

**SEVEN YEARS AFTER RANA PLAZA,
SIGNIFICANT CHALLENGES REMAIN**

A MINORITY STAFF REPORT

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LETTER OF TRANSMITTAL

UNITED STATES SENATE,
COMMITTEE ON FOREIGN RELATIONS,
Washington, DC, March 5, 2020.

DEAR COLLEAGUES: On April 24, 2013, more than eleven hundred garment workers lost their lives in the collapse of the Rana Plaza building in Bangladesh, which housed factories supplying major Western brands. The tragedy of Rana Plaza was the worst in a string of disasters, including a fire at Tazreen Fashions factory which killed 112 people. Following these tragedies, the Senate Foreign Relations Committee (SFRC) Democratic Staff produced a report at my direction which concluded that Bangladesh's garment workers could not have truly safe, healthy, and decent working conditions unless they gained the ability to organize and defend their rights. Nearly seven years have passed, during which two brand-led international initiatives were mandated to inspect and remediate over 2,000 Ready-Made Garment factories in Bangladesh. The second of these initiatives will conclude in the coming months, and a locally-led private safety monitoring entity will fully assume these safety monitoring responsibilities. Bangladesh faces a critical inflection point as these initiatives come to a close and the government and local industry look to fill the void.

Given this changing landscape, I directed my SFRC Staff to assess the progress made in worker safety and labor rights since 2013. Last year, my staff conducted a visit to Dhaka, Bangladesh, where they met with Bangladeshi garment workers and union activists, leaders of the international safety monitoring initiatives, government of Bangladesh officials, the International Labour Organization, civil society, and other stakeholders. They collected additional information through meetings in Brussels with European Union labor officials, and in Washington D.C. with U.S. government officials, international labor rights advocates, retailer brand associations, and the head of a Bangladesh-based private safety monitoring organization.

During the course of their research, they found that while many Bangladeshi Ready-Made Garment factories were structurally safer, the workers inside are not. Workers face increased intimidation, threat, and violence in retaliation for their labor activism. Worse, some workers are being subjected to physical abuse—especially women, who constitute the majority of Bangladesh’s Ready-Made Garment workforce. As I said in 2013, American consumers will simply not accept clothes stained with the blood of those who made them. I remain in awe of the courage and bravery shown by these Bangladeshi garment workers. This report shines a light on the ongoing plight of these workers in their fight to defend their rights and gain better treatment.

Bangladesh’s continued growth of its garment sector is critical to supporting the country’s economic development, including supporting women’s economic empowerment, both goals that the United States should enthusiastically support. However, unless clear steps are taken, Bangladesh’s garment sector will struggle to grow amid a competitive fast-fashion market and growing global consumer concern about the conditions under which their clothes are made. Significant steps have been taken to improve safety in some of Bangladesh’s factories and the government has made some progress through reforms to its labor law. This progress must be built upon and I hope that the Bangladeshi government will take seriously its responsibility to protect factory workers, not only from unsafe buildings, but abusive management and repression of labor rights.

Labor unions across the world are increasingly under attack for exercising their rights to organize. The Trump administration has consistently sought deep decreases in funding for international labor rights programs, but to date, Congress has thankfully rejected these cuts. The United States must lead in advancing labor rights, at home and abroad, and call on foreign governments to respect the internationally-recognized rights to associate, organize, and collectively bargain. This report provides practical and timely recommendations for the U.S. Government and other stakeholders to protect workers from abuse, ensure workers are empowered to defend their rights, and to safeguard and advance the gains in factory safety.

Sincerely,

ROBERT MENENDEZ,
Ranking Member.

EXECUTIVE SUMMARY

Nearly seven years ago, in April 2013, the Rana Plaza garment factory in Bangladesh collapsed and killed more than one thousand workers.¹ Today, many of Bangladesh's Ready-Made Garment (RMG) factory buildings are structurally safer, but the workers inside are not. Labor rights have declined precipitously in recent years as union organizers contend with pressure on freedoms to associate, organize, and demonstrate. Worse, workers are being abused—verbally, physically, and sexually—and their perpetrators are largely walking free. According to one Bangladeshi labor organizer, “the environment for workers has never been worse.”²

In the wake of the devastating Rana Plaza collapse, and a 2012 fire at a garment factory that killed at least 112, two international initiatives—the European-based Accord on Fire and Building Safety in Bangladesh and the American-based Alliance for Bangladesh Worker Safety—were created to improve factory building safety, and they have largely succeeded.³ However, as both initiatives conclude their operations, the government of Bangladesh must now assume full responsibility for ensuring factory safety and protection of labor rights.⁴ Today, many workers and worker advocates are concerned that standards for safety and rights could backslide, raising the specter of more accidents in the future.

Bangladesh sits at a crucial inflection point. The remaining international safety initiative, known as the Accord, is handing the reins on building safety and labor rights over to a locally-run private safety monitoring entity, the Ready-Made Garment Sustainability Council. As the responsibility for monitoring safety conditions and respect for labor rights in RMG factories in Bangladesh evolves, stakeholders in Bangladesh and the international community must address the following questions:

1. Will the government maintain the progress made in building safety and take additional measures to protect labor rights?
2. Will the new Ready-Made Garment Sustainability Council build upon the progress of the international initiatives and

¹In April 2013, Rana Plaza, an eight-story commercial building in Dhaka, Bangladesh that housed ready-made garment factories supplying Western brands collapsed. The day before, a local engineer had inspected the building and deemed it unsafe, urging everyone to evacuate. The building owner, Mohammad Sohel Rana, dismissed police orders and instructed employees to return to work the next day. At least 1,138 people were killed, and more than 2,000 were injured. “Bangladesh Factory Collapse Toll Passes 1,000,” *BBC*, May 10, 2013.

²Factory Worker, Interview with Committee Staff, Senate Committee on Foreign Relations Staff Visit to Dhaka, Bangladesh, July 2019.

³The two international factory safety-monitoring initiatives are discussed further in Chapter Four.

⁴The Alliance concluded its operations in December 2018. “Alliance Announces End of Its Tenure,” *New Age Business*, Dec. 14, 2018; The Accord is due to wrap up operations in 2020. “Bangladesh Factory Safety Monitors Get Court Extension,” *France24*, May 19, 2019, See Chapter Four.

continue to improve building safety, promote respect for labor rights, and protect workers from abuse?

3. Will international brands insist on both building safety and respect for labor rights, including protection against worker abuse?

Unless positive movement can be made on these key questions, the Bangladesh RMG sector will face an uncertain future in a competitive fast-fashion market.

Shopna, a garment worker in Dhaka, summed up the sacrifices made by workers producing the clothes we wear: “[It] makes me happy that [consumers] are wearing something that I made. But I want to let them know that this is more than a piece of cloth. This piece of cloth is bathed in my blood, sweat and dignity. I’ve sacrificed all of that to be able to make a pair of pants that you will wear and feel comfortable.”⁵ This report will illustrate some of the treatment workers endure and the sacrifices they make, and will detail what stakeholders must do to improve conditions for workers like Shopna.

After the Rana Plaza tragedy, the Senate Foreign Relations Committee Democratic Staff issued a 2013 report entitled *Worker Safety and Labor Rights in Bangladesh’s Garment Sector*.⁶ The report found that an independent and robust organized labor movement in Bangladesh was imperative to the future of the RMG sector and would provide the ultimate bulwark against another tragic accident on the scale of Rana Plaza. Nearly seven years following that first report, unfortunately, the main recommendations with respect to labor rights remain unfulfilled. This second report by the Committee finds that a culture of safety has begun to take hold around RMG factories, but not a culture of respect for workers and their labor rights.⁷ Ultimately, workers are best placed to represent their own safety concerns and defend themselves against abuses. Independent, representative labor unions provide the greatest tool for them to do so.

REPORT FINDINGS

Chapter One: Abuse of Workers in Ready-Made Garment Factories

- RMG workers, especially union leaders and organizers, are increasingly subjected to abuse and harassment, with almost no punishment for the perpetrators.
- Female workers—who make up the majority of RMG workers—are disproportionately affected by the abuse in factories. Most female workers serve in junior roles such as machine operators and rarely hold leadership positions.
- Lack of access to justice, especially for women, contributes to a pervasive culture of abuse in RMG factories, where perpetrators often act with impunity.

⁵ ActionAid, “80 Percent of Garment Workers in Bangladesh Have Experienced or Witnessed Sexual Violence and Harassment at Work,” June 10, 2019, <https://actionaid.org/news/2019/80-garment-workers-bangladesh-have-experienced-or-witnessed-sexual-violence-and>.

⁶ Senate Committee on Foreign Relations Majority Staff, *Worker Safety and Labor Rights in Bangladesh’s Garment Sector*, Nov. 22, 2013.

⁷ This report was finalized in February 2020.

Chapter Two: Workers' Rights Under Attack

- Despite hopes that the Rana Plaza tragedy would motivate genuine labor rights reform in Bangladesh, the environment for union organizers and activists has deteriorated. The violence and repression during the December 2018 and January 2019 worker protests over the minimum wage illustrates this downward trajectory. While hundreds of unions were registered in the immediate aftermath of Rana Plaza, union leaders now face significant bureaucratic obstacles to registration and intimidation from factory owners.
- Factory owners have not been held accountable for unfair labor practices, as defined by the 2006 Bangladesh Labor Act. Examples of unfair labor practices include dismissal and firing from employment, or the threat of it, if a worker joins a union, encourages others to do so, or files a labor related complaint. As of January 2020, the Bangladesh Department of Labor has failed to successfully fully prosecute or enforce reinstatement of union leaders in most, if not all, unfair labor practice cases—of which more than 15 have been pending for years.⁸

Chapter Three: Factory Safety Has Improved

- The international initiatives created after Rana Plaza significantly improved fire, structural, and electrical safety conditions in the factories under their respective purviews.
- Thousands of RMG factories across Bangladesh have been inspected or remediated, largely due to the work of international safety initiatives. However, there are reportedly thousands of unregistered RMG factories operating in Bangladesh that likely do not meet safety standards. The government of Bangladesh is responsible for inspecting and remediating hundreds of other factories, but has fallen short in its responsibility to ensure safety standards at these factories.⁹

Chapter Four: Key Actors Shaping Factory Safety and Labor Rights in Bangladesh

- The government of Bangladesh has reformed its labor law and sought to develop bureaucratic capacity to conduct factory building inspections, but these efforts have been insufficient and fall short of international standards. As the international safety initiatives phase out, there is concern that the government of Bangladesh and local institutions will be unable to sustain, let alone advance, the progress made by the international initiatives.
- The new locally-run private safety monitoring entity, the Ready-Made Garment Sustainability Council that will take over the Accord's operations, will be governed by a Board of Directors that includes industry representatives, brands and trade unions. The credibility of this institution will be deter-

⁸Email from Solidarity Center Representative, to Committee Staff, Oct. 7, 2019.

⁹Paul Barrett et al., *Five Years after Rana Plaza: The Way Forward* ("Five Years after Rana Plaza"), NYU Stern Center for Business and Human Rights (Apr. 2018).

mined by several factors, particularly the balance of power on the Board.

Chapter Five: The U.S. and European Union Response to the Tazreen Fashions and Rana Plaza Tragedies

- After the Rana Plaza tragedy, in June 2013, the United States suspended Bangladesh's trade benefits under the Generalized System of Preferences (GSP), and negotiated an action plan with the government, that if implemented, would have provided a basis for reinstatement of GSP trade benefits. Nearly seven years later, it has not been fully implemented and workers are facing increasing challenges, such as abuse inside factories and violations of labor rights.
- The Trump administration has consistently sought to cut funding for global labor rights programs. Congress continues to deny requested funding cuts and has maintained international labor funding, including for Bangladesh.
- Some global brands insist suppliers ensure labor rights and safe work environments. However, their purchasing practices often incentivize the opposite behavior.
- Western brands have effectively used their economic leverage to improve the safety culture in factories from which they source directly. However, the low prices they pay for garments, as well as poor forecasting practices and unfair penalties for production delays, continue to incentivize factory owners to cut corners on safety and violate labor rights.
- Consumers in Western countries are willing to pay more for clothes made under safe working conditions where labor rights are respected.

REPORT RECOMMENDATIONS

The United Nations Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association should:

- Immediately launch an investigation into allegations of widespread abuse—including gender-based violence—of RMG workers in Bangladesh.
- Conduct a country visit to Bangladesh focused on workers' rights to associate, join a union, conduct union activities and be free from retaliation, such as retaliatory firings and false criminal charges.

The International Labour Organization (ILO) should:

- Launch a Commission of Inquiry on Bangladesh in response to alleged violations of the ILO Conventions on Freedom of Association and Protection of the Right to Organise and Right to Organise and Collective Bargaining.

The U.S. Government should:

- Support, in its capacity as a member of the ILO Governing Body of the International Labour Office, the launch of a Commission of Inquiry on Bangladesh.
- Maintain the suspension of trade benefits under the Generalized System of Preferences until the government of Bangladesh fully implements the 16-point labor action plan (formerly known as the GSP Action Plan) that the United States presented to the government of Bangladesh in 2013.
- Update the 16-point labor action plan to reflect the new challenges in Bangladesh's RMG sector—including abuse of workers and increased violations of workers' rights.
- Consider imposing visa bans against government officials and factory owners implicated in retaliatory violence against labor organizers.
- Increase funding for U.S. programs promoting labor rights in Bangladesh, particularly the right to organize and bargain collectively.
- Under the auspices of the Government Accountability Office, conduct an analysis of the status of labor rights in apparel-producing countries to inform U.S. government policy and programming.

