



Crackdown in Cambodia

**Workers Seeking Higher Wages
Meet Violent Repression**



Worker Rights Consortium
March 24, 2014

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I. Executive Summary

On January 2 and 3, 2014, Cambodian security forces engaged in deadly attacks on protesting garment workers in the country's capital, Phnom Penh. The country's military police killed at least four people and injured at least 38 by firing assault rifles at workers who were protesting outside garment factories, demanding higher wages.¹ According to the country's leading human rights organization, the Cambodian League for the Promotion and Defense of Human Rights (known by its French acronym, LICADHO), military police fired at workers with live ammunition for a prolonged period with no apparent effort to avoid inflicting injury or death.² Those killed included workers employed at factories supplying a number of major international brands and retailers, including Walmart, Hudson Bay, Sears, Abercrombie and Fitch, Nike, Russell, adidas, Puma, Uniqlo, HanesBrands, Primark, and Marks & Spencer.³

The deadly assault was a response to strikes and demonstrations by tens of thousands of garment factory workers calling for a wage adequate to meet their basic needs. The protests were sparked when the Cambodian government announced a new minimum wage in December 2013, and the increase declared fell below the widely publicized assessment, by an official tripartite body, of the wage workers actually need to meet their basic needs.

The recent wave of protests is not the first time that Cambodian apparel workers have walked out of factories in protest over the rock-bottom wages paid by the country's garment industry,⁴ which are the world's second-lowest – above only those in Bangladesh – among major apparel-producing countries. Indeed, wages in Cambodian garment factories are so low that workers often experience significant difficulties meeting their minimum nutritional needs, a factor that has been linked to the literally dozens of episodes of mass fainting in apparel plants over the past several years that have affected several thousands of workers.⁵

Nor were the killings on January 3 the first time that Cambodian authorities have responded to garment worker protests with deadly violence. Instead, this was the third such shooting incident in as many years, following a February 2012 incident at factory supplying Puma, where a government official shot three protesting workers,⁶ and shootings by military police last November of ten persons, one fatally, at a march by striking workers from a plant supplying Levi-Strauss, Gap and H&M.⁷

Since the shootings at the beginning of this year, repression of Cambodian garment workers' fundamental human and labor rights of assembly, association and free speech has continued with little respite. During the past two months, state authorities have banned public gatherings completely,⁸ and still continue to hold 21 workers detained during the January crackdown.⁹ The individuals in detention, who reportedly were beaten af-

ter being seized by authorities, include workers employed by factories supplying Nike, Team Edition (Footlocker), PVH, Polo Ralph Lauren, Costco, Bloomingdales, Dillard's, and Clark's Footwear. Security forces have continued to put down any sign of worker protest, violently dispersing a peaceful demonstration by factory employees on January 26 using smoke grenades and electric batons;¹⁰ and the Ministry of Labor has blocked the legal formation of unions, refusing to register any newly-established unions.¹¹

The most direct responsibility for both the needless loss of human lives on January 2 and 3 and the repression of human and labor rights that followed clearly falls on the Cambodian government. However, Cambodian factory owners also are deeply implicated in this violent campaign against garment workers' call for higher wages, as are their business partners – the leading US and European apparel companies that obtain the greatest profits from these workers' labor. Neither the massive protests by workers in December nor the violent repression by security forces in January likely would have occurred had not Cambodian factory owners feared that by acceding to workers' wage demands they would render themselves unable to meet pricing requirements of Western brands and retailers.

Photo: LICADHO



Military combat unit attacks protesting garment workers outside Yakjin Garment factory, a supplier to Gap and Walmart.

The price squeeze confronting Cambodian garment factory owners – between the demands of brands and retailers for cheap apparel and the demands of garment workers for livable wages – explains not only why the industry has so aggressively opposed a significant increase in the minimum wage (even though real wages for Cambodian garment workers are no higher today than they were in 2000), but also why, since the mass protests erupted, industry leaders have tended to support escalation and confrontation over a negotiated settlement between labor and management. To cite just one example of this tendency, when workers at some factories launched a strike in mid-December in support of a higher minimum wage, the factory owners' organization, the Garment Manufacturers Association in Cambodia (GMAC) called for, in effect, a nationwide lockout of the industry's workers by its members, dramatically expanding the dispute.¹²

Even more egregiously, in the week leading up to the crackdown, factory managers, in particular, those from certain factories with owners based in South Korea, specifically lobbied elements of the Cambodian military to intervene against the worker demonstrations, both directly and through the South Korean embassy.¹³ This military intervention at the request of factory owners, which was conducted by not only military police, but

also combat units with a track record of human rights abuses, was a proximate cause of the deaths, beatings and illegal detentions suffered by Cambodian garment workers on January 2 and 3.

