

**WORKER RIGHTS CONSORTIUM
FACTORY ASSESSMENT
POSMI SWEATERS LIMITED (BANGLADESH)**

FINDINGS AND RECOMMENDATIONS



January 30, 2020

I. Introduction

The following is a report of the findings and remediation of the Worker Rights Consortium's ("WRC") investigation of violations of labor law and buyer codes of conduct at Posmi Sweaters Ltd. (Posmi), a sweater factory located in Gazipur, Bangladesh. Posmi produces sweaters for Primark, El Corte Inglés, and METRO, among others. Posmi previously produced collegiate-licensed goods for the licensee Accolade Group ("Accolade"). The factory employs 1,020 workers.

In the Spring of 2018, the WRC initiated an investigation in response to a complaint from the Akota Garment Workers Federation (AGWF), brought on behalf of seven Posmi employees, alleging their retaliatory and illegal termination. While investigating the termination of the seven workers, the WRC found a number of violations of university codes of conduct and Bangladeshi law, including severe wage and hour violations affecting the workers employed in the factory's "jacquard" section, where the seven complainant workers were assigned.

As detailed in this report, the areas where the WRC identified violations of Bangladeshi law include the following:

- Wages and hours of work—including coerced overtime, excessive overtime, unpaid "off-the-clock" work, unlawful delay in the payment of wages, and the practice of falsifying records to conceal these abuses; and
- Illegal termination of seven employees.

Because the wage and hour violations were occurring while Accolade was producing university logo product at this facility, those legal violations also constituted violations of university labor codes, as set forth in Accolade's licensing agreements. It should be noted that the WRC contacted Accolade multiple times over the course of the investigation, in writing and over the phone, to recommend that they press Posmi to remediate the violations. The WRC received no reply from Accolade. Fortunately, in this case, because other sourcing brands representing a large portion of the factory's production intervened, the case was resolved in spite of Accolade's lack of involvement.

After extensive engagement with Posmi regarding the WRC's findings, the company signed a memorandum of understanding (MOU), which, if properly implemented, would fully remediate the violations of university codes of conduct and relevant sections of Bangladeshi law uncovered by the WRC during the investigation. The MOU stipulates that Posmi must:

- Provide workers with remuneration for all uncompensated overtime, equivalent to 4,000 taka per worker employed in the jacquard section of the factory per month, from August 2017 through July 2019 (for example, if 50 workers were employed during the month of January 2018, the factory will pay 200,000 taka for that month), to be paid in three installments in February, May, and August of 2020;
- Issue a written statement to all Posmi workers, in the presence of the WRC, confirming that all overtime must be voluntarily accepted and that no worker will face retaliation for refusing to work overtime; and

- Comply with all applicable legal restrictions on maximum overtime and observe all legal requirements regarding breaks and rest days.

Posmi's commitment to fully remediate the violations uncovered by the WRC is a promising development, especially since wage and hour violations are common throughout the industry and suppliers are typically unwilling to proactively acknowledge and rectify them. Due to the relatively long implementation period for the MOU, with the last payment being made in August 2020, the WRC will continue to closely monitor Posmi's actions to ensure that they meet their commitments and actually achieve full remediation of outstanding violations.

II. Methodology

A. Sources of Evidence

It is important to note the purpose of this investigation was to examine (originally) alleged retaliatory terminations and (later) apparel wage and hour violations in Posmi's jacquard section. The investigation did not include interviews with workers in other sections of the factory nor the examination of other areas of labor rights compliance.

The findings in this report are based on:

- In-depth individual interviews and five group interviews, with 20 current and former Posmi employees, conducted offsite between April and October 2018;
- Review and analysis of time cards, pay slips, employment contracts, and other factory documents supplied to the WRC by workers; and,
- Review and analysis of relevant provisions of Bangladeshi labor law.