The Government of Bangladesh should:

- Protect union leaders from retaliation and illegal terminations by promptly and effectively investigating and prosecuting factory owners who have violated labor laws, including by engaging in anti-union activity and abuse of workers.
- Carry out independent and impartial investigations of alleged violations of internationally recognized labor rights and abuse of workers—including sexual harassment—and prosecute those responsible.
- Complete pending investigations of unfair labor practices in a thorough and expeditious manner.
- Properly compensate workers who were victims of false criminal cases filed by factory management and police.
- Revise the country's labor law to ensure it conforms with international labor standards, particularly with the ILO Conventions on Labor Inspection, Freedom of Association and Protection of the Right to Organise, and Right to Organise and Collective Bargaining. Consult civil society and independent trade unions in reforms.
- Expeditiously register unions that meet administrative requirements and transparently provide information to applicants throughout the process.

The Bangladesh Garment Manufacturers and Exporters Association (BGMEA) should:

- Ensure that workers' representatives have power equal to the BGMEA and participating brands on the Ready-Made Garment Sustainability Council Board of Directors.
- Hold factory owners and management accountable for credible allegations of worker abuse and violations of labor rights.

Apparel Retailers and Global Brands Sourcing from Bangladesh should:

- Collectively develop and implement a policy of zero-tolerance on violence and harassment, especially gender-based violence and harassment, and make these expectations public.
- Ensure that local initiatives maintain the high standards established by the international factory safety initiatives, including breaking contracts with suppliers that are non-compliant with safety and labor rights standards.
- Ensure that pricing and sourcing contracts with RMG factories incorporate cost of labor and safety compliance—including cost of the minimum wage increase, overtime payments, and all legal benefits—to eliminate incentives for unsafe conditions and worker abuse.

BASIS OF FINDINGS AND RECOMMENDATIONS

The findings and recommendations in this report are based on congressional oversight following the Rana Plaza tragedy and on a July 2019 visit to Dhaka by Committee Staff. Staff visited garment factories supplying Western brands and met with factory owners, Bangladeshi government officials, labor and civil society activists, the BGMEA, and representatives of the Accord on Fire and Building Safety in Bangladesh. Staff conducted separate meetings with union leaders and garment workers, including both union and non-union workers. Separately, Committee Staff engaged with USAID, European Union and U.S. diplomats, as well as the Ready-Made Garment Sustainability Council that succeeded the Alliance for Bangladesh Worker Safety.

INTRODUCTION: FACTORIES ARE NOW SAFER, BUT WORKERS ARE NOT

On November 24, 2012, Reba Khatun, 27, was on the third level of the Tazreen Fashions factory walking up a flight of stairs when a fire broke out. Trapped by the smoke from the fire and desperate to escape the flames, she jumped out of a window, and fell three stories to the ground. Khatun survived, but with several injuries.¹⁰ Years later, she remains wary of returning to a large factory job and can still hear the sounds of Tazreen Fashions workers shouting “Save me, save me.”¹¹

Tazreen’s managers had illegally stored large amounts of fabric and yarn, fueling the fire.¹² They also ignored the fire alarms and ordered workers to continue working in order to meet production quotas. Workers that did try to escape found doors and gates locked. One hundred and twelve workers did not find a way out and lost their lives that day. Two hundred, including Reba Khatun, were left grievously injured.¹³

Five months after the Tazreen fire, deep cracks appeared in the walls of an eight-story building on the outskirts of Dhaka known as Rana Plaza, which housed factories producing clothes for Western brands such as Mango, Walmart, Primark, and Benetton. A local engineer inspected the building and deemed it unsafe. As he fled, he urged everyone to evacuate. The police ordered the building to be emptied until further inspection, but the owner, Mohammad Sohel Rana, dismissed the police orders and instructed employees to return to work the next day or risk losing their jobs.¹⁴ Sometime before 9am on April 24, 2013, more than 2,000 workers in need of their meager pay and lacking union representation apprehensively entered the building. The entire structure soon crumbled and fell to the ground, taking less than 90 seconds to collapse.¹⁵ Found in the rubble were broken sewing machines, concrete slabs, and

¹⁰Khatun sustained spinal and leg injuries that required treatment at three separate hospitals.

¹¹Chris Herlinger, “Survivors Still Coping with Trauma of 2012 Factory Fire,” *National Catholic Review*, Apr. 20, 2016.

¹²Senate Committee on Foreign Relations Majority Staff, *Worker Safety and Labor Rights in Bangladesh’s Garment Sector*, at 2, Nov. 22, 2013; Julfikar Ali Manik & Jim Yardley, “Bangladesh Finds Gross Negligence in Factory Fire,” *The New York Times*, Dec. 17, 2012.

¹³Farid Ahmed, “At least 117 Killed in Fire at Bangladeshi Clothing Factory,” CNN, Nov. 25, 2012; Chris Herlinger, “Survivors Still Coping with Trauma of 2012 Factory Fire,” *National Catholic Review*, Apr. 20, 2016.

¹⁴Paul Barrett et al., *Five Years after Rana Plaza*, at 5.

¹⁵Michael Safi & Dominic Rushe, “Rana Plaza, Five Years On: Safety of Workers Hangs in Balance in Bangladesh,” *The Guardian*, Apr. 24, 2018.

crushed bodies.¹⁶ The building collapse killed 1,138 people and injured more than 2,000.¹⁷

The Tazreen and Rana Plaza disasters spurred into action most of the international brands sourcing from Bangladeshi factories. Within months, global retailers created two initiatives—the European-led Accord on Fire and Building Safety in Bangladesh (“the Accord”) and the American-led Alliance for Bangladesh Worker Safety (“the Alliance”)—both of which sought to improve building and worker safety in Bangladesh’s garment sector.¹⁸

Since 2013, these two groundbreaking international initiatives have been a force for real change in the Ready-Made Garments (RMG) industry in Bangladesh, transforming the culture of safety in RMG factories over the course of their five-year mandates. They did so in part by leveraging the economic and reputational power of brands to inspect the supplying factories and require safety improvements. For the first time ever, unsafe factories that did not meet the Accord’s and the Alliance’s safety standards were at risk of losing their business relationships with participating Western buyers.¹⁹

But, this progress only represents half the picture. While factory safety has improved since the Rana Plaza collapse and Tazreen Fashions fire, this report finds that labor rights are under attack, workers face routine abuse, and female workers are being sexually harassed and assaulted in the Bangladesh RMG factories that supply many Western brands.

¹⁶Paul Barrett et al., *Five Years after Rana Plaza*, at 5.

¹⁷Human Rights Watch, *Paying for a Bus Ticket and Expecting to Fly: How Apparel Brand Purchasing Practices Drive Labor Abuses* (“Paying for a Bus Ticket and Expecting to Fly”), at 47 (Apr. 2019).

¹⁸*Id.*

¹⁹Paul Barrett et al., *Five Years after Rana Plaza*, at 6.

CHAPTER ONE: ABUSE OF WORKERS IN READY-MADE GARMENT FACTORIES

Nearly four million ready-made garment (RMG) workers in Bangladesh produce goods for export to the global market, primarily to Europe and North America. Factories vary in size and sophistication, ranging from large operations that employ thousands of workers, use modern machinery, and hold long-term contracts with foreign buyers, to smaller factories that employ dozens of workers on a short-term basis and in some cases are unregistered. Women are reported to comprise between 60 and 74 percent of the workers in Bangladesh's garment industry.²⁰

Many of Bangladesh's rural poor and women have gained employment in this sector, but their rights as workers fall considerably below international standards. Factory owners are increasingly operating with impunity and a belief that they can unfairly fire, abuse, and attack workers.²¹ According to the Executive Director of the Accord, Rob Wayss, it is common for the initiative to receive credible safety and health complaints of workers being slapped, pushed, and subjected to vulgar language.²²

Rubana Huq, President of the Bangladesh Garment Manufacturers and Exporters Association (BGMEA), an influential national trade association that represents the RMG sector, has suggested the "allegations of labor abuse in the industry [are] isolated, negative practices."²³ Labor advocates, activists, and experts paint a different picture. Sexual harassment allegations are regularly received via the Accord occupational safety and health complaints mechanism. Sexual harassment prevention is also a component of the Accord's factory based safety training programs.²⁴ In one illustrative case, the U.S.-based labor rights organization Solidarity Center reported in November 2018 that political allies and men associated with the management personnel of a Konabari factory intimidated union leaders and organizers who had been organizing workers at the factory for several years. Just weeks after the union filed for registration with the Department of Labor, these men assaulted a male labor organizer and took a female organizer to an

²⁰ Email from International Labor Rights Forum Representative, to Committee Staff, Nov. 19, 2019; Ibrahim Hossain Ovi, "Women's Participation in RMG Workforce Declines," *Dhaka Tribune*, Mar. 3, 2018.

²¹ Worker's Rights Consortium, *Banning Hope: Bangladesh Garment Workers Seeking a Dollar an Hour Face Mass Firings, Violence, and False Arrests*, at 29 (Apr. 2019), <https://www.workersrights.org/wp-content/uploads/2019/04/Crackdown-on-Bangladesh.pdf>.

²² Rob Wayss, Executive Director, Accord on Fire and Building Safety in Bangladesh, Interview with Committee Staff, Senate Committee on Foreign Relations Staff Visit to Dhaka, Bangladesh, July 2019.

²³ Anuradha Nagaraj, "First Female Boss Vows to Shake up Bangladesh's Fashion Factories," *Reuters*, Apr. 9, 2019.

²⁴ Email from Rob Wayss, Executive Director, Accord on Fire and Building Safety in Bangladesh, to Committee Staff, Jan. 27, 2020.

isolated area and raped her.²⁵ With the assistance from the union and labor lawyers, the rape victim reported the assault to the police, which charged and detained the perpetrators temporarily. They have been released, but the government continues to prosecute the case against them. This is a unique case in which justice is being pursued, although not yet delivered. The victim's quest for justice is facilitated by support from union and labor lawyers, but most gender-based violence survivors are not so lucky.²⁶ According to international labor advocates, victims of gender-based violence generally do not seek accountability due to a deep-rooted culture of shaming sexual assault victims in Bangladesh.²⁷

Prominent labor leader Kalpona Akter describes the discrimination, sexual abuse, and predicament female workers in Bangladesh's garment sector face by male supervisors as follows:

A woman is continuously pressured and asked many times. She's afraid that someone will find out and she's afraid what will happen if she becomes pregnant or her co-workers or her family find out. If there is a beautiful girl on the production floor, the supervisor can try to convince her that he's in love, or if she has a good relationship with him then he can increase her salary. First it might be, "Let's go to the park." Later on he tries to convince her to have sex. "Let's have sex and maybe I'll let you leave the factory early at 5 pm or 6 pm or you can walk around the production floor without being harassed. . . ." She's also been trapped. "You need to continue this relationship with me or I'll tell others." She is now afraid she will never be able to get married, or, if the community finds out, that they will look at her in a different way and think of her as a sex worker. If a woman has sex before she is married, she can rarely get married or she will be considered a prostitute for sleeping with multiple guys or she'll be considered a bad person. There are lots of rape cases involving women workers. The woman is always blamed. "She is bad; that's why it happened to her."²⁸

Bangladeshi women generally do not talk about their experiences of sexual abuse because society puts the blame on them. They fear backlash or being harassed further. Beyond the stigma, these workers also fear being fired if they report the abuse.²⁹

Men in garment factories also face mistreatment, and in some cases, physical abuse, in the workplace. During a July 2019 meeting between garment workers and Committee Staff, a worker sat hunched over, holding his arm over his chest. Staff invited him to share his story. He first hesitated, but eventually revealed that his factory manager had punched him in the face and kicked him in the ribs. In that meeting, other garment workers agreed that

²⁵ Email from Solidarity Center Representative, to Committee Staff, Oct. 7, 2019.

²⁶ Email from Solidarity Center Representative, to Committee Staff, Feb. 21, 2020.

²⁷ Email from Solidarity Center Representative, to Committee Staff, Oct. 7, 2019.

²⁸ International Labor Rights Forum (ILRF), *Our Voices, Our Safety: Bangladeshi Garment Workers Speak Out*, at 41 (Dec. 2015), <https://laborrights.org/sites/default/files/publications/Our%20Voices,%20Our%20Safety%20Online—1.pdf>.

²⁹ Email, Representative, International Labor Rights Forum, to Committee Staff, Nov. 19, 2019.

verbal and physical abuse is a regular occurrence in their workplaces.³⁰

FEMALE GARMENT WORKERS FACE
DISPROPORTIONATE LEVELS OF ABUSE

Bangladesh's garment industry is dependent on female workers, who are subjected to abuse by factory managers, who are mostly men. That abuse includes verbal abuse, physical violence, coercion, threats, and retaliation. Female workers have little to no ability to push back on the abuse because they are concentrated in subordinate roles, such as machine operators, checkers, and helpers, and rarely reach leadership positions.³¹ In an interview with the U.S.-based human rights advocacy organization Human Rights Watch, a female worker at a Dhaka-based factory employing mostly women shared an anecdote to describe the abusive conditions that female workers face. When workers protested their manager's refusal to offer maternity leave benefits, a factory owner said, "If you're all concentrating on f***g, why are you working here? Go and work in a brothel."³²

In October 2019, reports emerged that garment workers at a factory operated by the Youngone Corporation, which makes clothes for North American brand Lululemon, are "paid scant wages, verbally harassed by their managers with slurs like 'slut' and 'whore,' and face the threat of physical violence on the job."³³ One female factory worker claimed she was slapped for leaving work early because she did not feel well. "[The technician in charge of her line] slapped me so hard my cheeks turned red. . . ."³⁴ In another illustrative case, workers reported, "During last Ramadan, they created a new line and recruited new female workers. One day, a technician hit a label operator so hard on her chest. We could see she was in pain the whole day. . . . She was lying in the back of the line for hours but our bosses did nothing about her."³⁵ Lululemon reportedly indicated that its social responsibility and production team visited the factory in Bangladesh immediately to speak with workers and it will work with an "independent non-profit third party to fully investigate the matter." It went on to state that, "While our production at this factory is extremely limited, we will ensure workers are protected from any form of abuse and are treated fairly."³⁶

The Bangladesh Center for Worker Solidarity conducted focus groups and interviews in 2019 and found many examples of gender-based violence in RMG factories, ranging from a line chief touching a worker's breast while showing her how to operate a machine, to

³⁰ Factory Worker, Interview with Committee Staff, Senate Committee on Foreign Relations Staff Visit to Dhaka, Bangladesh, July 2019.