Nor have factory owners been reluctant to take action, themselves, to punish garment workers and worker representatives for calling for a livable wage. Since the wage strikes and protests began in December, garment factories have terminated 168 workers who are members and leaders of plant-level unions. The GMAC has filed lawsuits against the elected leaders of several national labor federations representing garment workers for their involvement in the strike, seeking damages for lost profits and alleged property losses.¹⁴ And, today, military personnel are stationed on the very premises of factories in the same area where security forces killed and detained workers during the January crackdown.¹⁵

Photo: LICADHO



Outside Yakjin Garment factory on January 2, an Army special forces unit attacked workers with AK-47 rifles, police batons, metal pipes, knives, and slingshots.

The Cambodian garment industry's ongoing refusal to pay its workforce a minimally adequate wage – a refusal, in effect, dictated by the business practices of Western brands and retailers – has resulted in the worst episode of state violence and repression against civilians in Cambodia in more than a decade.¹⁶ The January shootings have been broadly denounced by international governmental and nongovernmental organizations including the United Nations (UN),¹⁷ the International Labour Organization

(ILO),¹⁸ Amnesty International,¹⁹ and Human Rights Watch (HRW).²⁰ On January 9, 2014, Brad Adams, Asia Director for HRW, stated that,

“[T]he [ruling party]’s violent crackdown, abuse of detainees, and ban on all protests seem aimed to prevent the broader exercise of democratic and labor rights in Cambodia.... Diplomats and donors should vigorously protest these rights abuses if they want to prevent Cambodia from sliding further into repression.”²¹

The same warning also holds true for apparel brands and retailers doing business in Cambodia. Indeed, HRW also called on apparel companies to “urge the Cambodian government to revoke its ban on protests and to release and drop charges against all individuals arrested for protesting for their labor rights.”²²

The Cambodian government’s use of deadly force and other repressive measures against protesting garment workers has created a human rights crisis that is still continuing to

unfold. The WRC shares the view that apparel firms doing business in Cambodia have a responsibility to influence the government towards a nonviolent and non-repressive response to workers' protests, both directly and through their Cambodian suppliers.

The current crackdown in Cambodia is a cause for serious concern on the part of universities, colleges and companies in the collegiate licensed apparel sector. Sixteen university licensees have disclosed producing collegiate apparel in Cambodia. In 2013, these licensees produced apparel at a total of 20 factories in the country.

On January 3, 2014, the WRC contacted the largest university licensees producing in Cambodia concerning the shootings of protesting workers that had just occurred that day, calling on them to help halt the looming repression of labor and human rights in the country. As detailed in this report, the WRC recommends to university and collegiate licensees and other brands and retailers producing apparel in Cambodia that they take the following measures to address the current crisis:

- Ensure that their own supplier factories do not retaliate against workers on account of the exercise of associational rights; and require them to reinstate with back pay any workers whom they have terminated in retaliation for participation in a strike, protest or other associational activity, unless employers can demonstrate that these terminations were consistent with Cambodian law and international labor standards.
- Help end the Cambodian government's repression of worker rights, by communicating to government officials that persons who have been detained as a consequence of their participation in or association with the recent wage protests should be immediately released – without condition, unless the legal standard for criminal indictment is clearly met – and that, until their release, such detainees should be treated in accordance with international human rights standards.
- Call on the Cambodian government to ensure that individuals responsible for excessive use of force, especially those responsible for causing death or injury, either directly or via command authority, are disciplined and prosecuted; and ensure that adequate compensation is paid to the victims of this violence.
- Meet and negotiate with representatives of Cambodian garment workers, a written platform for addressing the underlying causes of the current crisis, including commitments to:
 - Require their supplier factories in Cambodia to pay workers a minimum of \$160 per month, as the wage needed to meet an individual worker's basic needs;
 - Adjust their pricing practices as needed to permit their supplier factories to sustainably pay workers the \$160 per month minimum; and
 - Assuming compliance with other commercial requirements, to maintain their business with factories that implement the \$160 per month minimum for at least the next two years.

Both the GMAC and the Cambodian government have expressed concern that significant increases in wages for garment workers will cause brands and retailers to shift orders to other countries. If university licensees and other brands and retailers make firm commitments not only to require their supplier factories to meaningfully increase wages, but also to factor such an increase into the prices they pay for garments, university licensees and other brands and retailers can play a vital role in resolving the current crisis.

The following report discusses the current human and labor rights crisis affecting garment workers in Cambodia; its relationship to the underlying issue of inadequate wages; the response of university licensees to the WRC's recent communications to them on this subject; and the WRC's recommendations for further action by licensees and other brands and retailers doing business in Cambodia.

Photo: LICADHO



Garment workers march on December 27 calling for increase in their wages – the world's second-lowest among major garment-exporting countries.

II. Methodology

This report is based on a review of the following sources:

- Interviews with eyewitnesses, including workers, NGO staff, union leaders and victims of violence;
- Local and international media reports;
- Publications and statements by local and international nongovernmental organizations (NGOs), with a particular emphasis on eyewitness accounts;
- A review of applicable Cambodian laws and conventions of the International Labour Organization; and
- Communications with university licensees and other buyers sourcing apparel from Cambodia.