B. Background

Posmi's jacquard section is named for the automated weaving machine (fitted to a power loom that simplifies the process of manufacturing textiles) that the workers discussed in this report were assigned to operate. Based on worker testimony, the WRC estimates that Posmi employs 75 workers in total in its jacquard section. The jacquard section at Posmi, which is located on the ground floor of the eight-story building, was established in 2015. Prior to 2015, the weaving that is currently processed by the jacquard machines was likely done manually. The introduction of the jacquard section at Posmi is representative of the growing automation of the garment industry globally.¹ One large reason a factory would acquire automated jacquard machines is efficiency. Estimates suggest that a jacquard weaving machine increases daily output per worker sixfold, effectively requiring fewer workers.² Digital jacquard weaving also allows a factory to produce more sophisticated and technical garments.

¹ Zyma Islam, "Are machines taking over the jobs of female garment workers?" *The Daily Star*, May 18, 2018, <https://www.thedailystar.net/star-weekend/labour-rights/are-machines-taking-over-the-jobs-female-garment-workers-1577764>.

² Myo Lwin, "New technologies are affecting jobs the world over. Is your job safe?" *Myanmar Times*, May 7, 2018, <https://www.mmtimes.com/news/new-technologies-are-affecting-jobs-world-over-your-job-safe.html>.

The large majority of the workers employed at Posmi are paid by the piece, meaning that their monthly income is based on the number of products they are able to complete in a given period of time.³ Most workers employed at sweater factories in Bangladesh are paid using a piece-rate system.

Workers employed in Posmi's jacquard section, however, are paid a fixed, monthly salary, as opposed to a piece rate. As discussed in detail below, salaried workers must, by law, be paid additional sums above their monthly base salary for any overtime hours they work.

III. Findings

The subsections below detail the findings of the WRC with respect to working conditions and labor practices at Posmi that violate Bangladeshi labor laws, relevant international labor standards, and buyer codes of conduct.

A. Working Hours

The Posmi jacquard section operates a two-shift schedule, with employees working from either 8:00 a.m.–8:00 p.m. (the day shift) or 8:00 p.m.–8:00 a.m. (the night shift), six days per week. Workers report breaking once during their 12-hour shift, for about 15 minutes, to eat a small lunch. Because the jacquard machines must remain on at all times, when a worker is breaking to eat, he must ask a colleague to cover his production. Workers eat beside their work station.

The last four hours of employees' work shifts are overtime, which must be paid at a premium rate of 200% of regular pay. Under Bangladesh's Labour Act, employees are prohibited from working more than 48 hours in a week unless they are paid at an hourly rate equal to twice their normal wages.⁴

However, even when paying the proper overtime rate, factories are legally prohibited from maintaining work-weeks in excess of 56 hours,⁵ unless granted special permission by government authorities for a period of time that is required not to exceed six months. On April 5, 2018, the Ministry of Labour and Employment of Bangladesh issued an exception to the law, applicable to all export-oriented factories, allowing workers to perform up to four hours of overtime per day for a period of six months, from April 17, 2018, to October 18, 2018, subject to certain conditions, including that the factory, in accordance with the law, must pay employees at twice the usual rate for the overtime hours worked and that the work must be voluntary.⁶ Posmi provides its jacquard employees with the following two documents that claim to reflect the number of hours performed by each worker:

1. *Pay slip*—the receipt that workers receive with their monthly pay; and

³ The calculation piece rate at which workers are paid is outlined in the 2016 Bangladesh Labour Rules.

⁴ Bangladesh Labour Act, Articles 102 (1)-(2) and 108 (1).

⁵ Bangladesh Labour Act, Articles 102 (1)-(2) and 108 (1).

⁶ The Government of Bangladesh, Ministry of Labour and Employment, "Gazette Notification, Subsection 6", April 5, 2018.

2. *Time card*—a document on which, each day, management hand writes a time of entrance and exit for each worker.

Posmi also provides its employees with electronic identification cards, which allow workers to “clock in” and “clock out;” however, workers interviewed by the WRC report that they are not required to do so every day. Because workers are not required to clock in and clock out every day, the WRC concluded that any hours that the electronic identification card might record do not accurately represent the actual hours worked by Posmi employees.