³¹ Shikha Silliman Bhattacharjee, End Gender-Based Violence and Harassment: Gender Justice on Garment Global Supply Chains: An Agenda to Transform Fast Fashion, Global Labor and Justice and Asia Floor Wage Alliance, at 15 (2019).

³² Human Rights Watch, Whoever Raises Their Head Suffers the Most, at 24-25 (Apr. 2015).

³³ Hannah Gold, "Workers Making Lululemon Clothes Say They're Beaten and Harassed on the Job," *The Cut*, Oct. 17, 2019.

³⁴ Sarah Marsh & Redwan Ahmed, "Workers Making £88 Lululemon Leggings Claim They are Beaten," *The Guardian*, Oct. 14, 2019.

³⁵ *Id.*

³⁶ Hannah Gold, "Workers Making Lululemon Clothes Say They're Beaten and Harassed on the Job," *The Cut*, Oct. 17, 2019.

another forcing a worker to lie down under a table in his office and raping her.³⁷

Hafsa Begum, a 20-year-old garment worker, was finishing a night shift at her factory job in Dhaka when her line manager sexually assaulted her. “I kicked and slapped him, but he still managed to drag me into a dark alley next to the factory,” explains Begum.³⁸ She said he forcefully kissed and touched her, and he threatened to fire her if she did not have sex with him. Begum sought the help of a local union leader, and eventually her manager was fired. But speaking out has its consequences. Begum’s abuser was not criminally prosecuted, and she had to leave her job with a negotiated resignation compensation package. She lives in fear of reprisal for exposing her abuser and seeking accountability.³⁹

ActionAid UK, a chapter of the South Africa-based international non-governmental organization ActionAid International, published in 2019 a survey of 200 garment factory workers in Dhaka, including 181 women, and found that 80 percent reported having experienced or witnessed sexual harassment and abuse at work.⁴⁰ According to Aruna Kashyap, Senior Counsel at Human Rights Watch:

If garment workers didn’t face retaliation for exposing sexual harassment, many of them would be screaming #MeToo at the top of their lungs. Their experiences are part of the global crisis of workplace sexual harassment, less visible in places like garment factories, but no less important than the high-profile cases involving Hollywood, the media, and political figures.⁴¹

The combination of gender discrimination ingrained in society, limited female representation in political life, and the shaming of women who report sexual abuse hinders women from seeking justice.⁴² Suffice to say, abuses in Bangladesh’s RMG factories are not simply “isolated, negative practices.”

At the forefront of the movement against sexual abuse and assault of women in Bangladesh is labor activist Dolly Akhtar, who was only 16 years old when she started working in garment factories in Dhaka that supply Western brands. She accepted the low wages and long hours, but did not expect the culture of sexual abuse in RMG factories. “When the line manager at the very first factory I worked at tried to get me to sleep with him, I was terrified,” she said.⁴³ She left this factory job for another only to find herself in the same situation. Akhtar started to work full-time as an organizer for the Somnilito Garments Sramik Federation, one

³⁷ Email from International Labor Rights Forum Representative, to Committee Staff, Nov. 19, 2019.

³⁸ Jennifer Chowdhury, “#MeToo Bangladesh: The Textile Workers United against Harassment,” *The Guardian*, Sept. 10, 2019.

³⁹ *Id.*

⁴⁰ Sarah Young, “Growing Number of Garment Factory Workers in Bangladesh Subjected to Sexual Harassment and Violence, Action Aid UK Finds,” *Independent*, June 10, 2019; ActionAid, “80% of garment workers in Bangladesh have experienced or witnessed sexual violence and harassment at work,” June 10, 2019.

⁴¹ Human Rights Watch, *Tackling Sexual Harassment in the Garment Industry*, (Dec 2017).

⁴² Jennifer Chowdhury, “#MeToo Bangladesh: The Textile Workers United against Harassment,” *The Guardian*, Sept. 10, 2019.

⁴³ *Id.*

of Bangladesh's largest trade organizations, spearheading efforts to fight sexual harassment, assault, and exploitation in the country's garment factories.⁴⁴ Committee Staff spoke to Akhtar about her experience in the Bangladesh RMG industry, and she made a plea for vigilance:

This economy is developing constantly. A major contributor is female workers, and these women workers are harassed in public places as well, not just in factories. So I request all concerned people in this industry to treat these workers with dignity and respect and that influential persons in [the] community and society also do the same.⁴⁵

CULTURE OF IMPUNITY

There appears to be little political will to tackle the pervasive culture of gender-based violence in RMG factories. If there is no accountability, male perpetrators will continue to prey on the female workers who report to them. Bangladesh's Supreme Court issued guidelines against sexual harassment at work in 2009, but ten years later, ineffective implementation of the court order and lack of protection from retribution when workers complain have rendered the ruling meaningless.⁴⁶ The United Nations should act quickly to investigate allegations of abuse, particularly abuse of, and violence against, women in RMG factories.

In November 2017, Bangladesh's leading independent human rights organization, Odhikar, reported that:

Women are becoming victims of such violence due to non-implementation of laws, a prevailing culture of impunity in the government, lack of victims and witness protection, criminalization and corruption in the law enforcement agencies, supremacy of socially and politically influential persons, poor economic conditions of women, weak administration, and also due to lack of awareness in society. In most cases, victims are not getting justice due to a prevailing culture of impunity, which instigates more such crimes and encourages potential perpetrators.⁴⁷

⁴⁴ *Id.*

⁴⁵ Email from Solidarity Center Representative, to Committee Staff, Feb. 21, 2020.

⁴⁶ Mizanur Rahman, "10 Years On, HC Guidelines against Sexual Harassment Neglected," *Dhaka Tribune*, May 4, 2019.

⁴⁷ Odhikar, Human Rights Monitoring Report November 1-30 2017, at 29 (Dec. 2017), <http://odhikar.org/wp-content/uploads/2017/12/human-rights-monitoring-report-November-2017—Eng.pdf>.

CHAPTER TWO: WORKERS' RIGHTS UNDER ATTACK

Abusive treatment of workers is further exacerbated by a growing repression of labor rights, including the right to associate, organize, and collectively bargain. In a meeting with Committee Staff, one garment worker asserted that respect for labor rights is the worst it has been in Bangladesh's history.⁴⁸

In December 2016, the government of Bangladesh and factory owners initiated a severe crackdown on labor rights following a largely peaceful protest by thousands of garment workers calling for higher wages. At least 1,500 workers were dismissed, 38 union leaders were arrested on baseless criminal charges, and trade union offices were closed or came under intense pressure from government authorities.⁴⁹ Only after Western brands sourcing from Bangladesh boycotted a high-profile annual summit organized by the BGMEA did the Bangladeshi government start releasing detained workers. In February 2017, the government and the BGMEA reached an agreement with the IndustriAll Bangladesh Council, an umbrella body for many of the country's garment unions and a local affiliate of the global union IndustriAll, to release those remaining in prison, reinstate fired workers, and drop pending criminal charges against the arrested workers and leaders.⁵⁰ The brands' advocacy had a significant impact on government and the BGMEA's decision to change course, but this proved to be short-lived.

Two years later, as part of the ongoing pressure on workers' rights, RMG workers faced another crackdown. In September 2018, the government announced a wage increase for Bangladeshi garment workers to go into effect that December. The new minimum wage was announced to be set at 8,000 taka (\$95) a month, up from 5,300 taka (\$63).⁵¹ However, this increased wage primarily benefitted junior workers. Senior workers received only a modest increase that failed to factor in rising costs of living.⁵² The inadequate wage increase sparked months-long protests and a govern-

⁴⁸ Factory Worker, Interview with Committee Staff, Senate Committee on Foreign Relations Staff Visit to Dhaka, Bangladesh, July 2019.

⁴⁹ Clean Clothes Campaign, International Labor Rights Forum, Maquila Solidarity Network & Worker Rights Consortium, *Update on the Labor Rights Crisis in Bangladesh* (Apr. 21, 2017), <https://laborrights.org/publications/update-labor-rights-crisis-bangladesh>.

⁵⁰ *Id.*

⁵¹ Marjorie van Elven, "Bangladesh Raises Minimum Wage for Garment Workers," *Fashion United*, Sept. 14, 2018.

⁵² Fair Labor Association, *Minimum Wage Adjustments in Bangladesh Stir Protests and Mass Worker Dismissals from Factories* (Mar. 2019); Factory Worker, Interview with Committee Staff, Senate Committee on Foreign Relations Staff Visit to Dhaka, Bangladesh, July 2019.

ment and factory owner-led crackdown on Bangladeshi workers in retaliation to the protests.

GOVERNMENT RESPONSE TO WORKER PROTESTS

Anger over the uneven and inadequate wage increase led to a wave of wage-related strikes in December 2018 and January 2019 across the country. In January, police clashed with protestors and used tear gas, water cannons, batons, and rubber bullets against them, injuring dozens and killing one.⁵³ On January 8, 2019, 22-year old Sumon Mia, a worker at Anlima Textile in the Savar sub-district of Dhaka, was returning from lunch with a colleague when they got caught in the protests. His colleague told Human Rights Watch, “Police started shooting and the workers started running away, so Sumon and I started running and suddenly Sumon was shot in his chest and he fell down. I fled. Later I found Sumon’s body lying in the road. The police didn’t even take his body.”⁵⁴ Police reportedly raided homes, shooting indiscriminately. One woman told Human Rights Watch that she could hear the police coming towards her house on a raid while shooting. She heard six rounds of firing; two bullets hit her window and one hit her lower abdomen.⁵⁵

According to the IndustriAll Bangladesh Council, an estimated 11,600 workers were fired, forced to resign, or jailed for participating in those strikes.⁵⁶ Some factory owners also sought to block union leaders and workers who protested from finding a job elsewhere. In May 2019, lists with names and photographs of terminated employees were posted at some factories, leading to the blacklisting of at least 1,793 workers.⁵⁷ Committee Staff met with some blacklisted garment workers in Dhaka in July 2019 who indicated that they remained unemployed. Workers shared anecdotes about themselves or other workers who did not participate in the protests, but were still dismissed and blacklisted.⁵⁸ Ministry of Labour and Employment officials told Committee Staff that the dismissals and criminal cases were in response to vandalism and looting, and claimed a lack of knowledge about workers and union leaders being blacklisted for engaging in protests. They made this claim despite widespread news coverage and reports made to the Ministry and the BGMEA from trade union leaders contradicting their claims.⁵⁹

Garment workers and union leaders in Dhaka described to Committee Staff a growing trend of factory owners filing criminal charges, largely fabricated, against union members and leaders.⁶⁰

⁵³ “Bangladesh Police, Garment Workers Clash in Protests,” *Associated Press*, Jan. 9, 2019.

⁵⁴ Sushmita S. Preetha, “Post-mortem of a Worker’s Death,” *The Daily Star*, Jan. 18, 2019.

⁵⁵ “Bangladesh: Investigate Dismissals of Protesting Workers,” *Human Rights Watch*, Mar. 5, 2019, <https://www.hrw.org/news/2019/03/05/bangladesh-investigate-dismissals-protesting-workers>.

⁵⁶ IndustriAll Global Union, “Over 11,600 Bangladesh Garment Workers Lose Jobs and Face Repression,” Feb. 11, 2019, <http://www.industriall-union.org/over-11600-bangladesh-garment-workers-lose-jobs-and-face-repression>.

⁵⁷ Email from U.S. Agency for International Development Official, to Committee Staff, May 29, 2019.

⁵⁸ Garment Workers, Interview with Committee Staff, Senate Committee on Foreign Relations Staff Visit to Dhaka, Bangladesh, July 2019.

⁵⁹ Ministry of Labour and Employment Official, Meeting with Committee Staff, Senate Committee on Foreign Relations Staff Visit to Dhaka, Bangladesh, July 2019.

⁶⁰ Garment Workers, Interview with Committee Staff, Senate Committee on Foreign Relations Staff Visit to Dhaka, Bangladesh, July 2019.