Photo: CLEEC

A worker displays bullets found after security forces opened fire on protesters outside Canadia Industrial Park.

III. Background Information

A. Minimum Wage in the Cambodian Garment Sector

Cambodian labor law requires that the country's legal minimum wage be set at a level that provides workers with "a decent standard of living compatible with human dignity."²³ Wages for garment workers in Cambodia, however, are among the lowest in any of the world's major apparel producing countries, and provide only a fraction of the earnings needed for a minimally adequate "living wage."²⁴

Real wage levels in the Cambodian garment industry fell by 19.1% between 2001 and 2011; with occasional increases in the legal minimum consistently failing to keep pace with inflation.²⁵ The declining buying power of the minimum wage is particularly salient for garment workers as most Cambodian apparel factories pay most of their employees only the legal minimum for straight-time work.²⁶

On May 1, 2013, the government increased the minimum wage in the apparel sector from \$61 to \$80 per month.²⁷ However, the new minimum wage figure included a \$5 per month allowance that workers already statutorily received,²⁸ so the real value of the increase was only \$14 per month.²⁹ While this was the largest increase in the minimum wage that garment workers had seen in more than a decade, it only restored wages, in terms of buying power, to the level they had in 2000, when the country's apparel industry was still in its nascency.

Photo: WRC



Workers buy food from vendors outside the factories whose wares are often half-spoiled goods from regular marketplaces.

The minimum wage, which was further increased to \$100 per month in February 2014, is still grossly inadequate to sustain the basic needs of workers and their families,³⁰ and is far below one that provides "a decent standard of living compatible with human dignity,"³¹ as Cambodian law requires. In 2013, a Cambodian NGO, the Community Legal Education Center (CLEC), and a British NGO, Labour Behind the Label (LBL), calculated the minimum income necessary in Cambodia to support a garment worker or one of her dependents to be \$150 per person per month.³² Based on this figure, the minimum wage needed for a worker to support herself and two dependents would be \$450 per month, nearly five times its current level.

The inadequacy of the minimum wage is not a new issue in Cambodia. A 2009 survey by the Cambodian Institute of Development Study (CIDS) found that garment workers in Phnom Penh spent, on average, \$1 daily on food, 13% less than the average figure among the capital's other residents, \$1.15. With respect to non-food expenses, such as rent, clothing and health care, the study found that the gap between garment workers' average spending on these items and that of other Phnom Penh residents was even greater: \$0.87 per day compared to \$1.86.³³

Inadequate wages paid by factories have contributed to rampant malnutrition among factory workers. Research conducted between October 2012 and June 2013 by the CLEC and LBL found that one-third of the Cambodian garment workers they surveyed had a body mass index below 18, indicating malnourishment.³⁴

Photo: CLEC



Cambo Kotop workers recuperating at the local hospital after having fainted on March 14. Since 2010, incidents of mass fainting on the job have affected more than 4,000 Cambodian garment workers. On March 13 and 14, 2014, almost sixty workers fainted at the Cambo Kotop factory; one worker later died.

In 2012, the WRC analyzed the nutritional value of Cambodian garment workers' typical breakfast and midday meals and found that, based on the World Health Organization (WHO) standard of 2,700 calories as the daily requirement for a young woman performing moderate physical work,³⁵ these meals failed to satisfy workers' minimum caloric needs.³⁶ With a typical diet of three meals per day, each meal would have to contain 900 calories to satisfy the workers' minimum needs. Samples of typical workers' breakfasts tested by the WRC contained only about 400 calories, and lunch 570. Thus by afternoon, workers typically had a deficit of 830 calories, or nearly half of what they needed from the first two meals of the day.³⁷ Unless workers have dinners that are three times more nutritious than their



Photo: CLEC

Typical living quarters for garment workers.

lunches, which, based on anecdotal evidence, appears very unlikely, Cambodian garment workers' diet is insufficient to provide them with the minimum level of calories.

Malnutrition among factory employees has been identified as a significant factor in the dozens of incidents reported in

recent years of large numbers of workers in Cambodian garment factories fainting on the job. According to local media reports, more than 4,000 workers have been affected in more than 50 separate incidents of mass fainting since 2010.³⁸ Yet Cambodian garment workers interviewed by the WRC report that the total number of employees affected by this phenomenon has been underreported, as many factories see multiple incidents of a single worker fainting in any given month.

Lacking adequate wages, Cambodian garment workers make extensive efforts to economize on food and other living expenses. For example, many factory employees live with several other workers with whom they share food expenses. Some workers minimize food expense by bringing rice, meat and fish from their home villages.³⁹ Others forage for food on weekends, searching ponds and rice fields for vegetables, small animals and insects to eat.⁴⁰

Even the GMAC, which has strenuously opposed increasing the minimum wage, has at least partially acknowledged this reality. In 2011, its General Secretary, Ken Loo, noted that while the then-current minimum wage "provides enough nutrients to survive[,] . . . it doesn't mean you won't feel hungry."⁴¹

Controversy over the last minimum wage increase prior to May 2013, which was implemented in 2010, also led to a crisis for the Cambodian garment sector: the first industry-wide strike in a decade, and mass retaliation against workers by employers. That year, the Labor Advisory Committee (LAC), a tripartite body established by the Cambodian state to set labor policy, announced that the minimum wage would rise by just \$5, with no further increases until 2014.

