

To: WRC Affiliate Colleges and Universities
From: Laura Gutierrez and Scott Nova
Date: January 18, 2018
Re: **2017 Crackdown on Labor Rights in Bangladesh and the WRC's Response**

I. Introduction and Executive Summary

From the end of 2016 through early 2017, the government of Bangladesh and the country's garment manufacturers responded to protests over the industry's rock-bottom wages by carrying out an unprecedented crackdown on workers and labor rights organizations. This assault on worker rights in the country's export garment industry, the second-largest in the world, included the jailing on false charges of dozens of labor rights advocates and the retaliatory firings of more than 1,500 workers from factories supplying major international brands and retailers. This repressive campaign drew widespread international condemnation from labor and human rights organizations, including the WRC, and, eventually, from major brands and retailers producing in Bangladesh.¹

Working in collaboration with numerous nongovernmental organizations, unions, and international brands, the WRC played a leading role in pressing the government and factory owners to end the crackdown on labor rights in the country's garment sector. These efforts ultimately succeeded in securing the release of the jailed worker leaders and the withdrawal of many, but not all, of the baseless criminal charges against them, as well as the reopening of labor organizations that had been effectively shut-down by police during the crackdown. However, with minimal exceptions, factory owners refused to reinstate the more than 1,500 workers who were retaliatorily terminated during the crackdown and – with equally few exceptions – the brands and retailers who are the factory owners' chief business partners failed to compel them to relent.

As a result, remediation of the severe damage done to the labor rights environment in the country's garment industry during the crackdown has been only partial at best. The crackdown has inflicted lasting harm on the climate for exercising freedom of association and other basic worker rights in the Bangladeshi garment sector, representing a major setback to long-running efforts to improve respect for international labor rights in the industry.

¹ Some of the material in this memorandum is drawn from: WRC, Clean Clothes Campaign, International Labor Rights Forum, and Maquiladora Solidarity Network, "Update on the Labour Rights Crisis in Bangladesh" (April 21, 2017), https://www.cleanclothes.at/media/common/uploads/download/update-on-the-labour-rights-crisis-in-bangladesh/Update%20on%20FoA%20in%20Bangladesh%20April%202017_1.pdf.

The Bangladeshi government and factory owners launched this repression in response to nonviolent protests and strikes by thousands of Bangladeshi garment workers, calling for an increase in the country's minimum wage—which, at 31 cents per hour, is the lowest among those of major garment exporting countries.² In response to these public demonstrations, factory owners fired at least 1,500 workers³ and the Bangladeshi government arrested and imprisoned 38 garment worker leaders, on criminal charges that were unsubstantiated and, in many cases, illegitimate on their face.

Some garment worker leaders were accused of personally committing crimes that took place in locations that they were nowhere near at the time the crimes were supposed to have occurred; other labor activists were charged under a national security law that is no longer on the books. The Bangladeshi government also launched a wide-ranging campaign of intimidation and harassment of unions and NGOs, in many cases forcing these organizations to close their offices during the crackdown. A well-researched article in the *New York Times* in late January 2017 presented a compelling overview of the repressive actions taken against garment workers and their advocates during the period.⁴

The crackdown on labor rights in the Bangladeshi garment industry affected not only the workers who were personally detained by police or dismissed from their jobs, but also workers throughout the industry, who received an object lesson that simply advocating nonviolently for improved working conditions could result in loss of their employment or jailing and criminal prosecution. Such a broad assault on civil liberties chills the exercise of basic rights for all garment workers, including the tens of thousands employed at factories in Bangladesh that make university logo apparel.

Responding to this labor rights crisis was a major focus of the WRC's work during the period of the crackdown, not only in the field in Bangladesh, but also globally, through engagement with leading apparel brands and collaboration with other international labor and human rights advocates. When the WRC learned of the crackdown, our representatives in Bangladesh began systematically documenting events in the field: interviewing workers, union leaders, worker rights advocates, and other witnesses; gathering documentation, including reviewing charges filed by the Bangladeshi police; and analyzing relevant laws and regulations.