The WRC identified five practices at Posmi with respect to the factory’s working hours that violate Bangladeshi law: (1) failing to compensate workers for hours worked; (2) requiring employees to work overtime on an involuntary basis; (3) maintaining excessive overtime hours, relative to both the daily and annual statutory maxima; (4) the denial of their weekly holiday; and (5) delayed payment of wages.

1. Uncompensated Working Hours/Overtime

a. Findings

Over a period of two months (August and September 2018), the WRC documented the working hours of 15 interviewees. The WRC found that these employees regularly worked 12.3 hours a day, six days a week. As discussed above, 4.3 of the 12 hours of work, by law, represent overtime work. The WRC’s investigation concluded, however that, on average, workers are only paid for eight hours each a day. Furthermore, neither the management-issued time cards nor pay slips accurately reflect the actual hours worked by the Posmi employees.

Pay slips: The majority of pay slips, despite workers having an average of 104 hours of overtime a month, reflect them having worked *zero* hours of overtime. On pay slips issued before 2018, the WRC documented at least five cases where workers would have at least a couple of overtime hours recorded on their pay slip. Based on worker testimony, the WRC concludes that these were hours worked by the employees *on their weekly day off*.

*Time cards:*⁷ The WRC’s review of the workers’ monthly time cards, which are signed daily by and kept with management during working hours, demonstrate that Posmi management does, in fact, acknowledge that their employees are working for more than eight hours a day. The time cards for the month of August and September consistently show that the workers entered the factory at 8:00 (a.m. or p.m.) and left at 7:00 (a.m. or p.m.), working a total of 11 hours. While this is *more* than what is reflected on the workers’ pay slip it does not accurately reflect the average of 12 hours of *actual* work performed by the workers. The workers understand their time cards to be proof of their attendance. While many of the workers acknowledged that the hours reflected on the time card were incorrect, because they did not know they that are entitled to more than their gross salary, they did not view the discrepancy as a problem.

⁷ Based on the available information, the WRC could not determine the actual purpose of these time cards.

None of the workers interviewed knew that they were entitled to additional pay for overtime work. One worker stated, “overtime [pay] is for garment factories only.” Another worker understood that “you only get overtime [pay] if you work during holidays.”

Every pay slip and time card reviewed by the WRC reflected a consistent practice and represented two major violations: (1) a systematic failure by the management to record the actual number of hours worked by their employees; and, as a result, (2) a failure to compensate its employees for a significant amount of time worked.

In the month of August, despite working four hours of overtime a day, *none* of the interviewees were paid for any overtime work. Workers were *only* paid their monthly standard salary. The average gross wage of the workers interviewed is US\$150 a month. Despite the fact that the management’s own records (on workers’ time cards) consistently demonstrated that workers were performing at least 11 hours of work each day (one hour less than what the WRC has concluded are the actual hours worked), management was only compensating workers for eight hours of work each day. Not only were workers not being compensated for an average of four hours of work each day, which is a violation of Bangladeshi law,⁸ but, because these hours are more than the legal maximum of regular hours worked, these four hours should have been paid at an overtime—equal to twice their usual—rate.⁹

b. Recommendations for Corrective Action

To ensure compliance with Bangladeshi law and brand codes of conduct, the WRC recommended that Posmi take the following actions:

- Compensate former and current employees for all owed overtime compensation. In consultation with the WRC and AGWF, the company should fulfil this obligation by:
 - Developing a complete list of current and former workers to whom this compensation should be paid;
 - Calculating the total amount of overtime compensation that should be paid, which will be reviewed by the WRC and AGWF;
 - Paying full compensation to each former and current worker for unpaid overtime under Bangladeshi law; and
 - Cooperating in a procedure for contacting current and former workers concerning these funds.
- Pay all workers the legally required premium compensation for all overtime work going forward which, for the coming six months, will be reviewed monthly by the WRC.

⁸ Bangladesh Labour Act 2018, Article 121, “Every employer shall be liable to pay to workers employed by him all wages required to be paid under this Act.”