Human Rights Watch reported that 29 criminal cases were filed against 551 named individuals and more than 3,000 unnamed people—meaning that the authorities could arbitrarily fill those slots with the names of union leaders or workers they deem to be troublemakers. In January and February 2019, authorities arrested approximately 50 workers and denied bail to 11 for several weeks.⁶¹ Despite the BGMEA's assurances that member factory owners would drop the baseless charges brought against workers, only 14 of 35 cases have been dismissed to date, largely due to pressure on brands from advocacy groups.⁶² Some of the U.S. brands buying from factories that have filed trumped-up charges against workers that demonstrated for higher wages include Abercrombie & Fitch, American Eagle Outfitters, Gap, Kontoor Brands, VF Corporation, and Walmart.⁶³

The BGMEA is an influential private trade association with political clout in Bangladesh, representing the RMG sector in Bangladesh.⁶⁴ During the 2018-2019 wage protests, BGMEA leadership said that only workers who vandalized factories would lose their jobs, yet thousands of non-violent protestors were reportedly fired.⁶⁵ More than one year after the protests, hundreds continue to be blacklisted over what factory owners and managers insist are criminal charges.⁶⁶ The BGMEA is investigating member factories that terminated workers during the unrest, but ultimately the responsibility to investigate and prosecute credible allegations of crimes, including abuse and labor rights violations should rest with the government, not a private association of factory owners.⁶⁷ To date, no factory owners or managers have been prosecuted for unfair labor practices.⁶⁸

The 2018-2019 wage protests came amid Bangladesh's parliamentary elections, which were marred by irregularities, attacks on the opposition, and intimidation of voters.⁶⁹ The protests represented a test for Prime Minister Sheikh Hasina, who responded by declaring an additional minimum wage increase for senior level workers. Workers told Committee Staff that they do not find the pay rates to be a living wage and worry about making ends meet given high costs of living in Dhaka.⁷⁰ Nonetheless, union leaders

⁶¹ "Bangladesh: Investigate Dismissals of Protesting Workers," *Human Rights Watch*, Mar. 5, 2019, <https://www.hrw.org/news/2019/03/05/bangladesh-investigate-dismissals-protesting-workers>.

⁶² Email from Solidarity Center Representative, to Committee Staff, Feb. 21, 2020.

⁶³ Email from International Labor Rights Forum Representative, to Committee Staff, February 26, 2020.

⁶⁴ See Chapter Four.

⁶⁵ Refayet Ullah Mirdha & Aklakur Rahman Akash, "RMG Unrest: No 'Innocent' to be Sacked," Jan. 18, 2019, *The Daily Star* <https://www.thedailystar.net/business/no-innocent-rmg-worker-in-bangladesh-will-be-terminated-bgmea-1688917>; "Bangladesh: Investigate Dismissals of Protesting Workers," *Human Rights Watch*, Mar. 5, 2019, <https://www.hrw.org/news/2019/03/05/bangladesh-investigate-dismissals-protesting-workers>.

⁶⁶ Chris Remington, "Bangladeshi Workers Still Facing Repression over Wage Protests," *EcoTextile News*, Jan. 15, 2020.

⁶⁷ Bangladesh Garment Manufacturers and Exporters Association (BGMEA), "BGMEA Probes IBC Allegations of Worker Lay-offs by Factory," (accessed Jan. 22, 2020), <http://www.bgmea.com.bd/home/activity/BGMEA-probes-IBC-allegations-of-worker-lay-off-by-factories>.

⁶⁸ Email from Solidarity Center Representative, to Committee Staff, Feb. 4, 2020.

⁶⁹ Sumit Ganguly, "The World Should be Watching Bangladesh's Election Debacle," *Foreign Policy*, Jan. 7, 2019.

⁷⁰ Garment Workers, Interview with Committee Staff, Senate Committee on Foreign Relations Staff Visit to Dhaka, Bangladesh, July 2019.

agreed to the deal. Bangladesh Garment and Industrial Workers Federation President Babul Akter explained, “We had to accept it as the proposal came from our prime minister. How can we dishonor it?”⁷¹

Government security forces have reportedly intimidated and arbitrarily detained workers at the behest of factory owners. For example, union workers reported that during the 2018-2019 minimum wage protests, unionized workers at Tivoli Apparel Ltd. factory, based in Dhaka, Bangladesh, refrained from engaging in the protests.⁷² Vandalism occurred in neighboring factories, so management closed the Tivoli factory for one day. Despite constructive work by union leaders at this factory to establish agreed-upon wages in a Memorandum of Understanding with management, special police entered the homes of, and detained, five union leaders the night after the agreement was signed on January 12, 2019.⁷³ The workers allege that they were blindfolded and tortured into falsely confessing involvement in vandalizing factories, criminally charged, and spent two weeks in jail.⁷⁴ The workers were eventually released on January 21, 2019, and the union negotiated with Tivoli management to secure termination benefits for some of those leaders and reinstatement for two of them. However, both union leaders chose to receive severance instead of reinstatement, apparently out of fear that management would retaliate against them again in the future.⁷⁵

CHALLENGES TO UNION REGISTRATION

Despite international support for the rights of Bangladeshi unions to organize and register, and renewed energy and courage on the part of labor organizers, the challenges to union registration in Bangladesh remain considerable.

Widespread distrust remains between employers and trade unions, and negative attitudes toward unions pose barriers to both the formation of new unions and to existing independent unions. The revisions to the Bangladesh Labour (Amendment) Act in 2013 led to an initial strong growth in the number of RMG trade unions, however, that trend did not continue.⁷⁶ The U.S. State Department reported that after a sharp increase in trade union applications in 2014, there has been a decline every year since.⁷⁷

In addition, the union registration process remains cumbersome. Union leaders consistently expressed concern to Committee Staff about the bureaucratic hurdles to registering independent unions.⁷⁸ The Bangladeshi government currently rejects a high number of

⁷¹ Ruma Paul, “Bangladesh Garment Workers Stage Protests, Say Pay Rise Insufficient,” *Reuters*, Jan. 14, 2019.

⁷² Email from Solidarity Center Representative, to Committee Staff, Oct. 4, 2019.

⁷³ *Id.*

⁷⁴ *Id.*

⁷⁵ *Id.*

⁷⁶ European Commission, *Implementation of the Bangladesh Compact: Technical Status Report*, at 15 (Sept. 2018), <https://trade.ec.europa.eu/doclib/docs/2018/september/tradoc-157426.pdf>.

⁷⁷ U.S. Department of State, Report to Congress on the Government of Bangladesh’s Support for Human Rights; Protection of Freedom of Expression, Association, and Religion, and Due Process of Law; and Ensuring a Free, Fair, and Participatory Elections, Jan. 1, 2020.

⁷⁸ Garment Workers, Interview with Committee Staff, Senate Committee on Foreign Relations Staff Visit to Dhaka, Bangladesh, July 2019.

union applications.⁷⁹ The European Commission found a need to protect the Bangladeshi trade union registration process from arbitrary rejections.⁸⁰ When discussing this topic, a senior Bangladeshi government official admitted to Committee Staff that corruption and bribery are serious problems.⁸¹ According to International Labour Organization (ILO) member states, the Ministry of Labour received 1,031 union registration applications between 2010 and 2018 and denied 46 percent of the applications.⁸² The Ministry of Labour and Employment reported that the country had 596 unions in the garment sector; this figure includes 574 new unions in the garment sector since 2013.⁸³ The Solidarity Center and trade union federation representatives assess that the Bangladesh Ministry of Labour officials managing the registration process have too much discretion.⁸⁴ The ILO Committee of Experts also found that the government rejects applications for registration at a high rate, and that “a substantial proportion of rejections come without explanation.”⁸⁵ They request that the government ensures that registration is “a simple, objective, and transparent process, which does not restrict the right of workers to establish organizations without previous authorization.”⁸⁶ In many cases, ministry employees or officials reject applications for union registration due to minor mistakes such as misspelled member names. Once those mistakes are corrected, they may identify additional arbitrary reasons to reject applications.⁸⁷ The U.S. State Department reports that “registration applications are often rejected or challenged for erroneous or extrajudicial reasons,” and “prospective unions continued to report rejections based on reasons not listed in the labor law.”⁸⁸

A common talking point from government officials, the BGMEA, and factory owners in Bangladesh is that “factory owners like to have unions” because it keeps everyone accountable and the workers happy.⁸⁹ However, the Accord’s Rob Wayss said that “they seem more to like to have a union if it is a union that is agreeable to management positions and if it does not raise disputes, disagreements, and alleged violations with the brands, global unions, and labor rights support organizations.”⁹⁰ Local union leaders referred to these type of unions as “yellow unions.” They are set up by fac-

⁷⁹ European Commission, *Implementation of the Bangladesh Compact: Technical Status Report*, at 3 (Sept. 2018), <https://trade.ec.europa.eu/doclib/docs/2018/september/tradoc-157426.pdf>.

⁸⁰ *Id.*

⁸¹ Bangladeshi Government Official, Interview with Committee Staff, Senate Committee on Foreign Relations Staff Visit to Dhaka, Bangladesh, July 2019.

⁸² “ILO members states to propose inquiry commission against Bangladesh,” *NewAgeBD*, Aug. 26, 2019.

⁸³ U.S. Department of State, Report to Congress on the Government of Bangladesh’s Support for Human Rights; Protection of Freedom of Expression, Association, and Religion, and Due Process of Law; and Ensuring a Free, Fair, and Participatory Elections, Jan. 1, 2020.

⁸⁴ Trade Union Leaders, Interview with Committee Staff, Senate Committee on Foreign Relations Staff Visit to Dhaka, Bangladesh, July 2019.

⁸⁵ International Labor Organization, Observation (CEACR)-adopted 2017, published 10th ILC Session (2018), <https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO:13100:-P13100-COMMENT-ID:3343756:NO> (last visited Feb. 21, 2020).

⁸⁶ *Id.*

⁸⁷ Solidarity Center Representative, Interview with Committee Staff, Senate Committee on Foreign Relations Staff Visit to Dhaka, Bangladesh, July 2019.

⁸⁸ U.S. Department of State, Report to Congress on the Government of Bangladesh’s Support for Human Rights; Protection of Freedom of Expression, Association, and Religion, and Due Process of Law; and Ensuring a Free, Fair, and Participatory Elections, Jan. 1, 2020.

⁸⁹ Email from Rob Wayss, Executive Director, Accord on Fire and Building Safety in Bangladesh, to Committee Staff, Jan. 27, 2020.

⁹⁰ *Id.*

tory owners with the goal of preventing the registration of genuine trade unions. This practice has resulted in authorities rejecting the registration application of independent union leaders because another union already exists—the “yellow” one. After the 2018-2019 protests, “yellow union” members approached independent union leaders and pressured them to sign documents to accept responsibility for protests and damages to factories in exchange for back wages, essentially attempting to coerce workers to admit guilt even if they had not engaged in vandalism.⁹¹

Trade unions face harassment, intimidation, and other obstacles when seeking to register and, once registered, when trying to organize. Employer retaliation against workers who file union registration papers is common. Rita Akhter, a labor activist and garment worker at the Korean-owned Chunji Knit Ltd. factory, was physically attacked when trying to form a union, which had a chilling effect on other workers’ efforts to form unions in that area. She noted, “The workers say to us, even you organizers were beaten up by the factory management—so how can you protect us, what will be our fate if we join you?”⁹² The government needs to pursue genuine efforts to combat anti-union activity and unfair labor practices. The overall environment of impunity remains a significant concern for Bangladesh’s workers, as the government of Bangladesh has been slow to adjudicate unfair labor practices cases. While the government of Bangladesh highlights that a number of cases of unfair labor practices, including cases of unfair termination of employment, have been referred to the courts in recent years, they are unable to point to a single successful prosecution.⁹³

Labor activist Kalpona Akter asserts that forming unions is a right that exists on paper in Bangladesh’s constitution and laws, as well as in the ILO Convention on Right to Organise and Collective Bargaining, which Bangladesh has ratified; however, “the factory owners are so reluctant toward the unions... Whenever [workers] join with unions, they will face threats, they get fired ...and sometimes even forced [sic] to leave their community. And the same happens when workers raise their voices against the poverty wages they’ve been getting.”⁹⁴

The ILO Governing Body of the International Labour Office, which includes governments, has the option to establish a “Commission of Inquiry” (COI) to examine complaints against member States for not complying with ratified conventions.⁹⁵ In June 2019, union delegates sought a COI against the government of Bangladesh given complaints that the government violated ILO conventions on labor inspection, freedom of association, right to organize,

⁹¹ “Bangladesh: Investigate Dismissals of Protesting Workers,” *Human Rights Watch*, Mar. 5, 2019, <https://www.hrw.org/news/2019/03/05/bangladesh-investigate-dismissals-protesting-workers>.

⁹² Human Rights Watch, *Whoever Raises Their Head Suffers the Most*, at 50 (Apr. 2015). <http://features.hrw.org/features/HRW—2015—reports/Bangladesh—Garment—Factories/index.html>

⁹³ Email from U.S. Government Official, to Committee Staff, Feb. 20, 2020.

⁹⁴ Michelle Chen, “6 Years after the Rana Plaza Collapse, are Government Workers Any Safer?” *The Nation*, July 15, 2019.

⁹⁵ International Labour Organization, Complaints, <https://www.ilo.org/global/standards/applying-and-promoting-international-labour-standards/complaints/lang-en/index.htm> (last visited [Jan. 23, 2020]).

and collective bargaining.⁹⁶ The ILO decided to put this item on the agenda of the 338th Session of the Governing Body slated to convene in March 2020, at which point it will vote whether to establish a COI.⁹⁷

⁹⁶“ILO Members States to Propose Inquiry Commission against Bangladesh,” *NewAge Business*, Aug. 26, 2019 (last accessed Jan. 24, 2020).

⁹⁷International Labour Office, “First Report: Complaint concerning non-observance by Bangladesh of the Labour Inspection Convention, 1947 (No. 81), the Freedom of Association and Protection of the Right to Organise Convention, 1949 (No. 98), made under Article 26 of the ILO Constitution by several delegates to the 108th Session (2019) of the International Labour Conference,” Oct. 29, 2019; “ILO Members States to Propose Inquiry Commission against Bangladesh,” *NewAge Business*, Aug. 26, 2019 (last accessed Jan. 24, 2020).

CHAPTER THREE: FACTORY SAFETY HAS IMPROVED

Bangladesh provides an ideal combination of cheap labor and quick turnaround for fast-fashion manufacturers that produce inexpensive clothing rapidly in response to the latest trends. For years, Bangladesh worked to facilitate the sector's growth with little concern for factory conditions and labor rights. As the sector's growth exploded, more and more garment factories sprouted up in apartment buildings and multi-use structures that were not designed or built to safely handle large numbers of workers and machines. While building safety standards existed on paper, the government of Bangladesh lacked the capacity and political will to enforce them.

