted terminations of 35 workers by E Garment's management in retaliation for these employees' support for and participation in the associational activities of an independent union, and failure to fulfill commitments to reinstate these workers.
- In August 2010, additional retaliatory firings of eight workers who were leaders of the C.CAWDU following an incident in which these workers were violently attacked on the factory floor by the members of the company-favored union, VKYFTU (MKKU).
- Following this incident, active complicity and collusion by E Garment's management in fabricating and falsifying evidence to place blame for the violence on workers who are members of the C.CAWDU, who were actually the victims of this brutal assault, and concealing the roles and responsibilities of those who were its actual perpetrators and instigators, who were affiliated with the VKYFTU (MKKU).
- Also since 2010, interference with workers' freedom to join a union of their choice, by preventing workers from resigning from the company-favored union, VKYFTU (MKKU) and joining the independent union, C.CAWDU.

The basis for all of these findings was thoroughly discussed in our December 2012 report. The WRC found that these actions by E Garment's management were elements of a larger pattern and practice by the factory's management of denying its workers the fundamental right to join and be represented by a union of their own choosing.<sup>1</sup>

### **B. Previous WRC Engagement with Factory Management and VF**

Pursuant to these findings, the WRC engaged extensively with E Garment's management with the goal of correcting these violations and achieving compliance with Cambodian law, international labor standards and applicable codes of conduct. Unfortunately, despite prior promises to take corrective action, E Garment has failed to remedy the very serious violations of workers' associational rights that its management has committed over the last several years.

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<sup>1</sup> ILO Convention 87 ("Freedom of Association and Right to Organize"), Art. 2 ("Workers and employers, without distinction whatsoever, shall have the right . . . to join organisations of their own choosing without previous authorisation.").

In August 2011, the WRC sent a preliminary draft of its report to E Garment’s main buyers at the time, including VF, and asked them to urgently resolve the violations detailed in the report. Regrettably, VF did not respond.

After release of the December 2012 report, the WRC again contacted VF about our findings of outstanding serious labor rights violations at E Garment. VF responded by indicating that it “had assumed that the problems [at E Garment] had been resolved,” and claiming that “the local judicial system has ruled that the dismissals for … [stemming from the August 2010 incident] was legal.”

As the WRC pointed out to VF in response, VF’s characterization of legal developments in the dispute was grossly inaccurate. In fact, as our December 2012 report had stated, because Cambodia’s labor arbitration system had actually ordered reinstatement of the C.CAWDU’s president and vice-president at E Garment, the company had rejected the arbitrators’ award – which nullified the award’s legal effect. Moreover, the labor arbitrators had not reached any findings regarding either four of the other workers fired in August 2010, or the prior thirty-three illegal firings. Finally, the arbitrators had based their findings concerning the four firings that they did uphold solely on evidence that, as our December 2012 report plainly showed, was the result of blatant fabrications and falsehoods by E Garment and the VKYFTU (MKKU) – and again, in any case, these findings had been nullified by E Garment’s own decision to reject the arbitrators’ award.

In its December 2012 reply to the WRC, however, VF also stated that, since E Garment’s parent company, Yee Tung Group, is an FLA Participating Supplier, “[t]he FLA have asked Yee Tung to respond to the … [WRC report] and advise them of any remedial actions that E Garment are prepared to take.” VF added that “[t]he FLA have set a January 15 [2013] deadline for this report [i.e., Yee Tung’s response],” and that “[o]nce we receive this report we will work with the FLA to resolve any outstanding issues.”

On February 25, 2013, the WRC communicated to the FLA and VF regarding the status of Yee Tung’s response, which, according to VF, had been due on January 15. The FLA replied that it had not yet received Yee Tung’s response. VF, itself, has not yet replied to our communications about the latest acts of company-sponsored violence against E Garment’s employees.

## **II. Recent Developments**

### **A. Continued Company Sponsorship of Gangster Union**

E Garment continues to illegally support and discriminate in favor of the gangster union, VKYFTU, which has been renamed the MKKU. The company’s illicit favoritism towards and collusion with the VKYFTU was detailed in the WRC’s December 2012 report.

Most recently, workers have reported that company HR manager Sok Ang attends and directs meetings of the MKKU at E Garment, a blatant violation of freedom of association. Sok Ang reportedly has also delegated authority to grant employees leave from work to the MKKU, again interfering with workers' freedom to freely choose union membership.

Finally, as further discussed below, E Garment permits the MKKU thugs who are on the company payroll to be absent from the factory and, while on the premises, to drink alcohol on company time. For example, MKKU Vice-President Rom Veasna is often absent from the factory for the entire day and his timecard is punched for him so he is paid for this time. During overtime hours, the MKKU thugs who are employed at E Garment, rather than working, sit in the union's office inside the plant and drink alcohol. Such privileges are not granted to the C.CAWDU.