This initial investigation yielded overwhelming evidence of the illegality of the government's and employers' actions against workers and union leaders. The WRC supplied detailed

² Rachel Abrams and Maher Sattarajan, "Protests in Bangladesh Shake a Global Workshop for Apparel," *New York Times* (Jan. 22, 2017), https://www.nytimes.com/2017/01/22/business/bangladesh-protest-apparel-clothing.html?_r=0.

³ The Bangladesh Garment Manufacturers and Exports Association (BGMEA), the country's leading organization of garment factory owners, has acknowledged that 1,286 workers from 17 factories were terminated in response to the wage protests; however, the WRC and other labor and human rights advocates estimate that the total number of workers who were dismissed in the course of the crackdown exceeds 1,500.

⁴ Abrams and Sattarajan, *supra*, n. 2.

information and analysis to major brands and retailers, the U.S. embassy and other foreign diplomatic missions in Bangladesh, and other key parties, making clear the need for urgent action by the international community to respond to this assault on fundamental labor and human rights.

The WRC knew from long experience working in Bangladesh and other apparel-exporting countries in the developing world that major international apparel brands, more so than any other actors, are the parties best-positioned to influence decision making on labor rights issues by the Bangladesh government and garment factory owners. The WRC worked with a range of other civil society organizations to contact apparel brands, including the university licensees, adidas, American Eagle (owner of the licensee, Tailgate) and VF Corporation,⁵ and urge these companies to intervene. This engagement secured meaningful intervention by major brands that was the key to winning the release of the jailed garment worker leaders, ending the closure of NGO and union offices, and obtaining an agreement from factory owners to reinstate the workers who had been illegally fired (although, as discussed below, this final commitment ultimately was not honored).

Below, we outline the elements of the government and industry's crackdown on worker rights; the response of the international community; the progress achieved as a result of this international engagement in undoing the damage caused by the crackdown to workers' associational rights; and the current climate for freedom of association in the Bangladeshi garment sector.

II. The Crackdown—Retaliatory Arrests, Criminal Charges, and Mass Firings

The crackdown on labor rights that began in December 2016 and continued through February 2017 represented a major setback for labor rights in Bangladesh, a country that already had a long history of targeting independent union leaders and labor advocates. As the *New York Times*' editorial board observed, the crackdown represented yet another effort by government and manufacturers to “intimidate workers and keep Bangladesh a low-wage country.”⁶

A. False Criminal Charges and Jailing of 38 Garment Worker Leaders and Advocates

Between December 21, 2016 and February 10, 2017, a total of 38 labor activists and workers in Ashulia, Gazipur, and Chittagong, three of the largest industrial hubs in Bangladesh, were arrested and detained by police. In a detailed memo that was sent to university licensees and

⁵ None of the factories where workers were discriminatorily terminated or subject to false criminal complaints during the crackdown were among the facilities that these licensees had disclosed as their suppliers of collegiate apparel. American Eagle, however, which is the parent company of the university licensee, Tailgate, was identified as a buyer of non-collegiate goods from one of the factories involved in the crackdown. *See, id.*

⁶ *See, id.*

other brands sourcing from Bangladesh in February 2017, the WRC explained that there is no proof that any criminal acts were committed by any of the arrested worker leaders.⁷

Management from nine factories brought unsubstantiated criminal complaints, related to the wage strikes and protests, against union leaders and hundreds of garment workers. These complaints, along with another that was filed by the police, themselves, were the basis for the majority of the detentions in Ashulia, where the strikes and protests took place.



Family members of garment worker leaders jailed during the crackdown appeal for their release.