⁹ Bangladesh Labour Act 2018, Article 108 (1), “Where a worker works for more hours than the hours fixed under this Act in an establishment on any day or in a week he shall, for overtime work, be entitled to allowance at the rate of twice his ordinary rate of basic wage and dearness allowance and ad-hoc or interim wage, if any.”

2. Involuntary Overtime

a. Findings

Every worker interviewed by the WRC testified that they felt required by management to perform the four hours of overtime each day. According to workers, management makes no distinction between regular work hours and overtime hours at the time of the appointment.

Workers consistently testified that, at the start of their employment with Posmi, managers verbally stated that they were expected to work 12-hour shifts every day, without exception, despite the fact that their appointment letter (contract with the factory) states that work exceeding 48 hours each week shall be considered overtime and that “overtime is not compulsory.”

None of the workers interviewed by the WRC think that they have the right to decline overtime work. As one worker noted, “The management told me that I could get the job only if I could work 12 hours a day. If I tell them now that I want to go home after eight hours, they’ll ask me to fuck off.” Workers stated that asking to be excused after eight hours of work was tantamount to taking leave and was considered as such by the management. One interviewee understood that, “no sweater factories give overtime on a day to day basis. It’s common knowledge that you have to work 12 hours every day.”

Workers consistently described believing that management might allow them to leave the factory before the 12-hour shift is done for unique circumstances but would not have allowed them to do so for multiple days in a row. One worker described a time when he asked his supervisor to leave the factory early because of a family obligation on two consecutive days, and his supervisor replied, “You think this is your empire and you can come and go any time you want? You know there is a very easy solution if working the hours is too difficult for your lordship.” The worker understood from this that he would be fired if he were to take the days off. Other workers testified that refusing to work overtime hours is simply not an option and that they are afraid of raising the issue with the management for fear of reprisal.

According to Bangladeshi labor law, all overtime must be performed by workers on a voluntary basis.¹⁰ Furthermore, the appointment letters provided to each new Posmi worker upon hiring also clearly state that, “If one works more than eight hours a day and 48 hours in a week, it would be considered as overtime,” and that “overtime is not compulsory.”¹¹ Workers at Posmi are not free to choose, as a purely voluntary decision, whether or not to perform overtime on any given day. Requiring workers to perform overtime not only violated the legal requirement but the company’s own policy that any work performed beyond eight hours must be voluntary. Furthermore, the practice of compulsory overtime also violated Posmi’s sourcing brands’ codes of conduct.¹²

¹⁰ Bangladesh Labour Rules, 2015, Article 99.

¹¹ Posmi Sweater Ltd., “Appointment letter” (General Worker) [On file with the WRC].

¹² See, e.g. Primark, “Code of Conduct,” (“All overtime hours shall be voluntary. Overtime shall be used responsibly, taking into account all the following: the extent, frequency and hours worked by individual workers and the workforce as a whole. It shall not be used to replace regular employment”), <https://m.primark.com/en/our-ethics/code-of-conduct>.

b. Recommendations for Corrective Action

To comply with Bangladeshi law and brands' codes of conduct, the WRC recommended that Posmi:

- Cease its practice of requiring employees to work overtime; and
- Communicate in writing and via announcement to both supervisors and employees that overtime must only be performed on a voluntary basis.

3. Excessive Overtime

a. Overtime in Excess of Weekly Maximum

i. Findings

Employees at Posmi state that they were working a schedule of 12 hours per day, six days a week, equalling 72 hours per week in total, demonstrating that the factory regularly exceeds the weekly maximum by asking the workers to work excessive—involuntary and unpaid—overtime of 12 hours each week.

While a gazette notification from the Ministry of Labor and Employment did allow factories producing for exports to operate for an additional four hours, there are clear conditions under which factories can ask workers to perform overtime, the foremost amongst which is that overtime must be paid and that it must be optional. The gazette specifies that “for each hour of overtime worked, employees must be paid at twice the usual rate, as per existing law” and that “no worker can be made to work four hours of extra overtime without his consent.”