Cambodian unions denounced the LAC for recommending such a small increase without sufficient consultation with worker representatives, and workers launched a strike across the garment industry.⁴² The GMAC and its member factory owners retaliated against em-

ployee union leaders and other workers who participated in the 2010 strike. Twenty-nine workers from four factories were injured during the strike, including a female employee whose foot was run over by a company car at the Pine Great Garment factory.⁴³ More than 800 other workers, from nearly 30 factories, were threatened with lawsuits, dismissed or suspended.⁴⁴ This retaliation occurred despite the fact that Cambodian labor law narrowly restricts employers' right to discipline workers for participation in a strike⁴⁵ – even when the job action in question is ultimately deemed to be illegal. Many, but not all, of the workers who were suspended or terminated ultimately were reinstated after pressure from unions and intervention from buyers.⁴⁶

The following spring, the LAC issued new mandates that, while leaving the minimum wage unchanged, did raise workers' earnings. Several mandatory cash benefits were increased, including attendance bonuses, seniority bonuses, and food allowances for workers performing overtime. While employees' receipt of this additional compensation was made contingent on their seniority, attendance, or performance of overtime work, the WRC estimated that the 2011 increases provided workers, on average, with a raise of roughly \$6-9 per month.

B. The 2013 Minimum Wage Review

In August 2013, the Cambodian government established a tripartite task force comprised of government officials and representatives of both the GMAC and Cambodian trade unions. This task force was charged with annually developing research-based recommendations concerning the appropriate level of the minimum wage. The group reached an agreement on its first annual wage recommendation on December 16, 2013.⁴⁷

Photo: WRC



Garment workers typically travel to and from factories by foot or on the back of open trucks. According to government statistics, 69 garment workers died in road accidents in 2013.

A leaked document from one of the task force's subcommittees revealed that it had found that workers' average spending on basic necessities was \$157 per month.⁴⁸ Based in part on these findings, the task force concluded that the proper minimum wage level to sustain a worker and her family was \$160.⁴⁹ While double the existing minimum wage, this figure, however, is only about one third of the wage that the CLEC and LBL had found was necessary to support a worker and two dependents.

The task force subcommittee proposed three possible sched-

ules of three wage increases to raise workers' monthly wages to \$160.⁵⁰

However, none of the task force's proposals took into account the impact that future price inflation will have on workers' buying power. According to the International Monetary Fund's World Economic Outlook data, Cambodia's expected annual inflation rate between 2014 and 2017 is between 3% and 5.7%. Therefore, by 2018, workers would need to earn \$185 to provide a standard of living equal to that which \$160 would provide today.⁵¹

The public release of the task force's proposal, on December 16, 2013, immediately sparked debate on how quickly wages should rise to the \$160 level.⁵² A week later, workers in two industrial zones in the municipality of Bavet, in Svay Rieng province, began a strike calling for an immediate increase in their wages to \$154 per month.⁵³

Meanwhile, the tripartite task force had submitted its recommendation for increasing the minimum wage to \$160 per month to the LAC. The GMAC then began lobbying publicly for a smaller increase, that would raise the wage floor to just \$130 over five years.⁵⁴ The GMAC also proposed that the increase come in the form of a "no strike" bonus, payable only to workers who did not participate in any unsanctioned strike, instead of an actual increase in the minimum wage.⁵⁵

On December 24, 2013, the LAC announced its recommendation to the Ministry of Labor, which has the final authority to set minimum wages.⁵⁶ While the LAC followed the tripartite taskforce's recommendation for establishing a wage floor of \$160 by 2018 – rather than the \$130 supported by factory owners – its schedule for raising wages to that level was even less favorable than that proposed by the taskforce, as it back-loaded increases so that workers would see smaller wage gains in the first few years.

Following the LAC's announcement, hundreds of workers who had gathered in front of the Ministry of Labor, where the LAC had held its meetings, began to demonstrate against the LAC's decision. On the same day, five labor federations that are generally perceived as those most independent of the government⁵⁷ issued a joint statement rejecting the LAC's recommendation and calling for direct wage negotiations between worker representatives and factory owners.⁵⁸

C. Garment Workers Protest 2013 Minimum Wage Announcement

Following the LAC's December 24 announcement of its recommendation concerning the minimum wage, tens of thousands of garment workers in the capital city of Phnom Penh joined the strike that already had been launched by factory workers in the Bavet industrial zone. As more workers joined the action, the strike became framed as a national protest against the perceived inadequacy of the minimum wage increase recommended by the LAC.⁵⁹



Photo: LICADHO

Workers call for a minimum wage of \$160 per month – the minimum needed for one person’s daily necessities.