While the majority of those arrested worked in Ashulia, 12 other union leaders were also detained in Gazipur and Chittagong, industrial areas that are located more than 40 and 300 kilometers away, respectively, from where the strikes and protests occurred. All 12 of the latter were detained under charges filed directly by the police and related to incidents that had taken place several months, and in some cases years, prior to the start of the crackdown. These charges were also shown to be baseless and politically motivated.⁸

In its actions against these workers and leaders, the government also utilized the country's Special Powers Act, a law which has long been criticized by human rights advocates for allowing virtually any act of protest to be punished with indefinite detention without due process.⁹ Moreover, in its zeal to jail labor activists, the government even cited in the charges against them a portion of this infamous law that already had been repealed and was no longer in effect.¹⁰

Despite the obvious illegitimacy of their detentions, many of the jailed garment worker leaders were imprisoned during the crackdown for periods of more than 40 days. At least one detainee

⁷ WRC, "Misconceptions Regarding Mass Arrests and Terminations in Bangladesh" (Feb. 1, 2017), <https://www.workersrights.org/wp-content/uploads/2018/01/WRC-re-Bangladesh-Misconceptions.pdf>.

⁸ Id.

⁹ Human Rights Watch, "Letter to P[ri]me M[inister] Sheikh Hasina with Recommendations to Improve Human Rights in Bangladesh" (Jan. 29, 2009) ("In particular, we urge you to repeal the Special Powers Act, 1974, which has over the years been misused for political and other reasons to keep thousands of people detained for long periods of time without due process and a chance to challenge their detention before an independent tribunal. Detentions have often been based on mere allegations or politically motivated grounds."), <https://www.hrw.org/news/2009/01/29/letter-pm-sheikh-hasina-recommendations-improve-human-rights-bangladesh>.

¹⁰ Human Rights Watch, "Bangladesh: Stop Persecuting Unions, Garment Workers; Brands Should Make Binding Commitments to Protect Freedom of Association," (Feb. 15, 2017), <https://www.hrw.org/news/2017/02/15/bangladesh-stop-persecuting-unions-garment-workers>.

reportedly was kept chained in leg shackles around the clock, while another was held in a cell so dark that the detainee was unable to see his own hands.¹¹

B. Illegal Firings of 1,500 Garment Workers

At least 17 garment factories in the country suspended and initiated the termination of more than 1,500 workers in retaliation for the wage strikes. In a February 2017 memo to international apparel brands, the WRC explained in detail how the dismissals were unjustified and retaliatory in nature.¹² Human Rights Watch also observed that none of the suspension notices issued to workers initiating their terminations “was tailored to an individual worker, specifying clearly how they were implicated in the strikes, but [instead] included broad, vague allegations addressed to a group of workers.”¹³

The mass dismissals were clearly attempts to collectively punish garment workers and union leaders for exercising their right to protest over low wages and to suppress further associational activity. In response, the WRC, Human Rights Watch, and other leading international labor and human rights organizations called for all of the terminated workers to be offered reinstatement to their former positions with full back pay.

C. Harassment of Worker Organizations

As already discussed, there is a long history of persecution of trade unions and other labor rights groups by government authorities in Bangladesh.¹⁴ However, as the WRC and other labor and human rights organizations described in a letter sent to brands in January 2017, the crackdown that began in December 2016 represented a significant intensification of such harassment which made it almost impossible for many of these organizations to carry out their basic activities on behalf of garment workers.¹⁵

For example, on January 20, 2017, a training funded by the International Labour Organization, which was being held at a union office in Gazipur, was interrupted by plainclothes police officers searching for two of the union’s staff members. In addition to collecting the names and personal details of all of the participants in and organizers of the program, the police officers also photographed many of the training participants and ordered them to cease communicating with the union and its staff.

One of the police officers involved in this incident stated that if he were to find the union’s vice president, Raju, the officer would “drown him [Raju] in a sewer.” The incident forced the union

¹¹ WRC, *supra*, n. 7.