### **B. Independent Union Protests E Garment's Failure to Fulfill Prior Commitment to Reinstate Fired Workers**

In late 2012, E Garment rejected an arbitration award in a case brought by the C.CAWDU concerning the retaliatory dismissal of more than 40 of its members at the factory between 2007 and 2010. On January 15, 2013, the union gave the legally-required seven-day notice to the company of its intention to strike to secure the company's implementation of previous commitments to reinstate these workers.<sup>2</sup> The union began its strike on the notice date, January 24, 2013.

### **C. Illegal Hiring of Replacements for Protesting Employees**

On February 6, 2013, E Garment responded to workers' decision to strike by beginning to hire replacement workers, a practice that is illegal under Cambodian labor law.<sup>3</sup>

### **D. Intimidation of Protesting Workers by Company-paid Thugs**

While the C.CAWDU-affiliated employees have carried out a peaceful strike, E Garment has used the company-sponsored union, MKKU – which, under its former name, VKYFTU, was responsible for the violent attack on workers inside the factory in 2010 – to intimidate the C.CAWDU member employees.

Since January 24, 2013, roughly six or seven persons affiliated with MKKU have been paid by E Garment to sit outside the factory and shout threats against the striking C.CAWDU members.

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<sup>2</sup> See, Cambodian Labor Law, §324; ("[A] strike must be preceded by prior notice of at least seven working days and be filed with the enterprise or establishment [...]").

<sup>3</sup> See, Cambodian Labor Law, §334; ("[D]uring a strike, the employer is prohibited from recruiting new workers as replacements for the strikers except to maintain minimum service provided for in Articles 326 and 328 if the workers who are required to provide such service do not appear for work. Any violation of this rule obligates the employer to pay the salaries of the striking workers for the duration of the strike.").

Significantly, the MKKU members sit there during the workday while on company time, in the presence of E Garment Human Resource Manager Sok Ang.

On January 24, 2013, Rom Veasna, an employee who is the vice president of MKKU at E Garment, shouted at Chan Pov, the C.CAWDU member and E Garment employee whose reinstatement was ordered last year by the labor arbitrators, “You better be careful. Don’t think you can do whatever you want.” Veasna and several other MKKU members who have been harassing the striking employees with the company’s complicity were later involved in the violent attack on other C.CAWDU members on February 21, 2013.

#### **E. Violence Against Protesting Workers by Company-paid Police**

Police officers who are reportedly paid by E Garment also sit outside the factory with the thugs from the MKKU, some of whom are their relatives. For example, Rom Sarin, one of the persons involved in the February 21 attack on the C.CAWDU-affiliated workers, has a brother, Rom Sarith, and an uncle, Phally, among the local military police.

On February 6, 2013, police officers, acting at the direction of company Human Resources Manager Sok Ang, attacked workers who were protesting peacefully outside the factory gates in order to break-up their strike. Several workers reported being hit and shoved by the police officers, including one female employee who is nearly six months pregnant. Since this incident, this employee, who was briefly hospitalized and is still being medically monitored, has reported worsening abdominal pain.

#### **F. Violence Against Workers by Company-paid Thugs**

On February 21, 2013 at 4:30 p.m., a mob of roughly twenty armed thugs from the MKKU, at least six of whom are on E Garment’s payroll, engaged in a violent premeditated attack on seven members of the C.CAWDU, two of whom are E Garment employees. The thugs followed the workers from the E Garment factory and then, less than a mile away from the plant, attacked them with iron bars and nail-studded clubs. The thugs beat the victims on the head and abdomen with these weapons, injuring four of the C.CAWDU members, two of whom had to be hospitalized overnight.

The assault appears to have been premeditated. Prior to the attack, during the same day, the MKKU thugs stationed outside the factory drank alcohol, and noisily threatened the C.CAWDU members. MKKU Vice-President Rong Veasna pointed his finger at C.CAWDU member Chan Pov and shouted “Be Careful!”

Both the drinking and shouting, which, again, occurred while the MKKU thugs were on company time, took place in the presence of E Garment HR Manager Sok Ang, who took no action in response to this misbehavior. That afternoon, the MKKU thugs began following the C.CAWDU members when they would leave the premises. When the C.CAWDU members

informed police officers who were present of this, the officers who, again, are reportedly paid by E Garment, replied, "That is your problem."

At 4:20 p.m., seven C.CAWDU members, two of whom are E Garment employees, left the factory premises on the road that leads toward Phnom Penh. As they left, they noticed several persons following them on motorcycles.