Rank-and-file workers, rather than union leaders or politicians, were the driving force behind these strikes, as national labor bodies were caught by surprise by workers’ pent-up anger and willingness to take to the streets.⁶⁰ Publicly supporting the protests, however, were leaders of the opposition Cambodian National Rescue Party (CNRP), which had called for a minimum wage of \$150 as one of its key policy positions in the July 2013 national elections.⁶¹

The dispute escalated dramatically, however, after the GMAC recommended that its member garment factories suspend their operations from December 26, 2013 through January 1, 2014.⁶² The GMAC claimed that factories needed to shut down for security reasons in the face of violent protests, but did not cite or provide any evidence of violence against its members’ facilities. Indeed, media coverage of the protests did not report any violence by protesters up to this point, and, in fact, featured an interview with a factory manager who reported that the workers protesting outside his plant had not been violent or coercive in any way.⁶³

Nevertheless, approximately 80% of the country’s garment factories did shut down in response to the GMAC’s recommendation.⁶⁴ This effective lockout of workers by factory owners left employees both idle and without income, spurring even more workers to join the protests.⁶⁵

At least four factories, including Makalot Garments, Alim, Volumecocomo Apparel, and Camwell Manufacturing, went even further and locked their workers *inside* their factories on certain days of the strike to prevent them from joining protesters outside. These plants supply, among other brands and retailers, Kohl’s, JCPenney, Kmart, VF, Target, Walmart, H&M, Gap, Inditex, Abercrombie & Fitch, and HanesBrands.⁶⁶ Locking workers inside a plant to physically prevent them from participating in a strike violated these employees’ right to freedom of association with other workers, as protected by ILO Conventions 87 and 98.⁶⁷

By December 29, the estimated number of workers joining protest marches over the wage issue had risen to 50,000, with some sources reporting that as many as 150,000 employees were participating – roughly half the industry’s workforce. On the same day, the GMAC released a letter accusing the leaders of the six union federations that had called for direct wage negotiations of destroying factories’ property and intimidating employees from returning to work, despite the fact (which this letter did not acknowledge) that GMAC, itself, had urged its member factories to close, making it impossible for most garment industry employees to return to work even if they wished to do so. The letter also did not make any specific reference to any damage to factories for which it alleged the union leaders were responsible.⁶⁸

Photo: VOD



Workers protest nonviolently for higher minimum wage.

On December 30, Cambodia’s Ministry of Labor issued a letter warning five of the six union leaders mentioned in GMAC’s letter to cease inciting workers to strike. The Ministry again alleged, without factual support, that protesting workers had damaged factories’ property and forced employees to cease work.⁶⁹ Also that day, the GMAC refused to attend a meeting with the unions that had been called by the Ministry of Labor.⁷⁰

On December 31, 2013, the Ministry of Labor issued a *prakas* (proclamation) that the minimum wage would be increased on February 1, 2014 to \$100 per month. But as the immediate increase the Ministry announced was only \$5 per month more than the one that the LAC previously had recommended, workers were unsatisfied, and continued their nationwide protests and strikes.⁷¹

On January 2, 2014, at 9:00 a.m., the six labor federations named in the GMAC’s letter, along with a leading teachers’ union, the Cambodian Independent Teachers Association (CITA), called a news conference. The unions called for the minimum wage to be immediately increased to \$160 per month and pledged to continue their protests if the government refused.⁷²

Later that morning, the GMAC announced that, due to the ongoing demonstrations, it was again refusing to join negotiations with the unions that the Ministry of Labor had called for that afternoon. The GMAC requested, instead, that the Cambodian Ministry of Commerce grant to its member factory owners permission to transfer production from their Cambodian plants to factories located in other countries⁷³ – a threat, in effect, that they would abandon the Cambodian garment industry before they would negotiate with its workers. On the same day that factory owners made this inflammatory request, government authorities began their violent crackdown on workers’ protests.

IV. Violations of Freedom of Association and Freedom of Assembly

A. Government Repression of Wage Protests

1. Beating and Detention of Workers by Army Special Forces Unit

At noon on January 2, only a few hours after the union federations announced their intention to continue their protests over the minimum wage, the government deployed a Cambodian Army special forces unit, “Brigade 911,” to break up a protest by striking workers in front of the Yakjin Garment factory on the western outskirts of Phnom Penh.⁷⁴ Yakjin Garment is a Korean-owned plant that is a supplier to Gap, Walmart, Pink, and American Eagle Outfitters.⁷⁵

Brigade 911 is an airborne commando unit that previously has been documented as responsible for egregious human rights violations. The unit was trained by the Indonesian military as a paratroop unit and, as noted by HRW, lacks any training in responding to civilian demonstrations.