Under the Bangladesh Labour Act, the factory is required to ensure that no worker performs, on average, more than 56 hours per week of work.¹³ Further, most vendor codes of conduct, including brands sourcing from Posmi, require suppliers to ensure that no worker exceeds 60 hours (48 hours of regular working hours and 12 hours of overtime) in a week.¹⁴ Posmi is violating both of these standards.

ii. Recommendations for Corrective Action

To comply with Bangladeshi law and brands' codes of conduct, the WRC recommended that Posmi:

- Cease the practice—which will likely entail modifying the schedule of the jacquard section—of requiring employees to work in excess of 56 hours a week.

¹³ Bangladesh Labour Act 2006, Article 102 (2), (“Subject to the provisions of section 108, an adult worker may work for more than 48 (forty-eight) hours also in a week. Provided that the total working hours of such worker shall not exceed 60 (sixty) hours in a week, and on the average 56 (fifty-six) hours per week in a year.”).

¹⁴ See, e.g. Metro, “Code of Conduct, (“On regular basis the business partner shall not require a work week, including overtime, over 60 hours, employees shall be allowed at least one day off after six consecutive days of work”), <https://www.metroag.de/en/company/compliance>.”

b. Overtime in Excess of Daily Maximum

i. Findings

Workers at Posmi were subjected to another form of off-the-clock, uncompensated work-time: time spent before and after each shift to “hand over the machine” to the worker on the next shift. All workers interviewed by the WRC testified that they need to clock in at least 10 minutes before their shift in order to ensure that they are able to reach their stations, set up and clean their stations, and transition from one shift to the next. They explained that “setting up” involves talking to the worker in the earlier shift and understanding the nature of the production on that given day and hour, going to the counter to get a token for raw materials, going to the store to get yarn, and getting a pen drive with the design that is to be worked. The worker also assists his colleague from the previous shift to prepare the production count of the earlier shift. After that, he has to clean the machines with a blower. According to consistent worker testimony, the transfer between shifts requires a minimum of 20 minutes each day. Over the course of a month, this time adds up to eight hours of additional work.

In addition to the excessive overtime that employees are working each day, as discussed in the previous section, Posmi’s practices of requiring workers to take additional, uncompensated time to transfer production from one shift to the next is in violation of the Bangladesh Labour Act, because it is neither voluntary nor compensated¹⁵ working time.

ii. Recommendations for Corrective Actions

To ensure compliance with Bangladeshi law and buyer codes of conduct, the WRC recommended that Posmi take the following actions:

- Modify the schedule in the jacquard section so as to bring the average hours by each employee into compliance with the national law.

4. Denial of Weekly Holiday

a. Findings

In addition to the daily overtime, former and current workers reported that they were frequently required to work on their weekly holiday (Friday) from 2015 until 2017. Workers testified that they were, however, paid at an overtime rate for the hours performed on this day. As one worker noted, “Even though it was very difficult for me sometimes to work throughout the week and then through the weekend, I accepted it, because it meant a few hundred extra taka in my pocket.” When asked if he would have still preferred to work during holidays had he been paid for the four hours of overtime each day of the week, he replied, “Of course not. Then my take-home [amount] would be sufficient for me to take a break and spend it with my family.” Another worker stated that working seven days a week took a toll on his mind and body, causing different

¹⁵ Bangladesh Labour Act 2006, Article 108 (1), (“Where a worker works for more hours than the hours fixed under this Act in an establishment on any day or in a week he shall, for overtime work, be entitled to allowance at the rate of twice his ordinary rate of basic wage.”).

ailments including severe back pain. “Can you imagine working 12 hours every day, and then not even getting a day off? Some days I felt like my body would collapse, I was in so much pain—my neck, my shoulders, my back, my hands hurt—but I didn’t want to tell my management, because I needed the extra money.”

According to workers, Posmi no longer required its employees in the jacquard to work on their statutory holidays, as they had instituted a new policy whereby workers are assigned different days of the week as their holiday to ensure that the factory can remain open throughout the week without workers working overtime on their statutory weekly holiday.