¹² *Id.*

¹³ Human Rights Watch, *supra*, n. 5.

¹⁴ See, e.g., Vikas Bajaj and Julfikar Ali Manik, “Bangladesh Arrests 21 After Rallies,” *New York Times* (Aug. 21, 2010), <http://www.nytimes.com/2010/08/17/business/global/17labor.html?emc=eta1>.

¹⁵ WRC, et al, “Letter to Brands and Retailers Sourcing from Bangladesh” (Jan. 18, 2017), https://laborrights.org/sites/default/files/publications/Intl_NGO-Letter_re_Bangladesh_1-18-2017_0.pdf.

to prematurely end the training program and temporarily close its office. By late February 2017, such police harassment had forced many union and NGO offices to close, either as a direct result of further incidents of this kind, or simply out of fears for the personal safety of their staff.

III. WRC Response, Brands and Retailers' Intervention, and Remedial Measures

In the face of international pressure from the WRC, other human and labor rights organizations, foreign governments, and international apparel brands, the Bangladesh government and factory owners halted the crackdown and began to lift the repressive measures imposed on garment workers and labor rights advocates. As described above, the WRC helped lead a broad international effort that resulted in more than 20 major buyers, including Gap, H&M, Inditex (the Spanish retailer that is the owner of Zara), Li & Fung (a sourcing agent for many leading brands and retailers), and the collegiate licensee, VF Corporation, writing to the Prime Minister of Bangladesh calling for an end to the repression of labor rights and an increase in the minimum wage.¹⁶

Most significantly, the WRC and other groups urged brands to take the symbolically powerful step of refusing to attend the Dhaka Apparel Summit (“Summit”), an important annual industry conference sponsored by the country’s primary apparel factory owners’ association, Bangladesh Garment Manufacturers and Exporters Association (BGMEA). Because this conference, which was scheduled for late February, is the primary annual showcase for the Bangladesh garment industry, the attendance of leading international apparel brands is of great political and symbolic importance to the country’s factory owners.

Seven major brands, among them, again, Gap, H&M, Inditex and VF, ultimately declared that, given the ongoing crackdown on labor rights in the industry, they did not intend to attend the Summit, an announcement that put great pressure on the BGMEA and, by extension, on the Bangladeshi government to end the crackdown.¹⁷ As the scheduled date of the conference approached and pressure on the industry mounted, the Bangladeshi government began to release the detained garment worker leaders. By the eve of the Summit, all but five of the detainees had been released from jail and were home with their families.

Two days before the conference, the Bangladeshi Ministry of Labor and the BGMEA met with the IndustriALL Bangladesh Council, an umbrella body for many of the country’s garment worker unions, and, on February 23, the parties reached an agreement by which the BGMEA and the labor ministry committed to obtain the release of those worker leaders who were still detained, the withdrawal of criminal charges against both the latter and those detainees who had

¹⁶ Michelle Russell, “Apparel Brands Urge Bangladesh P[ri]me M[in]ister to Raise Wages,” *Just-Style* (Jan. 17, 2017), https://www.just-style.com/news/apparel-brands-urge-bangladesh-pm-to-address-wages_id129775.aspx.

¹⁷ Arthur Friedman, “Retailers Withdraw from Bangladesh Apparel Summit,” *Women’s Wear Daily* (Feb. 22, 2017), <http://wwd.com/business-news/government-trade/retailers-withdraw-from-bangladesh-apparel-summit-10813610/>.

already been released, and reinstatement for the workers who had been dismissed from their jobs, as well as an end to harassment aimed at union offices and their staff.¹⁸ While, as the WRC and other leading international labor rights organizations noted, the agreement had significant weaknesses, including lack of firm timelines and sufficient specificity regarding the obligations of the government and factory owners, it represented a formal written commitment from these parties that the garment worker unions could then use to press for the necessary remedial measures to be implemented.¹⁹

A. Release of Detainees and Partial Withdrawal of Criminal Complaints

Following the signing of the February 23 agreement among the Bangladeshi Ministry of Labor, the factory owners in the BGMEA, and the unions of the IndustriALL Bangladesh Council, the remaining jailed worker leaders received bail, with the last detainee released on March 9, 2017.²⁰ However, as discussed below, some of the criminal complaints against the worker leaders were not fully withdrawn, with the result that many of the former detainees continue to face criminal charges that carry the potential of long jail sentences and require frequent court appearances, in some cases, on as many as nine days per month.