The tragedies of Rana Plaza and Tazreen Fashions served as a much-needed wakeup call to the government of Bangladesh that safety must be prioritized. What has the government of Bangladesh done thus far to make its RMG factories safer? The short answer is not enough. The RMG sector in Bangladesh has fueled the country's economy for three decades, growing from \$12,000 in exports in 1978 to annual sales now exceeding \$28 billion.⁹⁸ The sector generates 80 percent of the country's export revenue.⁹⁹ Bangladesh is the world's second largest garment exporter, and the industry employs nearly four million people.¹⁰⁰ The country has more than halved the percentage of people living under the \$1.90 poverty line since 1991.¹⁰¹ Bangladesh's great strides in reducing poverty can largely be attributed to its increase in labor earnings due to the expansion in RMG sector employment.¹⁰²

The Rana Plaza tragedy led the government of Bangladesh to make a series of labor rights commitments to the international community and in its 2013 National Tripartite Plan of Action on Fire Safety and Structural Integrity (NTPA).¹⁰³ The NTPA lists 25 action items in three areas—policy and legislation, administration, and practical activities—that were to be implemented between

⁹⁸ Senate Committee on Foreign Relations Majority Staff, *Worker Safety and Labor Rights in Bangladesh's Garment Sector*, at 3, Nov. 22, 2013; Paul Barrett et al., *Five Years after Rana Plaza: The Way Forward*, NYU Stern Center for Business and Human Rights, at 6 (Apr. 2018).

⁹⁹ Paul Barrett et al., *Five Years after Rana Plaza*, at 7.

¹⁰⁰ Mostafiz Uddin, "RMG Industry as the Major Employment Sector," *The Daily Star*, Feb. 17, 2019.

¹⁰¹ "Creating Jobs and Diversifying Exports in Bangladesh," *World Bank*, Nov. 14, 2017, <https://www.worldbank.org/en/news/feature/2017/11/14/creating-jobs-and-diversifying-exports-in-bangladesh>.

¹⁰² United Nations Development Program, *Bangladesh Quarterly Development Update*, at 11 (Oct-Dec 2017).

¹⁰³ Government of Bangladesh, *The National Tripartite Plan of Action on Fire Safety and Structural Integrity* (July 2013).

June 2013 and December 2014.¹⁰⁴ The NTPA called for the submission of a labor law reform package and amendment of the national labor law, recruitment of more safety inspectors, creation of a factory information database, and establishment of a worker safety hotline. The chart below details the NTPA's full list of commitments:¹⁰⁵

GOVERNMENT OF BANGLADESH'S 2013 LABOR COMMITMENTS

Activities	
Legislation and Policy	Submission of a labour law reform package and the amendment of the Bangladesh Labour Law 2006
	Adoption of a National Occupational Safety and Health Policy
	Review and adjustment of laws, rules and regulations related to fire, building, electrical and chemical safety
	Establishment of a taskforce of the cabinet committee on building and fire safety
Administration	Recruitment of 200 additional labour inspectors to the Department of Inspection for Factories and Establishments (DIFE)
	Upgrading of the Institution of Inspection for Factories and Establishments from a Directorate to a Department
	Implementation of MoLE project "Modernization and Strengthening the Department of Inspection for Factories and Establishments"
	Review and adjustment of factory licensing and certification procedures concerning fire, structural, environmental, chemical and electrical safety
	Consideration of the establishment of a one-stop shop for fire safety certification and licensing
	Development and introduction of a unified fire safety checklist to be used by all relevant authorities

¹⁰⁴ Mohd Raisul Islam Khan & Christa Wichterich, *Safety and Labor Conditions: The Accord and the National Tripartite Plan of Action for the Garment Industry of Bangladesh*, Global Labor University, at 20 (Sept. 2015).

¹⁰⁵ *Id.* at 20-21.; International Labour Organization, "National Tripartite Plan of Action on Fire Safety and Structural Integrity in the Garment Sector of Bangladesh (NTPA)", (last accessed February 26, 2020).

GOVERNMENT OF BANGLADESH'S 2013 LABOR COMMITMENTS—Continued

	Activities
Practical Activities	Inspection and assessment of factory-level fire and electrical safety needs
	Development and implementation of a factory fire improvement programme based upon the fire safety needs assessment
	Inspection and assessment of structural integrity of all active RMG industries
	Development of an accountable and transparent industry subcontracting system
	Delivery of a fire safety “crash course” for mid-level factory management and supervisors
	Development and delivery of specific training on fire safety for union leaders
	Development and delivery of a mass worker education tool to raise awareness regarding fire safety, OSH risks and prevention
	Establishment of a fire safety hotline for workers through the Department of Fire Service and Civil Defence (FSCD)
	Development and delivery of specific training on fire safety and structural integrity for factory inspectors
	Strengthening of the capacity of Fire Service and Civil Defence
	Development of guidelines for the establishment of a labour-management committee on OSH
	Development and dissemination of fire safety self-assessment and remediation tools
	Development of a tripartite protocol for death and injury compensation for workers
	Establishment of a publicly accessible database on OSH issues in RMG factories

GOVERNMENT OF BANGLADESH'S 2013 LABOR COMMITMENTS—Continued

Activities	
Political Activities	Redeployment of the RMG workers who lost jobs as a result of occupational accidents, rehabilitation of disabled workers

Source: Official website, Ministry of Labour and Employment, Government of Bangladesh

The government's implementation of NTPA is incomplete.¹⁰⁶ The following examples illustrate some areas where the government of Bangladesh has failed to fully implement its commitments as outlined in its action plan. The government committed to “upgrade” a national body responsible for inspections of structural integrity, fire, and electrical safety in factories, known as the Department of Inspection for Factories and Establishments (DIFE) under the Ministry of Labour and Employment.¹⁰⁷ The government has taken steps to build DIFE's capacity, including by increasing its annual budget from \$900 thousand in 2013 and 2014 to \$4.93 million in FY 2016 to 2017.¹⁰⁸ DIFE also launched an online system in March 2018 that compiles and makes accessible to the public labor inspection data, including information on factory license applications.¹⁰⁹ However, there is ongoing concern about DIFE's commitment and capacity to inspect RMG factories. The European Union Sustainability Compact's 2018 report concluded that DIFE was still not fully operational and that it had filled only 312 of the authorized 575 safety inspector positions as of March 2018. The report also concluded that the information on the DIFE website needed to be updated regularly and some of the information was outdated.¹¹⁰ As of February 2020, the DIFE website's latest data appears to be from May 2018.¹¹¹ According to DIFE, it has inspected 1,549 RMG factories.¹¹² While the Accord and the Alliance were jointly responsible for improving safety at approximately 2,300 RMG factories, the government reportedly has responsibility for safety in 745 RMG factories.¹¹³ Thus, it is unclear what constitutes DIFE's data given the number of factories for which the government is responsible falls below 1,000. The website also shows that as of 2018, only 107 of 809 factories under the government's responsibility have been

¹⁰⁶ U.S. Government Official, Call with Committee Staff, Aug. 28, 2019.

¹⁰⁷ European Commission, *Implementation of the Bangladesh Compact: Technical Status Report*, at 19 (Sept. 2018).

¹⁰⁸ *Id.* at 20.

¹⁰⁹ *Id.*

¹¹⁰ *Id.* at 22.

¹¹¹ Bangladesh Ministry of Labor and Employment, Department of Inspection for Factories and Establishments, <http://database.dife.gov.bd/> (last visited Feb. 11, 2020). Notably, as of February 25, 2020, the website was not functioning.

¹¹² *Id.*

¹¹³ Clean Clothes Campaign, International Labor Rights Forum, Maquila Solidarity Network & Worker Rights Consortium, *Bangladesh Government's Safety Inspection Agencies Not Ready to Take Over Accord's Work*, at 1 (Apr. 2019), <https://laborrights.org/sites/default/files/publications/RCC%20report%204-1-3.pdf>; Bangladesh Ministry of Labour and Employment, Department of Inspection for Factories and Establishments.

fully remediated.¹¹⁴ As of March 2018, the website indicates 422 factories remediated more than 50% and 111 factories remediated more than 80% of the safety compliance issues identified in their corrective action plans.¹¹⁵

DIFE's online database also has a "Complaint Box" that allows workers or employers to submit complaints about workplace issues. Unfortunately, this complaints mechanism does not guarantee anonymity.¹¹⁶ This shortcoming could explain why the government of Bangladesh reportedly received only 18 complaints through the DIFE complaints mechanism between 2013 and April 2019, whereas the Accord's anonymous reporting mechanism received 1,152 complaints during that same period.¹¹⁷

As part of the NTPA, the government of Bangladesh also committed to labor law reforms. In July 2013, the government adopted amendments to the 2006 Bangladesh Labour Act (BLA) to improve occupational health and safety conditions and to boost workers' rights, but the latter still falls short of international labor standards.¹¹⁸ In September 2018, the government lowered the membership threshold requirements for trade union registration from 30 to 20 percent of the total members of the factory workforce.¹¹⁹ The 2018 European Commission report on Bangladesh labor called for legislative changes to the BLA and its implementing rules—particularly with respect to lowering the membership threshold requirements for unionization—to bring Bangladesh in line with international labor standards. It recognized the reduction "to form a union [from 30 percent] to 20 percent of the workforce [as] an important first step which needs to be fully applied in practice," but that the threshold "should be further lowered to comply with international labor standards."¹²⁰ Labor rights advocates, including Solidarity Center, assert the threshold is still too high as compared to other countries.¹²¹ While the ILO Convention does not specify a number for minimum membership in a trade union for registration, it asserts that these requirements be "realistically attainable in all relevant circumstances. However, minimum membership requirements must not act as a deterrent to the establishment of organizations in practice."¹²² Although Bangladesh has adopted standard

¹¹⁴ Bangladesh Ministry of Labour and Employment, Department of Inspection for Factories and Establishments.

¹¹⁵ *Id.*

¹¹⁶ Clean Clothes Campaign, International Labor Rights Forum, Maquila Solidarity Network & Worker Rights Consortium, *Bangladesh Government's Safety Inspection Agencies Not Ready to Take Over Accord's Work*, at 1 (Apr. 2019).

¹¹⁷ By comparison, the Accord's complaint mechanism provides workers a tool to anonymously submit safety and health complaints at Accord-covered RMG factories; ensures that workers are able to exercise their right to refuse dangerous work; protects workers from retaliation; and provides retailers with knowledge of factory-level issues that would otherwise go undetected and unreported. The Accord ensures the concerns are properly addressed and remediated. Clean Clothes Campaign, International Labor Rights Forum, Maquila Solidarity Network & Worker Rights Consortium, *Bangladesh Government's Safety Inspection Agencies Not Ready to Take Over Accord's Work*, at 1 (Apr. 2019).

¹¹⁸ European Commission, *Implementation of the Bangladesh Compact: Technical Status Report*, at 7 (Sept. 2018), <https://trade.ec.europa.eu/doclib/docs/2018/september/tradoc-157426.pdf>.

¹¹⁹ "Government Cuts Requirement for Trade Union Registration," *BDNews24*, Sept. 3, 2018.

¹²⁰ European Commission, *Implementation of the Bangladesh Compact: Technical Status Report*, at 8 (Sept. 2018).

¹²¹ Solidarity Center Representatives, Interview with Committee Staff, Senate Committee on Foreign Relations Staff Visit to Dhaka, Bangladesh, July 2019.

¹²² The International Labour Organization, *Substantive Provisions of Labor Legislation: Freedom Association*, <https://www.ilo.org/legacy/english/dialogue/ifpdial/llg/noframes/ch2.htm#18>.

operating procedures for trade union registration, government officials have broad discretion to decide on union registration applications.¹²³

As the second of two international initiatives comes to an end, responsibility for factory monitoring and remediation will shift to the new RMG Sustainability Council and the government. International labor rights experts question the government's capacity and ability to ensure safety conditions in RMG factories under its purview moving forward. Concrete progress made by the international initiatives could all be undone if the focus on compliance is not maintained.¹²⁴

SUBCONTRACTING

An often overlooked element of Bangladesh's garment industry is a two layer system whereby larger export-oriented factories subcontract garment production to smaller factories that operate in the shadows. Given short turnaround times and slim profit margins described earlier in the report, subcontracting factories play a critical role in helping the large factories maintain low production costs and manage the ebb and flow of orders. Factories that do subcontracting work generally do not have direct relationships with large Western buyers.¹²⁵ As a result, unauthorized subcontracted factories could be the most dangerous for workers' safety. Tazreen Fashions factory made clothes for Walmart as a subcontractor, although Walmart argues it did not authorize the factory to do this work, emphasizing the point that lack of oversight of these facilities poses a serious danger to safety of workers.¹²⁶ As noted earlier in the report, the deadly fire at Tazreen Fashions in November 2012 resulted in 112 deaths and more than 200 injuries.

The Associate Director of the Center for Business and Human Rights, April Gu, argues that Western brands turn a blind eye to subcontracting. "It's an open secret. I mean, at one subcontracting factory we visited, there was a quality control inspector on the floor, from the Accord-covered supplier. Brands know that's going on; they know there's this two-tier system that's developed ... the fast-fashion business model relies on it, because the supply chain has to be flexible enough to accommodate large orders that come in at the last minute."¹²⁷ There appears to be no consensus on the number of subcontracting factories in Bangladesh. The government has not done a census on the industry.¹²⁸ In May 2019, the government issued guidelines requiring subcontractor factories to have membership in the industry associations (i.e. BGMEA and Bangladesh Knitwear Manufacturers and Exporters Association), minimum wage for workers at subcontracting factories, and government approval of factory structural designs.¹²⁹

¹²³ European Commission, Implementation of the Bangladesh Compact: Technical Status Report, at 7; Solidarity Center Representative, Interview with Committee Staff, Senate Committee on Foreign Relations Staff Visit to Dhaka, Bangladesh, July 2019.