About one mile away, at a village named Phoum Lechmouy, located in Khum Svay Rolum, Srok Saang, Kandal, the C.CAWDU members encountered an additional group of thugs who were waiting for them. The thugs who had been following them and the ones who were waiting at the village – roughly twenty in all – first knocked one of the C.CAWDU members off his motorcycle. When the other C.CAWDU members came to assist him, the thugs attacked them with nail-studded clubs and iron pipes.

Fortunately, some of the C.CAWDU members were wearing motorcycle helmets which protected them somewhat, however, four of the workers sustained injuries. The two worst injured were C.CAWDU members But Bunchian and Sian Yudh. Bunchian was hit on the head and then on the neck, after his helmet partially deflected the blow. Yudh was hit in the stomach with a nail-studded club, although, luckily, the resulting wound, though long, was fairly shallow.

The C.CAWDU members fled from the MKKU thugs into the nearby homes of the villagers and shouted "thief" in order to attract attention. As villagers gathered at the scene of the attack, the thugs left, some of them returning to the E Garment factory.

The four injured workers were first brought by a three-wheeled taxi to the nearby Bayon Hospital. When the doctors there saw the seriousness of their injuries, they dispatched the workers by ambulance to the better-equipped Calmette Hospital. Yudh and Bunchian had to be hospitalized for two days, while the other two injured C.CAWDU members were admitted to and discharged from the hospital on the same day.

The MKKU thugs who returned to E Garment after participating in the violent attack continued to threaten the C.CAWDU members who were still outside the factory, telling employee Chan Pov that "he was next in line." On the next day, February 22, the C.CAWDU filed a police complaint concerning the attack, naming as among their assailants, MKKU Vice-President Rom Veasna, and MKKU thugs, Rom Sarin, Tuy Phak, San Ry, Nen Socheat and Men Sovandy. All are currently employed at E Garment and, with the exception of Nen Socheat, also reportedly took part in the violent attack on C.CAWDU members at E Garment in 2010, which was committed inside the factory itself.

Since the February 21, 2013 attack, the same MKKU thugs who assaulted the C.CAWDU members continue to use violence to intimidate the C.CAWDU-affiliated workers who are protesting outside the factory. On February 27, 2013, MKKU Vice-President Rom Veasna directed several thugs to assault several of the C.CAWDU members, causing one female worker

to be hospitalized. On February 28, 2013, the uncle of one of the MKKU thugs assaulted one of the C.CAWDU members who was a victim of the February 21, 2013 attack, shouting at him that he was a “troublemaker.”

### **III. Recommendations**

The WRC recommends that to remedy the very severe violations of workers’ associational rights at E Garment, VF and other buyers require the company to:

1. With regard to the physical attacks by the MKKU (VKYFTU) upon C.CAWDU members in 2013 and 2010, and the company’s termination of the victims of the latter assault, the WRC recommends that E. Garment:
  - Dismiss the MKKU/VKYFTU members who have been identified as having physically attacked the C.CAWDU members in 2010 and/or 2013;
  - Reinstate the eight C.CAWDU officers and members who were dismissed after the 2010 incident with full back pay;
  - Take serious disciplinary action against VKYFTU president Hong Sombat for making willfully false statements to the police concerning the 2010 incident and inciting this violence against the C.CAWDU members;
  - Dismiss Human Resources Manager Sok Ang for his collusion and complicity with the MKKU in serious acts of misconduct; and
  - Identify those other E Garment managers who, like Sok Ang, participated in the preparation of false documents concerning the 2010 incident, and take appropriate disciplinary measures against them.
2. With regard to the unfulfilled commitments in the March 2009 agreement with C.CAWDU, concerning the reinstatement of workers who have been subject to discriminatory discharge, reinstate the remaining thirty-three fired employees with full back-pay.
3. With regard to the company’s failure to comply with workers’ requests to cease deducting dues for the VKYFTU, and begin deducting dues for the C.CAWDU:
  - Comply with any such previous and future requests by employees to have dues deductions terminated, and refund any dues deducted after the submission of such prior requests.
  - Comply with all written requests submitted by workers to have dues to a particular labor organization deducted.

4. Provide full back pay to the two union activists who were discriminatorily dismissed following the September 2010 national strike for the period of time from their termination to their reinstatement in February 2011.
5. Issue a statement to employees that the company will respect workers' associational rights and will neither show favoritism toward nor penalize any worker for his or her choice of union membership.
6. Withdraw all privileges granted to the MKKU concerning its officers' conduct and activities while on company time.
7. Instruct the local police that the rights of its employees to engage in peaceful protest outside the factory should be respected.

The WRC continues to believe that only such a comprehensive program of corrective action can prevent further violence against E Garment's workers and restore their associational rights. The WRC encourages universities and colleges with licensing agreements with VF Corporation to contact that company to encourage a prompt and meaningful action in response to the ongoing violations of workers' rights at E Garment and, in particular, the most recent acts of violence against factory employees and their union.