Securing withdrawal of the criminal complaints against the garment worker leaders required further intervention by international brands with their factory suppliers. Prior to the February 23 agreement being reached, the retailer, H&M, which is the largest single exporter of garments from the country, had already extracted written commitments from its Bangladeshi supplier factories concerning specific measures to remedy the violations of associational rights that had occurred.

Pursuant to these preexisting commitments, and under the auspices of a global framework agreement concerning supply chain labor practices that H&M is party to with the IndustriALL Bangladesh Council's international parent body, IndustriALL Global Union, discussions concerning reinstatement of fired workers and withdrawal of criminal charges were held among garment worker unions and the owners of six factories supplying H&M.



A garment worker leader is released from jail.

¹⁸ IndustriALL, “Breakthrough in Bangladesh as Unionists and Garment Workers are Freed Following International Pressure” (Feb. 23, 2017), <http://www.industriall-union.org/bangladeshi-unionists-and-garment-workers-freed-following-international-pressure>.

¹⁹ WRC, Clean Clothes Campaign, and International Labor Rights Forum, “Major Developments in Bangladesh Labor Crackdown; Important First Step Taken However Crisis Not Resolved” (Feb. 24, 2017), <https://laborrights.org/releases/major-developments-bangladesh-labor-crackdown-important-first-step-taken-however-crisis-not>.

²⁰ WRC, Clean Clothes Campaign, International Labor Rights Forum, and Maquiladora Solidarity Network, *supra*, n. 1.

Following a series of meetings among the unions, factory owners, local H&M representatives, and the Bangladesh office of the AFL-CIO Solidarity Center, an agreement was reached in which the six factories committed to offer reinstatement to the workers whom they had dismissed during the crackdown, and to take all steps within their power to see that the criminal complaints the factories had previously filed against garment worker leaders would be withdrawn.²¹ Another buyer, the Danish retailer, Bestseller, also successfully pressed two of its supplier factories to make similar commitments.

These agreements led to seven of the eight criminal complaints filed by factory managers against garment worker leaders being withdrawn. The eighth complaint filed against worker leaders by factory managers, however, which was filed by a factory named The Rose Dresses, Ltd., is still pending.

Moreover, all of the criminal cases brought against garment worker leaders directly by the Bangladesh police are also still pending; the former detainees are required to appear in court at least once per month, and they still face the prospect of re-arrest and criminal prosecution. These cases, which could easily be withdrawn by the government, impose a heavy burden on the time and resources of the former detainees and hinder them from resuming their regular activities on behalf of the country's garment workers.

B. No Reinstatement for More than 1,500 Illegally Fired Workers

In contrast to the jailing of, and filing of false criminal charges against, garment worker leaders—where the end of the crackdown brought meaningful corrective measures, including the latter's release from detention and the withdrawal of many, though not all, of the charges against them—the factory owners' mass termination of more than 1,500 workers, to this date, still has not been remedied. As discussed, the February 23 agreement among the unions of the IndustriALL Bangladesh Council, the labor ministry, and the BGMEA factory owners association, as well as the agreements subsequently signed by garment worker unions with the eight supplier factories to H&M and Bestseller, both included commitments to ensure that these factories offer reinstatement to workers who had been terminated *en masse* during the crackdown.²²

After these agreements were signed, however, individual factory owners continued to either outright refuse, or drag their feet on, reinstatement of the workers whom they had terminated. Moreover, for their part, the Bangladeshi unions, still recovering from having had many of their leaders jailed and their offices shut down, and with some of the former still facing criminal charges, were unable to mount a sustained effort to secure for the terminated employees a genuine opportunity to return to work. Most significantly, with the exception of H&M, leading

²¹ Id.