¹²⁴ Email from U.S. Department of State Official, to Committee Staff, Aug. 8, 2019.

¹²⁵ Paul Barrett et al., *Five Years after Rana Plaza*, at 2.

¹²⁶ *Id.* at 9.

¹²⁷ Maya Singer, "Until Western Brands Take a Stand, the Lives of Bangladeshi Garment Workers are at Risk," *Vogue*, Dec. 4, 2018.

¹²⁸ Paul Barrett et al., *Five Years after Rana Plaza*, at 7.

¹²⁹ "BGMEA, BKMEA Membership Must for Garment Subcontracting Factories," *NewAge Business*, July 2, 2019.

CHAPTER FOUR: THE KEY ACTORS SHAPING FACTORY SAFETY AND LABOR RIGHTS IN BANGLADESH

Safety in some of Bangladesh's RMG factories has improved due to unprecedented work and collaboration among international labor advocates, industry leaders, the brands, and the government of Bangladesh. The U.S. government and the European Union applied diplomatic and economic pressure towards improvements in factory safety and to a lesser extent, labor rights. Meanwhile, amid a competitive global RMG market, consumers are increasingly becoming aware of the conditions under which their clothes are made. The contributions of these stakeholders in shaping the Bangladesh RMG landscape are discussed in detail in this chapter.

THE INTERNATIONAL SAFETY INITIATIVES: THE ACCORD AND THE ALLIANCE

Shortly after the Rana Plaza collapse, well-known European retailers—such as Inditex, which is the Spanish parent company of Mango and Zara, Sweden-based H&M, and the British retail chain Tesco—formed the Accord on Fire and Building Safety in Bangladesh. In addition, the Alliance for Bangladesh Worker Safety was established, representing companies like Walmart Inc., Target Corporation, and The Gap, Inc. Their member brands agreed to inspect supplying factories and committed to cut off any suppliers that failed to meet safety standards set by them. The European-led Accord included 220 brands, and the North American-led Alliance included 29 brands.¹³⁰ The Accord's steering committee included representatives of major international unions and two Bangladeshi labor federations.¹³¹

The initiatives have been a groundbreaking beacon of hope for Bangladeshi garment workers and have set an international standard for how agreements among brands, suppliers, unions and workers should be designed and implemented. They produced the first legally binding and comprehensive set of standards for fire and building safety measures that mandated inspection, remediation, and ongoing monitoring of the workplaces. The strength of the Accord, in particular, rested on enforcement mechanisms under which hundreds of multinational labels, like H&M, Esprit, and American

¹³⁰ Alliance for Bangladesh Worker Safety, "Alliance Cites Progress Toward a Collective Agreement on Worker Safety," Apr. 11, 2018, <http://www.bangladeshworkersafety.org/en/476-progress-toward-collective-agreement> (last visited Jan. 27, 2020).

¹³¹ Paul Barrett et al., *Five Years after Rana Plaza*, at 11.

Eagle, “were formally liable for the safety conditions of their supplier factories.”¹³²

THE EUROPEAN-LED ACCORD’S ACCOMPLISHMENTS

In February 2014, the Accord initiated its fire, electrical, and inspection program across more than 2,000 RMG factories producing for its factory signatories. Five years later, 85 percent of the safety hazards identified during initial inspections across all Accord factories had been fixed; 150 Accord factories have fully remediated their factories and 857 factories have completed more than 90 percent of remediation requirements.¹³³ The Accord also reports significant progress on what it calls common safety issues. For instance, 97 percent of its factories removed the lockable or collapsible gates found onsite during initial safety inspections, allowing for egress from a building in case of a fire or other emergency.¹³⁴

Workers at Accord-covered factories can anonymously submit complaints on a range of topics—including structural safety, forced overtime, denial of sick leave or maternity benefits, and violence and harassment, including gender-based violence and unfair termination. The Accord takes action by contacting factory owners to rectify the problem and investigating the complaint.¹³⁵ If a factory owner refuses to address the issue, the Accord informs the retailers sourcing from that factory and terminates the business relationship between the brand and all of the factory owner’s facilities.¹³⁶ The Accord indicated to Committee Staff that most workers’ issues get resolved, and often by workers agreeing to separation from work with payment.¹³⁷ The Accord’s website reports that as of February 25, 2020, 175 factories have been made ineligible for business with Accord member buyers for failure to implement workplace safety measures.¹³⁸

THE AMERICAN-LED ALLIANCE’S ACCOMPLISHMENTS

A parallel international initiative, the Alliance for Bangladesh Worker Safety, was formed by North American brands. Its mandate concluded in December 2018, and its final report shows that over the last five years, the initiative inspected 714 factories, and completed 93 percent of remediation at its factories. The Alliance estimated that its 24-hour confidential worker hotline reached more than 1.5 million workers.¹³⁹ The report notes that to date, the Alliance has suspended 178 factories for failing to make adequate

¹³²Michelle Chen, “6 Years after the Rana Plaza Collapse, Are Government Workers Any Safer?” *The Nation*, July 15, 2019.

¹³³Accord Bangladesh, “Achievements 2013 Accord,” July 20, 2018, <https://bangladeshaccord.org/updates/2018/07/20/achievements-2013-accord>.

¹³⁴*Id.*

¹³⁵Rob Wayss, Executive Director, Accord on Fire and Building Safety in Bangladesh, Interview with Committee Staff, Senate Committee on Foreign Relations Staff Visit to Dhaka, Bangladesh, July 2019.

¹³⁶Elena Arengo et al., *Calling for Remedy: The Bangladesh Accord Complaint Mechanism has Saved Lives and Stopped Retaliation across Hundreds of Factories*, International Labor Rights Forum, at 10 (May 2019).

¹³⁷Rob Wayss, Executive Director, Accord on Fire and Building Safety in Bangladesh, Interview with Committee Staff, Senate Committee on Foreign Relations Staff Visit to Dhaka, Bangladesh, July 2019.

¹³⁸Accord Bangladesh, <https://bangladeshaccord.org/factories> (last visited Jan. 27, 2020).

¹³⁹“Alliance Announces End of Its Tenure,” *New Age Business*, Dec. 14, 2018.

remediation progress.¹⁴⁰ The Alliance’s final report notes that “nearly 1.6 million workers have been trained to protect themselves in case of a fire emergency, and the Alliance ... developed local training partners to expand the training beyond Alliance-affiliated factories [and] 181 worker safety committees have been formed, giving workers a seat at the table with management in resolving safety issues within their factories.”¹⁴¹

THE SUCCESSOR TO THE AMERICAN-LED ALLIANCE, NIRAPON

When the Alliance shut down its operations in 2018, several former Alliance members launched a new self-regulating platform known as Nirapon (which roughly translates as ‘safe place’ in Bangla). Nirapon is responsible for overseeing safety inspection, remediation, and training efforts at the 600 member factories from which its members source.¹⁴² Nirapon’s member brands include Abercrombie & Fitch, The Gap, Carter’s, Costco Wholesale, J.C. Penney, Nordstrom, Macy’s, The Children’s Place, Walmart, Target, and Kohl’s.¹⁴³

While noting that Nirapon will build on the achievements of the Alliance, Nirapon CEO Moushumi Khan made clear that “the Nirapon model is fundamentally different.”¹⁴⁴ The Alliance worked directly with factories on factory remediation; Nirapon’s model is to conduct independent oversight and verification of safety and training compliance and will not suspend factories. Also, it will not publicly share safety compliance issues, and will keep this information private with its members.¹⁴⁵ The lack of transparency in the Nirapon model will make it harder for local and international labor advocates to hold brands and suppliers accountable for unsafe factories.

The BGMEA has reportedly sought to incorporate Nirapon into the RMG Sustainability Council structure; however, Nirapon has not agreed, to date, to be a part of the organization.¹⁴⁶ On October 22, 2019, after a factory owner sought a petition against Nirapon, the courts barred Nirapon from conducting any safety monitoring visits in factories for six months. The courts also asked Nirapon to justify why it should not be ordered to join the RMG Sustainability Council.¹⁴⁷ Nirapon appealed the case; however, in December 2019, the courts upheld the earlier decision to impose the six month ban.¹⁴⁸ Some observers view the court case against Nirapon as a possible pressure campaign by BGMEA.

¹⁴⁰ Alliance for Bangladesh Worker Safety, *An Industry Transformed: Leaving a Legacy of Safety in Bangladesh’s Garment Sector*, (Nov. 2018), <http://www.bangladeshworkersafety.org/files/Alliance%20Fifth%20Annual%20Report%202018.pdf>.

¹⁴¹ Alliance for Bangladesh Worker Safety, “Alliance Fifth Annual Report 2018,” Dec. 11, 2018.

¹⁴² “Factory Safety: Nirapon Comes in Place of Alliance,” *The Daily Star*, Apr. 30, 2019.

¹⁴³ Nirapon, Membership, <https://www.nirapon.org/membership/> (last visited Jan. 27, 2020).

¹⁴⁴ “Factory Safety: Nirapon Comes in Place of Alliance,” *The Daily Star*, Apr. 30, 2019.

¹⁴⁵ *Id.*

¹⁴⁶ Representative of Nirapon, Meeting with Committee Staff, Nov. 22, 2019.

¹⁴⁷ “High Court Imposes Ban on Nirapon for 6 Months,” *New Age Business*, Oct. 23, 2019.

¹⁴⁸ Simon Glover, “Nirapon loses appeal against High Court ban,” *Ecotextile News*, Dec. 3, 2019.

THE BANGLADESH GARMENT MANUFACTURERS AND
EXPORTERS ASSOCIATION (BGMEA)

The BGMEA is a national trade association of garment manufacturers that wields extraordinary power and political influence in the country. While the law does not give the BGMEA the authority to serve a regulatory function, in practice the BGMEA exerts regulatory authority in certain areas. For example, the government entrusts the BGMEA with issuing a utilization declaration to factories, which is essentially a license required to export materials. The BGMEA also takes part in bilateral and multilateral trade negotiations.¹⁴⁹ Its members are important drivers of the national economy; in addition to their ownership of garment factories, a number of them are Members of Parliament, and owners of television stations and newspapers, and other commercial enterprises.¹⁵⁰

The BGMEA has a clear incentive to ensure building safety to avoid attracting negative international attention to the RMG industry again. While the garment industry has turned Bangladesh into the second largest exporter of RMG in the world, trailing only China, there are other countries—such as Vietnam—that are strong contenders for the number two spot.¹⁵¹ The RMG sector produced over 80 percent of Bangladesh's exports and contributed to 11.1 percent of the GDP in fiscal year 2017-2018.¹⁵²

Current BGMEA President Rubana Huq was elected in April 2019. She is the managing director of Mohammadi Group, a conglomerate that owns multiple factories supplying brands like H&M and Primark.¹⁵³ Huq made it an early priority of her presidency to work with the government of Bangladesh, global brands, and the Accord to establish the Ready-Made Garment Sustainability Council, a new locally-led safety initiative that will take over the Accord's operations. Huq stated during her election speech that Bangladesh's RMG industry's failure to create its own regulatory body was a huge mistake, and that in her new capacity she intended to create a regulatory agency to supervise and monitor the industry.¹⁵⁴ Huq has reached that goal with the creation of the RMG Sustainability Council.

THE RMG SUSTAINABILITY COUNCIL

In April 2018, the Bangladeshi High Court ruled the government could not extend the Accord's tenure following a writ petition filed by a supplier accusing the Accord of wrongdoing.¹⁵⁵ Labor activists believe the courts pursued action against the Accord under pres-

¹⁴⁹ BGMEA, "BGMEA's Activities," Sept. 3, 2019, <http://www.bgmea.com.bd/home/about/BGMEASACTIVITIES>.

¹⁵⁰ Jim Yardley, "Garment Trade Wields Power in Bangladesh," *The New York Times*, July 24, 2013.

¹⁵¹ Ibrahim Hossain Ovi, "RMG Global Market Share, Bangladesh Loses as Vietnam Gains," *Dhaka Tribune*, Aug. 4, 2019.

¹⁵² *Id.*

¹⁵³ Anuradha Nagaraj, "First Female Boss Vows to Shake up Bangladesh's Fashion Factories," Reuters, Apr. 9, 2019.

¹⁵⁴ Satarupa Barua, "First Female President of Bangladesh Garment Group Eyes Advances," *Voice of America*, May 21, 2019.