While this practice appeared to have become obsolete, requiring employees to work an additional eight to 12 hours on their weekly holiday—often multiple times in a given month—nonetheless is a violation of Bangladeshi law which requires employers to provide each worker at least one day off per every six days of work completed.¹⁶ The law permits employers an exception to this provision if it allows workers “as soon as circumstances permit, compensatory holidays of equal number to the holidays so deprived of.” Based on worker testimony, there was no indication that workers were provided additional holidays. By requiring employees to regularly work seven consecutive days, Posmi violated Bangladeshi law as well as brand codes of conduct.¹⁷

b. Recommendations for Corrective Action

To comply with Bangladeshi law and brands’ codes of conduct, the WRC recommended that Posmi:

- Compensate employees for its previous failure to provide them with a full weekly rest day, by providing them with back wages equal to the number of hours they worked, at an overtime rate; and
- Cease its practice of requiring employees to work on their rest days.

5. Delayed Payment of Wages

a. Findings

Bangladeshi labor code specifically requires that employers must pay workers “before the expiry of the seventh working day following the last day of the wage period.”¹⁸ Workers consistently stated that management paid workers’ monthly salaries between the second and third week of the following month. Moreover, workers’ pay slips did not accurately reflect the day of payment. For example, workers received their wages for the month of August on September 20 while the date stamped on their pay slip was September 2. The WRC concluded that this is an effort by management to conceal the delayed payment. Moreover, workers stated that Posmi often paid their monthly wages in two installments. When wages are paid in installments, management only

¹⁶ Bangladesh Labour Act 2006, Article 103 (a), (“Every worker employed in an establishment| (a) shall be entitled to... 1 (one) day in a week in the case of a factory and establishment.”).

¹⁷ Primark, “Code of Conduct,” (“Workers shall be provided with at least 1 day off in every 7 day period or, where allowed by national law, 2 days off in every 14 day period.”) <https://m.primark.com/en/our-ethics/code-of-conduct>.

¹⁸ Bangladesh Labour Act 2006, Article 123 (1).

provides workers a pay slip at the final payment.

According to workers, management provides two reasons for the delay in payment: (1) the buyers do not pay the factory in a timely fashion; and (2) the problems of shipments and lack of orders. But these were not the only excuses given. For example, according to workers, management explained that the delay in payment of wages in August 2018 was because of the religious holiday of Eid.

Posmi's failure to provide timely and accurate pay slips violated Bangladeshi law and, in turn, buyer codes of conduct.¹⁹

b. Recommendations for Corrective Actions

To ensure compliance with Bangladeshi law and buyer codes of conduct, the WRC recommended that Posmi take the following actions:

- Comply with the legal mandate to provide workers with their monthly salary and provide a receipt that accurately reflects the date on which the salary was provided.

B. Terminating Workers without Legally Mandated Due Process

As discussed, the WRC only identified the wage and hour violations at Posmi while investigating an allegation of the illegal termination of seven workers from Posmi.

1. Findings

According to mutually-corroborating worker testimony, on the morning of January 27, 2018 a group of at least seven jacquard workers led the organizing and writing of a document outlining the following four demands for management:

- For workers on duty for more than eight hours a day, management should provide every worker a tiffin (a snack);
- If a worker is required to operate more than four machines at one time, management should provide a BDT 2,500 per machine, each month of additional compensation;
- Management must either designate Friday as the weekly holiday for every worker or give them two days of weekly holiday; and
- Regular and timely payment of monthly salary.