As HRW also has reported, in 1997, Brigade 911 was responsible for capturing and torturing political opponents of current Prime Minister Hun Sen, following his seizure that year of sole political power in a coup against his former coalition partners in government.⁷⁶ A former UN human rights official now working for HRW has recounted an incident during that time in which members of Brigade 911 actually discussed killing the members



Photo: LICADHO

Soldiers confront protesting workers outside Yakjin Garment.

of a UN contingent visiting the detention camp where these political prisoners were being held.⁷⁷

On January 2, according to reports from the human rights organization, LICADHO, Brigade 911 soldiers arrived outside the Yakjin Garment factory armed with, in addition to regulation AK-47 rifles and police

batons, metal pipes, knives, and slingshots – gangland weapons intended to kill, maim, and injure, rather than police equipment designed for dispersing protesters non-lethally (such as tear gas, pepper spray, “beanbag” rounds, etc.).⁷⁸

The soldiers assaulted the protesters and, according to another prominent human rights NGO, the Cambodian Center for Human Rights (CCHR), beat more than a dozen people, including garment workers, Buddhist monks and journalists.⁷⁹ An eyewitness described one incident in which soldiers entered a coffee shop where some workers and other activists had sought refuge, beat one of the shop’s female staff, and then dragged outside one of the activists, whom they then began beating as well.⁸⁰

The Brigade 911 commandos then detained more than ten of the protesters, including five who were monks, holding them illegally overnight at a military camp.⁸¹ As is further discussed below, on the following day, ten of the detainees were brought to a Phnom Penh court, where they were charged with generic criminal offenses, and then sent secretly to a prison in a remote area far from the capital.⁸²

2. Killing, Beating and Detention of Workers by Military Police

At around 3:00 p.m. on January 2, several police cars arrived at Phnom Penh’s Veng Sreng Street near the city’s Canada Industrial Park, where workers reportedly were engaging in a peaceful protest.⁸³ The neighborhood around the industrial park is well-known as a locus for criminal gang activity, and has been the site of previous incidents of violence against factory employees and worker representatives.⁸⁴

Upon their arrival in the area, police officers attacked and beat several of the protesting workers, and then left the scene.⁸⁵ Shortly thereafter, unknown persons arrived at the scene and started urging the crowd to respond to the police attack with militant action.

That evening, another group of unidentified people started to burn tires and blockade the street, stopping trucks carrying containers of finished goods from the industrial zone,

Photo: LICADHO



Government calls in army special forces unit against protest by garment workers and Buddhist monks outside Gap and Walmart supplier Yakjin Garment.

and forcing their drivers to abandon the vehicles. Some observers interviewed by the WRC have suggested that these unidentified persons may have been *agents provocateurs*, perhaps linked to the same criminal organizations in this area that have engaged in violence against workers in the past. Police officers blocked access to the area, turning away representatives of the UN and LICADHO who tried to enter.

According to press reports, beginning around midnight, both civilian and military police officers entered the area and began indiscriminately shooting and assaulting residents.⁸⁶ Eyewitnesses to these incidents stated that civilian and military police officers went door-to-door among the rented dwellings in this district beating and arresting workers living there, regardless of whether they had participated in the wage protests.⁸⁷

In response to this assault, some garment workers began throwing rocks at the police officers. By the morning of January 3, as the fighting escalated in the area, several hundred military police had been deployed at Veng Sreng Street.⁸⁸



Military police near Canadia Industrial Park, just after troops opened fire on protesting garment workers - 4 were killed and 40 injured.

At approximately 10:00 a.m., monitors working for LICADHO witnessed military police on the street open fire with live ammunition directly at protesters and bystanders.⁸⁹ This was an apparent response to some workers throwing rocks at the police. LICADHO reported that, "the use of live ammunition was prolonged and no efforts appear to have been made to prevent death and serious injury."⁹⁰ Workers called ambulances to try to evacuate those who had been shot, but the military police prevented the ambulances from entering the area.⁹¹

The gunfire left four garment workers dead and at least 40 others injured, of whom 26 were admitted to hospitals with gunshot wounds.⁹² According to Military Police Spokesman Kheng Tito, none of those injured were police officers.⁹³ In addition to the four workers



Photo: LICADHO

At least four garment workers, including this man, were shot and killed by military police on January 3 near Canadia Industrial Park.

who were confirmed dead at the scene, a 16-year-old boy, who was shot in the chest, was last seen being carried away in a military truck, and still remains unaccounted for, is likely to have been a fifth fatality.⁹⁴

Following the deadly assault, police arrested another 13 protesters and bystanders.⁹⁵ Like the ten detained the previous day outside the Yakjin

Garment factory, these persons subsequently were charged in the city's courts with generic criminal offenses and sent to a prison in an undisclosed location,⁹⁶ bringing the total number of individuals arrested and detained in the two days of protests to 23. Additional information on the situation of these detainees is provided in a subsequent section of this report.