¹⁵⁵ The writ asserted that the Accord acted improperly after its inspectors found the remediation at the owners' factories insufficient and Accord retailers broke their relationship with the supplier. Refayet Ullah Mirdha, "Accord's Extension Runs into Trouble," *The Daily Star*, May 17, 2018.

sure from the BGMEA.¹⁵⁶ In May 2018, the High Court in Bangladesh ordered the Accord to cease operations.¹⁵⁷ The Accord appealed this decision, and the Supreme Court eventually held a hearing on the matter one year later in May 2019.¹⁵⁸ Before the hearing date, the Accord and the BGMEA developed a transition plan that they submitted to the court. The court decided the Accord could continue operations for approximately 281 days in order to transition to a new safety entity called the RMG Sustainability Council.¹⁵⁹

In January 2020, the Accord, the BGMEA, and the Bangladesh Knitwear Manufacturers and Exporters Association entered into an agreement, which commits the three parties to “initiate a time bound transition process in which all major functions of the Accord office in Bangladesh will transition before 31st of May 2020 into the national initiative RSC [RMG Sustainability Council].”¹⁶⁰ The RMG Sustainability Council is a private initiative and separate from, but complementary to, the government’s regulatory powers and bodies.¹⁶¹

The RMG Sustainability Council is to be governed by a Board of Directors that includes an equal number of representatives from the industry, brands, and trade unions.¹⁶² According to the agreement, the new entity will retain all safety and health inspections, and remediation, training, and complaints handling functions maintained by the Accord.¹⁶³ The credibility of the institution will be determined by a number of factors, including the true balance of power on the Board of Directors.¹⁶⁴

Some notable elements of the agreement require the RMG Sustainability Council to retain the Accord’s practice of full public disclosure of inspection results and remediation activities; to maintain the Accord’s independent complaints mechanism; to share data with the Accord Foundation in Amsterdam, but the terms of access to RMG Sustainability Council data will be specified at a later date; and to appoint a Chief Safety Officer (i.e. inspector) retaining the independence, authorities, autonomy, and reporting requirements as practiced by the Accord.¹⁶⁵ According to the agreement, the RMG Sustainability Council’s safety inspectors must be credible and independent and have the ability to recommend that non-compliant factories be restricted from selling to apparel brands.

Labor advocates assert that “[w]hile many important details about the future Accord mechanism remain to be decided, there are

¹⁵⁶ Union leaders, Interview with Committee Staff, Senate Committee on Foreign Relations Staff Visit to Dhaka, Bangladesh, July 2019.

¹⁵⁷ Refayet Ullah Mirdha, “Accord’s Extension Runs into Trouble,” *The Daily Star*, May 17, 2018.

¹⁵⁸ Weixin Zha, “Uncertainty Lingers as Bangladesh Accord and Government Fail to Reach Agreement,” *Fashion United*, Feb. 18, 2019; “Bangladesh Factory Safety Monitors Get Court Extension,” *France24*, May 19, 2019.

¹⁵⁹ “Bangladesh Factory Safety Monitors Get Court Extension,” *France24*, May 19, 2019.

¹⁶⁰ Transition Agreement between Accord on Fire and Building Safety in Bangladesh and BGMEA/BKMEA, (Jan. 14, 2020), <http://bgmea.com.bd/bgmea/wp-content/uploads/2020/01/Accord-BGMEA-RSC.pdf>.

¹⁶¹ *Id.*

¹⁶² *Id.*

¹⁶³ *Id.*

¹⁶⁴ International Labor Rights Advocates, Interview with Committee Staff, Senate Committee on Foreign Relations Staff Visit to Dhaka, Bangladesh, July 2019.

¹⁶⁵ Transition Agreement between Accord on Fire and Building Safety in Bangladesh and BGMEA/BKMEA, (Jan. 14, 2020).

concerns about the [RMG Sustainability Council] because of the brands and BGMEA's potential influence over the complaints process, and their ability to self-regulate."¹⁶⁶ The notion that BGMEA would ultimately police itself in an industry from which it profits is questionable. As one labor expert put it, "the BGMEA cannot be left to cut its own chicken."¹⁶⁷ For the RMG Sustainability Council to prove effective, workers' representatives must have a comparable level of voting power to the BGMEA and brands on the RMG Sustainability Council Board of Directors.

The Accord's effectiveness also derives from its ability to compel factories to be compliant with safety standards. The Accord 'escalation protocol' holds noncompliant factories accountable because if factory owners do not comply, the Accord will terminate the factory's business relationship with the buyer.¹⁶⁸ BGMEA officials did not indicate in conversations with Committee Staff their intent to retain this protocol, and instead referred to the BGMEA's power to withdraw a non-compliant factory's utilization declaration.¹⁶⁹ The BGMEA argues that this escalation tool is stronger given that without a utilization declaration, non-compliant factories cannot export to any destination country, including Turkey and Russia, as opposed to only being blocked from Western countries where most Accord signatory brands are based.¹⁷⁰ Revoking utilization declarations appears to be a stronger tool for holding noncompliant factories accountable *if* the BGMEA enforces it when any factory fails to meet safety standards.

The uncertain fate of the Accord after the past year has led to both employers and brands delaying repairs. Life-threatening hazards remain uncorrected in some factories covered by the Accord, as a result.¹⁷¹ It will be critically important for these Accord-covered factories to complete outstanding remediation before handover to the RMG Sustainability Council.

Bangladeshi labor activist Kalpona Akter asserts that the Accord's biggest achievement is the drop in severe, fatal factory accidents: "[After] experiencing these hundreds and thousands of workers dying in the factory collapses, it's a phenomenal change, and it should get recognition, and it should be continued."¹⁷² Fellow labor union leader Nazma Akter emphasized that "[t]he Accord has saved our industry, our country."¹⁷³ RMG workers and labor activists fear that the departure of the Accord will have dire consequences for workplace safety and labor rights. The government has a responsibility to ensure a comprehensive and credible transition to ensure the Accord's progress in improving factory safety standards is not lost.

¹⁶⁶ Email from International Labor Rights Advocate, to Committee Staff, Nov. 15, 2019.

¹⁶⁷ International Labor Rights Advocate, Interview with Committee Staff, Senate Committee on Foreign Relations Staff Visit to Dhaka, Bangladesh, July 2019.

¹⁶⁸ The Bangladesh Accord on Fire and Building Safety, "Ineligible Suppliers for Business with Accord brands," Jan. 5, 2018, <https://bangladeshaccord.org/2018/08/22/ineligible-suppliers/>.

¹⁶⁹ BGMEA Representative, Interview with Committee Staff, Senate Committee on Foreign Relations Staff Visit to Dhaka, Bangladesh, July 2019.

¹⁷⁰ *Id.*

¹⁷¹ Email from International Labor Rights Forum Representative, to Committee Staff, Nov. 20, 2019.

¹⁷² Michelle Chen, "6 Years after the Rana Plaza Collapse, Are Garment Workers Any Safer," *The Nation*, July 15, 2019.

¹⁷³ Union Leader Nazma Akter, Interview with Committee Staff, Senate Committee on Foreign Relations Staff Visit to Dhaka, Bangladesh, July 2019.

CHAPTER FIVE: THE UNITED STATES AND EUROPEAN UNION RESPONSE TO THE TAZREEN FASHIONS AND RANA PLAZA TRAGEDIES

U.S. RESPONSE

Following the Tazreen Fashions and Rana Plaza tragedies, the United States suspended Bangladesh's trade benefits under the Generalized System of Preferences (GSP) in June 2013, in response to the government of Bangladesh's failure to recognize RMG factory workers' internationally recognized labor rights.¹⁷⁴ The United States subsequently negotiated a labor action plan with the government that, if implemented, would have provided a basis for reinstatement of GSP trade benefits. To date, the United States has not reinstated GSP trade benefits due to lack of sufficient progress in the plan's implementation, despite assertions by the government of Bangladesh to the contrary. The original intent of the action plan was that the government of Bangladesh would implement it within a reasonable period of time; however, nearly seven years later it has not been fully implemented. In addition, new problems—particularly abuse of workers and increased violations of workers' rights—have arisen that make the action plan largely outdated.¹⁷⁵ Given the overall deterioration of the labor environment in Bangladesh, the United States should update the labor action plan to reflect these new challenges in Bangladesh's RMG sector.

U.S. ASSISTANCE FOR INTERNATIONAL LABOR RIGHTS

In 2014, the U.S. Department of Labor deployed a labor attaché to the U.S. Embassy in Dhaka to manage the Bangladesh labor rights portfolio. The creation of this senior position demonstrated the U.S. commitment to worker safety and labor rights in Bangladesh. The labor attaché, who concluded her assignment in 2016, played a senior role in elevating the issue in the bilateral relationship and provided some measure of accountability. After almost three years, in September 2019, Embassy Dhaka hired a labor analyst to monitor the labor situation in Bangladesh.¹⁷⁶ The Obama administration had appointed a Special Envoy for International Labor Rights, who led the State Department's global efforts to advance labor rights. The Trump administration has left the post un-

¹⁷⁴ Press Release, Office of the United States Trade Representative, the Department of Labor & the Department of State, Statement by the U.S. Government on Labor Rights and Factory Safety in Bangladesh, July 19, 2013, <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2013/july/usg-statement-labor-rights-factory-safety>.

¹⁷⁵ U.S. Government Official, Meeting with Committee Staff, Oct. 3, 2019.

¹⁷⁶ Email from State Department Official, to Committee Staff, Jan. 28, 2020.

filled, which reflects the lack of priority it places on international labor rights.

The Department of Labor, the United States Agency for International Development, and the Department of State's Democracy, Human Rights, and Labor bureau have expended, to date, at least \$23.2 million on labor rights programs in Bangladesh since 2011.¹⁷⁷ The Trump administration has consistently sought to decrease labor-related programming worldwide, consistent with its broader efforts to shrink foreign aid, and continues to seek reduced funding for the Department of Labor's Bureau of International Affairs—an office that helps combat poor working conditions and organize labor unions around the world. For example, for Fiscal Year (FY) 2019, President Trump requested \$18.5 million for the Department of Labor's Bureau of International Affairs global programs, a sharp decrease from the bureau's allotted \$86.1 million in 2017.¹⁷⁸ Despite the administration's efforts to significantly reduce global labor programs, the Department of Labor's budget operating plan shows \$96.1 million went toward these programs in FY 2020. However, President Trump's FY 2021 request again seeks to slash this number to \$18.6 million.¹⁷⁹

The United States also has a longstanding history of providing support to the ILO. The State Department's Congressional Budget Justification for FY 2021 shows actual assistance to the ILO in FY 2019 to be \$84.5 million instead of the Trump administration's requested \$42.5 million, and estimates that FY 2020 will be \$86.4 million. However, the Trump administration has requested again to cut this assistance by almost half, down to \$42.1 million, in its FY 2021 request.¹⁸⁰

Congress, however, has denied these requested funding cuts and maintained resources for international labor programming abroad through the appropriations process. Since the Rana Plaza tragedy, from FY 2014 through 2019, Congress has earmarked a total of \$20 million for labor rights in Bangladesh.¹⁸¹

EU SUSTAINABILITY COMPACT

The United States joined the European Union (EU) Sustainability Compact in 2013, which is a tripartite agreement between the EU, the government of Bangladesh, and the ILO. The Sustainability Compact's goals are broadly consistent with the U.S. 16-point labor action plan, as is its assessment of the government's lack of progress.¹⁸²

¹⁷⁷ Email from USAID Official, to Committee Staff, Feb. 2, 2020.

¹⁷⁸ U.S. Department of Labor, FY 2019 Department of Labor Budget in Brief, at 42, <https://www.dol.gov/sites/dolgov/files/general/budget/2019/FY2019BIB.pdf>.

¹⁷⁹ *Id.* at 47.

¹⁸⁰ U.S. Department of State, Congressional Budget Justification: Department of State, Foreign Operations, and Related Programs, Feb. 10, 2020, at 41, <https://www.state.gov/wp-content/uploads/2020/02/FY-2021-CBJ-Final.pdf>.

¹⁸¹ Consolidated Appropriations Act of 2014, Pub. L. No. 113-76, Explanatory Statement, 9 Cong. Record 160 at H1165; Consolidated and Further Continuing Appropriations Act of 2015, Pub. L. No. 113-235, Explanatory Statement, 151 Cong. Record 160 at H9952; Consolidated Appropriations Act of 2016, Pub. L. No. 114-113, Explanatory Statement, H. Cmte. Print Bk. 2 at 1632; Consolidated Appropriations Act of 2017, Pub. L. No. 115-31, Explanatory Statement, 76 Cong. Record 163 at H4055; Consolidated Appropriations Act of 2018, Pub. L. No. 115-141, Explanatory Statement, H. Cmte. Print Bk. 2 at 1800; Consolidated Appropriations Act of 2019, Pub. L. No. 116-6, H. Rept. 116-9 at 838.

¹⁸² Press Release, Office of the United States Trade Representative, the Department of Labor & the Department of State, Statement by the U.S. Government on Labor Rights and Factory

The impact of foreign assistance on promoting labor rights is not only measured by the dollars spent or the number of unions registered—but also by the change in the culture around labor rights, whereby authorities and factory owners respect freedoms of association and collective bargaining. Given the lack of political will to protect and advance labor rights and ensure accountability for abuse of workers in Bangladesh, U.S. assistance and bilateral diplomatic engagement with Bangladesh must consistently prioritize these issues.

THE BRANDS' RESPONSE TO THE TAZREEN FASHIONS
AND RANA PLAZA TRAGEDIES

Apparel brands and retailers have an important role to play in ensuring protection of labor rights and safe conditions in factories from which they directly and indirectly source. However, despite the fact that many brands joined the Accord and the Alliance, gaps in worker safety and respect for worker rights persist. In fact, American brands have recently been tied to garment factories that appear unsafe. An October 2019 *Wall Street Journal* (WSJ) investigation traced a shirt that a third-party seller listed on Amazon for \$4.99 to a factory in Chittagong “that has no fire alarms and where doors are of a type managers can lock and keep workers in.”¹⁸³ The WSJ found “other apparel on Amazon made in Bangladeshi factories whose owners have refused to fix safety problems identified by two safety-monitoring groups [the Alliance and the Accord], such as crumbling buildings, broken alarms, and missing sprinklers and fire barriers.”¹⁸⁴ The WSJ also found shipping records that tied Bangladeshi factories that had been banned under the international safety initiatives to Walmart and its online marketplace Walmart.com, as well as other American retailers including Target, Sears, and Kmart. Some items from these banned factories were reportedly sold directly by Walmart or by third parties on Walmart’s online marketplace.¹⁸⁵

In response to the WSJ report, an Amazon spokesperson said “Amazon inspects factories that supply its own brands to ensure they are in line with international safety standards similar to those of the safety-monitoring groups.... Amazon doesn’t inspect factories making clothing that it buys from wholesalers or that comes from third-party sellers. Instead it expects those wholesalers and sellers to adhere to the same safety standards.”¹⁸⁶ A Walmart spokesperson indicated they are reviewing items that Walmart is directly selling and in talks with their suppliers.¹⁸⁷ Target removed at least one listing after the WSJ article was published but declined to comment, according to the WSJ. Sears and Kmart are re-

Safety in Bangladesh, July 19, 2013, <https://ustr.gov/about-us/policy-offices/press-office/press-releases/2013/july/usg-statement-labor-rights-factory-safety>; European Commission, Implementation of the Bangladesh Compact: Technical Status Report, (Sept. 2018).