²² Id.

apparel brands and retailers failed to require their supplier factories to fulfill the commitments the latter had made to reinstate the workers they had illegally fired.

As often occurs when reinstatement of retaliatorily terminated employment is delayed by employer resistance, many of the fired workers have given up hope of returning to their jobs. The WRC has been able to document only one example—out of more than 1,500 firings that took place during the crackdown—where one of the terminated employees has returned to work. The result of the failure to remedy these mass firings has been a significant and lasting setback to longstanding efforts to establish basic respect for freedom of association in the Bangladeshi garment industry.

C. Continuing Harassment of Labor Groups

Since the agreement among the unions of the IndustriALL Bangladesh Council, the labor ministry, and the factory owners in the BGMEA was reached in February 2017, labor unions have been able to reopen the offices that were shut down during the crackdown.²³ However, police continue to harass these labor organizations, by returning to their offices and interrogating both their staff and any garment workers who are present to receive training, representation, or other assistance. These interrogations include questioning garment workers and union staffers concerning their legal political activities, personal finances, and immediate family members.

IV. Conclusion

The international response that the WRC and other labor and human rights organizations secured from major apparel brands and retailers was crucial to ending last year's crackdown in Bangladesh. This effort obtained the release of the detained garment worker leaders, withdrawal of most of the criminal complaints against them, and reopening of union offices. By expressing their willingness to stay away from the Bangladesh garment industry's highest-profile public event of the year, individual brands and retailers sent a strong message to the Bangladesh government and employers, and the results that were achieved demonstrate the significant influence these brands and retailers have over the treatment, by both employers and government, of both the workers producing their goods and garment worker labor organizations.

However, as already discussed, remediation of the damage done by the crackdown to the rights and welfare of Bangladeshi garment workers remains painfully incomplete. One of the criminal complaints filed against garment worker leaders by factory owners still has not been withdrawn, and this is also the case with respect to all of the false criminal charges filed against the worker leaders directly by the police.

²³ WRC, Clean Clothes Campaign, International Labor Rights Forum, and Maquiladora Solidarity Network, *supra*, n. 1.

Finally, there has been virtually no implementation to speak of concerning the commitment to ensure the reinstatement the more than 1,500 workers who were retaliatorily terminated during the crackdown. Given the fact that nearly 10 months have passed since the factory owners in the BGMEA and the Bangladesh government's own labor ministry formally committed to take these steps, the lack of follow-through on correcting these serious labor rights violations is cause for serious concern.

The crackdown inflicted severe personal hardships on both the individual garment worker leaders who were subject to lengthy detentions and have been falsely charged with criminal offenses, and the factory workers who were—and still are—dismissed from their jobs. It also has had a lasting chilling effect on the exercise of freedom of association by millions of other workers throughout the Bangladeshi garment industry.

Following the crackdown, the WRC and other labor and human rights organizations have found that factory owners continue to feel emboldened to retaliate with impunity against workers' exercise of their associational rights. In order to end Bangladesh's vicious cycle of inadequate wages, desperate worker protests, and government and employer repression, the international community and, in particular, major apparel brands and retailers, must continue to exert pressure on the government and factory owners to respect freedom of association and mandate a higher minimum wage. The WRC continues to urge apparel brands and retailers, foreign governments, and international institutions to make clear to individual factory suppliers, the BGMEA, and the Government of Bangladesh that these parties must follow through on their commitments to withdraw the false criminal charges still pending against garment worker leaders, reverse retaliatory firings of garment workers, end harassment of labor organizations, and cease all other violations of associational rights.