The four people killed on January 3 and the missing boy were all garment workers employed at nearby apparel factories, including New Mingda (a supplier to Walmart, Hudson Bay, Sears, American Eagle Outfitters, and Abercrombie and Fitch), Shen Zhou (a supplier to Nike, Russell, adidas, Puma, and Uniqlo), and Whitex Garment (a supplier to Sears, HanesBrands, Sara Lee, Primark, Delta Galil, Macy's, and Marks & Spencer).⁹⁷

The January 3 killings were not the first instance of state violence against protesting garment workers in Cambodia. On February 20, 2012, the governor of Bavet Province, Chhuk Bundith, shot repeatedly into a crowd of protesting workers in front of the Kaoway Sportswear factory, a supplier of footwear to Puma.⁹⁸ Three workers were shot, one in the chest. Bundith was charged with a relatively minor offence, "unintentional violence," and sentenced to 18 months' imprisonment, but he disappeared before serving a day of his sentence.⁹⁹ Even more recently, on November 12, 2013, a march of striking workers from the SL Garment factory fell under gunfire from military police that killed one person and injured nine more.¹⁰⁰

3. Suppression of Protests; Harassment of Worker Representatives

On January 4, 2014, government authorities continued their crackdown against protesting workers. Civilian and military police violently dispersed protesters gathered in Phnom Penh's Freedom Park, a plaza that has been the main site for political rallies against the current government and supporting the opposition CNRP.¹⁰¹

On the same day, government authorities banned all public demonstrations in Phnom Penh with effect from January 5.¹⁰² The UN's Special Rapporteur on the Situation of Human Rights in Cambodia denounced the government's move, observing that it violated

Cambodia's obligations under the International Covenant on Civil and Political Rights.¹⁰³ On January 6, however, police officers began enforcing the ban by detaining five people, whom they released the same day, but only after each signed a promise not to engage in illegal protests and to be a "good person."¹⁰⁴



Photo: CLEC

Military police detain a bloodied protester on January 3.

On January 14, government authorities summoned Rong Chhun, President of the Cambodian Confederation of Unions, to respond to allegations by the GMAC that he had engaged in "incitement and violence that has affected social security." A union official who was interviewed by local media told reporters that Chhun was in hiding, and his fellow union leaders were afraid of politically motivated legal harassment.¹⁰⁵ State officials also summoned for questioning the leaders of the opposition CNRP.

During this time, elements of the Cambodian military also continued to intervene at individual garment factories at employers' behest to intimidate protesting workers, even when the employer was the party violating the law. According to Cambodian union representatives, on January 17 and 20, more than one hundred military personnel confronted workers at the Canteran Apparel factory in Phnom Penh, a supplier to Walmart, Kohl's and Costco, to suppress a protest concerning the factory's nonpayment of a bonus the employees were legally owed. The soldiers ordered workers to end their protests, and threatened to shoot the employees' union representatives if they failed to do so.

On January 19, 2014, police arrested and detained Sokchhun Oeung, Vice President of the Independent Democracy of Informal Economy Association (IDEA), a union of workers in the informal sector. Oeung had organized a small public gathering calling for the release of the 23 individuals who had been detained during the January 2-3 crackdown and for a larger increase in the minimum wage at a "spirit house" (outdoor shrine) in front of the Royal Palace in Phnom Penh.¹⁰⁶ Just as the meeting was starting, however, security guards employed by local authorities, wearing visored motorcycle helmets that hid their faces and carrying police batons, began to aggressively disperse the attendees.

The IDEA union leader, Oeung, was detained by riot police and held overnight. He was released the following morning, but only after he signed a statement agreeing not to participate in or lead any demonstrations, and to report to state authorities any demonstrations that the government deemed illegal.¹⁰⁷

On January 21, 2014, police officers arrested eleven union leaders and human rights activists as they attempted to submit petitions to foreign embassies in Phnom Penh calling for the release of the 23 detainees. The eleven advocates arrested on January 21 were released later the same day after, again, being required to sign statements pledging that they would be “good citizens,” not participate in or lead any demonstrations, and report any illegal activities to the authorities.¹⁰⁸

On January 26, 2014, police violently broke up a rally organized by unions to call for the release of the 23 detainees, injuring at least eight of the participants.¹⁰⁹ Human Rights Watch reported that “security force personnel and vigilantes with firearms and brass-knuckles fired slingshots, threw rocks, and struck with truncheons to disperse protesters and others.”¹¹⁰

Finally, on March 3, 2014, security guards employed by local authorities in the capital’s Daun Penh District disrupted a gathering of unions, monks, and other civil society groups calling for the release of the 21 detainees. The security guards confiscated the protesters’ drums and loudspeakers. When the group went to local government offices to request the return of these items, the security guards physically confronted them, injuring two female protesters.¹¹¹