¹⁸³ Justin Scheck et al., “Amazon Sells Clothes from Factories Other Retailers Blacklist,” *The Wall Street Journal*, Oct. 23, 2019.

¹⁸⁴ *Id.*

¹⁸⁵ *Id.*

¹⁸⁶ *Id.*

¹⁸⁷ *Id.*

portedly importing from banned factories but also did not respond to questions about their sourcing policies.¹⁸⁸

BRAND PURCHASING PRACTICES

In conversations with Committee Staff, the one issue that garment workers, union leaders, labor rights advocates, and Bangladeshi officials could all agree on was that brands need to increase their purchasing prices and improve their purchasing practices.¹⁸⁹ While some global brands insist that suppliers ensure labor rights and safe work environments, their purchasing practices often incentivize the opposite behavior. Low purchase prices, demands for fast turnaround, unfair penalties, and poor forecasting affect the suppliers' bottom line and often squeeze suppliers financially, driving them to cut corners in ways that exacerbate unsafe conditions and workplace abuses.¹⁹⁰ For example, the pressure to simultaneously lower costs while increasing speed and delivery time results in factory managers insisting on long hours for workers.¹⁹¹ Countries with abundant cheap labor, such as Bangladesh, are unfortunately well-placed to meet these demands.

Brands generally require their RMG supplier factories to respect their codes of conduct to enter a business relationship, but rarely factor compliance with those codes into what they pay the suppliers.¹⁹² To date, most brands have not prioritized paying higher prices to suppliers to help compensate for increased costs, including wage increases.¹⁹³ However, some have participated in efforts such as the Action, Collaboration, and Transformation (commonly known as ACT) initiative, which seeks to address the issue of living wage in the garment supply chain; the New York University Stern Center for Business and Human Rights purchasing practices initiative, which seeks to develop a series of evidence-based indicators and benchmarks for best practices by examining the interlinkages between company purchasing practices and factory-level outcomes for workers; and the Better Buying initiative, which offers information and analysis about good purchasing practices. Primary responsibility for abusive and unsafe workplace conditions lies with factory owners; however, if brands are committed to clean supply chains, they need to ensure that their own business practices do not increase the risk of abuse and safety hazards. Steps could include improving purchasing practices, avoiding unfair penalties imposed on suppliers, and increasing how much they pay suppliers for goods.

In addition, as mentioned earlier, the ILO Governing Body of the International Labour Office, composed of governments, workers, and employers will decide in the coming months whether to establish a Commission of Inquiry (COI) to examine complaints against the government of Bangladesh for violating ILO conventions, including on freedom of association and collective bargaining.¹⁹⁴ Brands will have an opportunity to demonstrate their commitment

¹⁸⁸ *Id.*

¹⁸⁹ Union Leaders, Interview with Committee Staff, Senate Committee on Foreign Relations Staff Visit to Dhaka, Bangladesh, July 2019.

¹⁹⁰ Human Rights Watch, *Paying for a Bus Ticket and Expecting to Fly*, at 31 (Apr. 2019).

¹⁹¹ *See, e.g., id.*, at 4.

¹⁹² *Id.*, at 15.

¹⁹³ *Id.*, at 15-18.

¹⁹⁴ International Labor Rights Advocate, Phone Call with Committee Staff, Sept. 27, 2019.

to safety of workers and protection of labor rights by supporting the establishment of the COI.¹⁹⁵

CONSUMERS

Shopna, the Dhaka-based garment worker referred to in the Executive Summary, said in June 2019 that, “It makes me happy that [consumers] are wearing something that I made. But I want to let them know that this is more than a piece of cloth. This piece of cloth is bathed in my blood, sweat and dignity. I’ve sacrificed all of that to be able to make a pair of pants that you will wear and feel comfortable.”¹⁹⁶

American consumers care about how their clothes are being made, and are increasingly rejecting clothing stained with the blood of factory workers. A 2018 study known as the Conscious Consumer Spending Index by marketing agency Good.Must.Grow. found that 32 percent of Americans actively boycotted products and services within the past year that were not socially responsible, a record high.¹⁹⁷ According to the same poll, a majority of Americans said that they would not buy a brand that does not pay workers a fair living wage.¹⁹⁸

The Clean Clothes Campaign, a global alliance dedicated to improving working conditions, and the Changing Markets Foundation, an organization focused on increasing the market share of sustainable products, commissioned a survey (7,701 interviews) in November 2018, which showed that 72 percent of respondents from the UK, the United States, France, Germany, Italy, Poland and Spain believe clothing brands should be held responsible for what happens during the manufacturing process.¹⁹⁹ Another 81 percent of respondents are concerned about the working conditions of the employees.²⁰⁰

This combination of committed organizations and consumer opinion demonstrates that Americans care about how their clothes are being produced and demand more information on working conditions in fashion supply chains. Pressuring the government of Bangladesh to ensure it improves safety conditions and workers’ rights is in the long-term interest of businesses from a cost and reputation perspective.

CONCLUSION

The government of Bangladesh must prioritize respect for the rights of Bangladeshi workers, and their protection from unsafe conditions, above economic growth, particularly amid rising global concern among consumers about the conditions under which their clothes are made. Bangladesh cannot withstand the daily tragedies faced by RMG workers subject to abuse and sexual exploitation.

¹⁹⁵ Email from International Labor Rights Advocate, to Committee Staff, Oct. 7, 2019.

¹⁹⁶ ActionAid, “80 Percent of Garment Workers in Bangladesh Have Experienced or Witnessed Sexual Violence and Harassment at Work,” June 10, 2019.

¹⁹⁷ Good.Must.Grow., “Politics, Violence, and Price Tags Creating Drag on Social Responsibility, According to Sixth Annual Conscious Consumer Spending Index,” Dec. 13, 2018, <https://goodmustgrow.com/cms/resources/ccsi/ccsindexpressrelease2018.pdf>.

¹⁹⁸ *Id.*

¹⁹⁹ Ipsos MORI, “Sustainable Fashion Survey: Prepared for Changing Markets Foundation,” Nov. 2018.

²⁰⁰ *Id.*

While corporate international responses have helped to considerably improve the safety culture around garment factories, only Bangladesh can change its attitude towards freedom of association and protecting its garment workers from abuse. These workers fuel Bangladesh's economy. It behooves the government to take bold action against those who abuse them.

Nearly seven years after Rana Plaza, safety improvements in the sector are real, but require continued commitment to be sustained. The responsibility for safety in Bangladesh's factories will soon fully shift to the government and the RMG Sustainability Council. The onus is on the government of Bangladesh and industry leaders to create a culture that not only ensures safe factory buildings, but also safe workers. A "Bangladeshi-led" effort is not limited to the government or BGMEA—it must also provide space for Bangladeshi workers and labor unions to defend their rights and protect themselves from abuse while helping build a stronger national economy. Only then will "Made in Bangladesh" become a true label of pride for all the people of Bangladesh.

FULL LIST OF RECOMMENDATIONS

FOR THE INTERNATIONAL COMMUNITY

The United Nations Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association should:

- Immediately launch an investigation into allegations of widespread abuse—including gender-based violence—of RMG workers in Bangladesh.
- Conduct a country visit to Bangladesh focused on workers' rights to associate, join a union, conduct union activities, and be free from retaliation, such as retaliatory firings and false criminal charges.

The International Labour Organization (ILO) should:

- Launch a Commission of Inquiry on Bangladesh in response to alleged violations of the ILO Conventions on Freedom of Association and Protection of the Right to Organise, and Right to Organise and Collective Bargaining.
- Focus technical assistance on increasing the number of genuine unions while building union leaders' capacity to organize and collectively bargain.
- Consider establishing a multi-stakeholder task force, organized with the government of Bangladesh and local industry, and comprised of global brands and international financial and development institutions. The mandate of this task force would be to adopt a shared responsibility model that would allow enhanced coordination between key stakeholders (governments, brands, and workers representatives) and facilitate providing the financial resources necessary to make garment industry factories safer and to enhance the rights of workers.

FOR THE UNITED STATES GOVERNMENT

The U.S. Government should:

- Support, in its capacity as a member of the ILO's Governing Body of the International Labour Office, the establishment of an ILO Commission of Inquiry on Bangladesh in response to violations of the ILO Conventions on Freedom of Association and Protection of the Right to Organise, and Right to Organise and Collective Bargaining. Urge other members of the ILO governing body to support the inquiry.
- Maintain the suspension of U.S. Generalized System of Preferences (GSP) trade benefits for the government of Bangladesh

until it fully implements the U.S. 16-point labor action plan (formerly known as the GSP Action Plan).

- Update the U.S. 16-point labor action plan to reflect the ongoing challenges in Bangladesh’s RMG sector—including abuse of workers and increased violations of workers’ rights.
- Consider imposing visa bans against current and former officials as well as factory owners who engage in abuse of RMG workers and use violence and intimidation to dissuade labor organizing efforts.
- Continue ongoing U.S. programs promoting labor rights in Bangladesh, and increase funding for them going forward.
- Deploy a senior Department of Labor official to serve as labor attaché at U.S. Embassy Dhaka in order to ensure consistent high-level attention, and engagement on, factory safety concerns and labor rights and protections.
- Carry out, under the auspices of the Government Accountability Office, an analysis of the status of labor rights across the globe to inform the U.S. government’s policy and programming.
- Provide U.S. funding for a safer garment industry in Bangladesh as part of a multi-stakeholder task force or other shared responsibility initiative.

FOR THE GOVERNMENT OF BANGLADESH AND THE BANGLADESH GARMENT MANUFACTURERS AND EXPORTERS ASSOCIATION (BGMEA)

The Government of Bangladesh should:

- Investigate and prosecute factory owners and management that have been implicated in violating internationally recognized labor rights standards and domestic labor laws, including by engaging in anti-union activity and committing abuse against workers.
- Expeditiously complete pending investigations of unfair labor practices. Dedicate funding for the Ministry of Labour and Employment to hire lawyers to properly prosecute these cases in the labor court.
- Properly compensate workers who were victims of false criminal cases filed by factory management and police.
- Protect unions and their members from anti-union discrimination and reprisal. Any alleged worker misconduct or offense related to industrial issues should be filed in labor courts and/or with the Ministry of Labour and Employment or Department of Inspections for Factories and Establishments (DIFE). No such case should be filed or accepted in criminal courts or police stations.
- Publicly declare that the BGMEA will not be allowed to self-regulate in the RMG industry. Transfer authority to issue “utilization declarations”—which is essentially a license to export—from the BGMEA to the Ministry of Labour and Employment. Expand the utilization declarations requirements to include standards on factory safety and labor rights.

- Further revise the country's 2006 labor law to conform with international labor standards, including reducing arbitrary administrative burdens for trade union registration and further lowering the threshold for membership to start a union. Consult civil society and independent trade unions in reforms.
- Expeditiously register unions that meet administrative requirements and transparently provide information to applicants throughout the process.
- Reduce discretion in processing union registration applications by developing clear and concrete standards for approval and denial.
- Ensure the DIFE public database on factory safety and remediation efforts has complete and up-to-date information. Ensure full disclosure of RMG employment database systems—including the BGMEA's—for proper investigation into potential misuse against workers.
- Ensure RMG workers have access to an anonymous complaints hotline.

BGMEA should:

- Ensure that the workers' representatives have power equal to the BGMEA and participating brands on the RMG Sustainability Council Board of Directors.
- Ensure any complaints mechanism, including the complaints hotline managed by the RMG Sustainability Council, maintains the anonymity of the individual filing a complaint.
- Ensure RMG Sustainability Council inspectors are independent and free of influence from factory owners.
- Hold factory owners and management accountable for credible allegations of worker abuse and violations of labor rights.

FOR THE APPAREL BRANDS AND RETAILERS

Apparel Brands and Retailers sourcing from Bangladesh should:

- Prioritize labor rights in contracts and in interactions with management of supplying factories and ensure that all factories involved in the supply chain respect labor rights, in particular the rights to freedom of association and collective bargaining.
- Ensure that pricing and sourcing contracts with RMG factories incorporate cost of labor and safety compliance—including cost of the minimum wage increase, overtime payments, and all legal benefits—to eliminate any incentive for unsafe conditions and worker abuse.
- Ensure that local initiatives maintain the high standards established by the international factory safety initiatives, including breaking contracts with suppliers that are non-compliant with safety and labor rights standards.
- Include freedom of association and protection against anti-union discrimination in factory audit and inspection regimes.

- Collectively develop and implement a policy of zero-tolerance on violence and harassment, and for suppliers who consistently engage in anti-union activity.
- Support the establishment of an ILO Commission of Inquiry in Bangladesh.
- Ensure that the RMG Sustainability Council and Nirapon maintain the high standards established by the Accord and the Alliance respectively.