At around 8:30 a.m. on January 27, the large majority of jacquard workers presented the list of demands to the Assistant Production Manager (APM), Shah Alam, who was sitting in his office. After one hour, the workers asked to meet with management, but Alam refused, ordering the

¹⁹ See, e.g. Primark, "Code of Conduct," ("Primark is committed to full compliance with the laws and regulations in each procurement location where Primark conducts business and will not knowingly operate in violation of any such law or regulation. Primark will not knowingly use suppliers who violate applicable laws and regulations.") <https://m.primark.com/en/our-ethics/code-of-conduct>.

leaders to return to work. The workers, however, refused to go back to work until their four demands were acknowledged by management. In protest to the management's refusal to meet and discuss the demands, none of the workers returned to work that day and declared a general strike for the next day. None of the workers, from either shift, in the jacquard section returned to work on January 28. On January 29, the workers on the 8:00 a.m. shift returned to the factory. At the gate, the manager in charge, DGM Mahbub, stopped six workers from entering the factory. Those workers included: Muhammad Alim, Tareque Khandaker, Saddam Hossain, Ferdous Hasan, Mahfuzul Alam, and Al Amin Rana. When asked why they were stopped, Mahbub stated: "APM Shah Alam has ordered that you not be allowed into the factory. Go away now." The workers, seeing no other option, left the premises. Another worker, Rakib, was terminated later in the day and was only paid for the days of work he had completed in that month.

The following day, January 30, the workers reached out to Akota Garment Workers Federation (AGWF) to assist them in securing their previous positions at the factory. On February 4, 2018, AGWF sent seven letters on behalf of the seven workers to Posmi urging that they provide the legally required severance benefits, assuming that they would not be able to secure reinstatement for the workers. In response, Mahbub called AGWF representative, Azad, and asked him to come to the office and pick up the workers' salary for the month of January. When asked about the termination benefits, Mahbub replied, "They [the workers] have become too big for their own good. We won't pay them a penny more than their monthly wage."

On February 15, Mizan, the nephew of the owner of the factory building and an influential businessman with a political affiliation to the ruling party, called Azad and asked to meet regarding the seven terminated Posmi workers. Azad, knowing Mizan's reputation in the local area, decided to meet with him in hopes of reaching a resolution. The next day, on February 16, Azad met Mizan near the factory. At the time, Posmi's Human Resources administrator, Nawshad, was also present. Mizan offered a personal bribe in exchange for dropping the case of the terminated workers; when Azad refused, Mizan doubled the offer. However, Azad again refused, insisting that the workers be paid their statutory benefits. Azad agreed to meet with them the following day with hopes of them agreeing that the factory would provide the workers with full termination benefits.

The next day, when Azad and Mizan met, Mizan was accompanied by at least 15 other men Azad identified as Awami League (ruling political party) members. When Azad asked about the dues, Mizan became aggressive. He stated words to the effect of: "You know we're locals in this area; we do politics here. Your union will not last a day if you piss us off. Bring the workers right now and make them take their wages for the running month. Then get lost," he shouted. Azad, outnumbered, told Mizan that he would go and bring the workers, and he escaped the situation.

By refusing to allow the seven workers to re-enter the factory, Posmi effectively chose to terminate these employees. The WRC finds that, because the workers led the efforts to raise the complaints to management on January 27, the reason Posmi terminated these workers was to retaliate against them for advocating for improved working conditions. Posmi's decision to terminate these workers not only affect the seven individual employees but also all of the

factory's other workers, whose rights have been chilled by fear that if they attempt to advocate for improved working conditions, they too will face similar acts of retaliation.

The law only permits companies to suspend such workers *temporarily*, pending a formal inquiry into the alleged misconduct, and requires that this inquiry be completed within 60 days of the date of the employee's suspension, which, in this case, was January 29, 2018.²⁰ Posmi workers testified, however, that no inquiry was conducted by the company.

Under Bangladeshi law, Posmi can only terminate employees, without cause/due process, only if it paid affected employees' compensation in the amount of 30-days' wages for each year of service, calculated based on the worker's basic wages.²¹ The law further requires that the employer must either provide four month's advance notice of the retrenchment or pay the workers an additional 120-days' wages. Again, Posmi did not provide the workers *any* compensation. After gathering and reviewing worker testimony and relevant documentation, the WRC concludes that the seven Posmi workers are legally owed both (1) 30-days' wages per year of service with the factory and (2) an additional 120-days' wages, in lieu of a notice of termination.

2. Initial Recommendations for Corrective Actions

In order to remedy the violations, the WRC recommended that Posmi immediately offer reinstatement to all seven workers who were terminated on January 29, 2018, to their prior positions in the factory, with no loss of seniority or other change in terms of employment, with back pay for the days of work they have missed since they were terminated. If the company does in fact have specific knowledge and evidence of wrongdoing by the workers, they can choose to pursue disciplinary action in these specific cases according to Sections 23 and 24 of the Bangladesh Labour Act.

3. Conclusion

Over the course of our investigation, AGWF reached an agreement with Posmi regarding the terminated workers under which the workers were awarded severance benefits instead of being returned to their positions at the factory. However, it is important to note that this agreement does not relieve Posmi of its responsibility to rectify the retaliatory termination of the workers. Providing funds in lieu of reinstatement is not an acceptable remedy in cases where workers have been wrongfully terminated. Workers in this case testified that they only agreed to accept severance of their employment because management insisted that reinstatement would not be offered to them. Furthermore, workers testified that they faced significant economic hardship in the year that had passed since their separation from the factory.

The fact that workers felt compelled to accept the severance benefits as a result of economic necessity and under the impression that it would be their only opportunity to receive any form of compensation from their former employer does not eliminate Posmi's responsibility to remedy these serious violations.

²⁰ Bangladesh Labour Act 2006, Article 24 (2).

²¹ Bangladesh Labour Act 2016, Article 26 (a).

Given this, the WRC concluded that the agreement reached between Posmi and AGWF does not constitute an adequate resolution to the worker rights violations caused by the retaliatory dismissal and continues to recommend that these workers must be offered reinstatement with back pay. However, after receiving their termination benefits, the workers made it clear to the WRC that they had no desire to return to Posmi. Therefore, as discussed below, the issue of reinstatement and back pay was not pursued in the final plan for corrective action at Posmi.

IV. Factory Response

As noted, after extensive engagement by the WRC with assistance from the Bangladesh Garment Manufacturers and Exporters Association (BGMEA), Posmi took responsibility for the violations outlined in this report. This resulted in the signing of a MOU between Posmi and the WRC that, if implemented properly, will rectify outstanding violations of relevant university and buyer codes of conduct and applicable Bangladeshi law. The MOU primarily addresses key concerns related to Posmi's illegal overtime practices, as Posmi previously settled violations regarding its illegal termination of seven workers in an agreement reached by the workers' union, AGWF, during the WRC's investigation.

If implemented, the MOU will ensure that workers are fully compensated for involuntary overtime they completed while employed by the company. This includes Posmi agreeing to pay 4,000 taka per month to each of the employees that worked in its jacquard section between August 2017 and July 2019. The calculation for the total compensation has been reviewed both by the WRC and the BGMEA to ensure all workers are accounted.

The total outstanding payments will be paid in three equal installments, with first installment being paid no later than February 15, 2020; the second no later than May 15, 2020; and the third no later than August 15, 2020. Workers will receive the payments in cash at the BGMEA offices, and the BGMEA will cover the administrative costs of the distributions.

In addition, Posmi agreed to distribute a written statement to each of the factory's workers clarifying that all overtime must be worked voluntarily and that workers have the right to refuse overtime assignments without fear of retaliation. The statement was distributed to workers on November 7, 2019, in the presence of WRC staff. With this statement comes a commitment from Posmi to observe all applicable laws concerning legal limits for overtime and required breaks and rest days.

If implemented properly, the MOU will bring Posmi into full compliance with university and buyer codes of conduct and relevant elements of Bangladeshi law with regards to the factory's overtime violations. While the signature of the MOU represents a positive development in this case, particularly since factories are typically recalcitrant to accept responsibility for unjust and illegal practices, it does allow for implementation of the terms of the MOU over a significant period of time. Due to this relatively long implementation period, with the last payment being provided to workers in August of 2020, the WRC will continue to monitor this case closely to ensure the Posmi's continued compliance with the MOU and, therefore, university and buyer codes of conduct and Bangladeshi law.