4. Ongoing Detention and Mistreatment of Garment Workers and Others

As discussed, on January 2 and 3, 2014, 23 people, including fourteen garment workers, were detained by Cambodian state authorities in connection with the government crackdown on the wage protests.¹¹² All 23 detainees were charged with the same generic criminal offenses under Cambodia’s Criminal Code: “Intentional Violence with Aggravating Circumstances,”¹¹³ and “Intentional Damage with Aggravating Circumstances.”¹¹⁴ The maximum total penalty for these offenses is five years imprisonment.¹¹⁵

The 23 detainees were held incommunicado by the government for the first week after their arrests. On January 8, some detainees were allowed to see their relatives and a medical officer,¹¹⁶ although they were still not given access to their lawyers.¹¹⁷ According to LICADHO, after being arrested, all the detainees were beaten by the military police.¹¹⁸

Two of the 23 detainees, including a 17-year-old young man, were released on bail on February 7. Currently 21 of the 23 original detainees remain imprisoned. From February 9 to 13, at least 16 of these remaining detainees held a four-day hunger strike to protest their continued imprisonment.¹¹⁹

Access to the detainees is extremely restricted and the WRC has not been able to speak with any of the current detainees directly. According to interviews conducted by LICADHO with relatives of the detainees, many of those being held did not even take part in any of the wage demonstrations. For example, among the detainees are: a motorcycle taxi driver who was arrested while on his way home from work; a garment worker who was dragged from his dwelling where he had just been eating lunch; and several others were arrested while simply returning home from their jobs in garment factories in the area.¹²⁰

One of the detainees is an electrician employed by the factory Sabrina (Cambodia) Garment Mfg., a supplier of collegiate apparel to Nike. He reportedly had been asked by the factory's management to observe the protests outside the nearby Yakjin Garment factory. While watching the protests, he witnessed security forces vandalizing a number of motorcycles that were parked nearby. When the electrician tried to move his own motorcycle out of harm's way, he was beaten and arrested.

A detainee who worked at Sky Nice International,¹²¹ a supplier to Clark's Foot-

wear, reportedly was arrested when he tried to help his wife who was being beaten by the soldiers near Yakjin Garment. Another detainee, who was arrested in his home, while sheltering protesters who had fled the violence, works at Suntext, a factory previously disclosed as a collegiate supplier by Team Edition Apparel, and a supplier of non-collegiate garments to PVH, Polo Ralph Lauren and Calvin Klein. Team Edition Apparel also continues to disclose Suntext's Singapore-based parent company, Ocean Sky International, as one of its suppliers of collegiate apparel.

Two other detainees were working at YVP Trading, a supplier to Costco, PriceSmart and Worldwindows, LLC (a vendor to Bloomingdale's, Dillard's, Boscov's and Adrienne Vittadini (Retail Brand Alliance)). Another detainee was employed by Gap and Walmart supplier Yakjin Garment.

Photo: CLEC



Twenty-three people (workers, protesters, and onlookers) were beaten and detained by the police on January 2. Twenty-one are still being held.



Photo: CLEC

Detainee beaten by the police on January 2.

Government authorities did not disclose where the detainees were being held until January 8, 2014, when officials revealed that the detainees had been moved hundreds of kilometers from Phnom Penh to Cambodia's Correctional Center 3 (CC3) in Kampong Cham province in the eastern part of the country.

The use of CC3 for pretrial detentions is highly unusual as the facility is isolated and difficult to access; therefore, the

prison houses, almost exclusively, persons who already have been convicted and given long sentences. CC3 is notorious for overcrowding and poor conditions.¹²²

Human Rights Watch has called for the detainees to "have immediate access to counsel of their choosing, necessary medical care, and visits from family members," and stated that, "those held for their nonviolent political or social activism should be immediately and unconditionally released."¹²³ HRW and other international human rights organizations have expressed concern that the detainees will not receive a fair trial given the reality of "government control of the courts."¹²⁴

Local and international observers have long noted Cambodian courts' lack of independence.¹²⁵ For instance, in September 2010, the United Nations Special Rapporteur for Human Rights in Cambodia stated that judicial proceedings continued to be "used by the rich and powerful in many cases to dispossess, harass and intimidate the poor" and those representing them.¹²⁶

Interviews with the seventeen-year-old youth who has been released from detention, along with reports from other human rights organizations, indicate that the detainees have been subjected to physical abuse and have been denied adequate medical care. In an interview following his release, the youth explained that he had not taken part in any of the wage protests, but that he lived in an area where some of them were taking place, and was photographing them when he was arrested. He told journalists that military police officers beat him so severely that he had lost the use of his left hand and his hearing in his left ear. The young man also reported that police officers had confiscated his possessions and threatened him with torture while interrogating him. The other detainee whom authorities released reported suffering from chest pains and memory loss on account of the physical abuse he received at the hands of the police.¹²⁷

LICADHO has informed the WRC that although the majority of the detainees are recovering from the beatings inflicted on them at the time of their arrests, four have serious health conditions requiring medical care that is not provided at the prison – which does not employ a trained physician, but, instead, has two inmates serve as “medical staff” for its more than 1,400 prisoners. LICADHO reports that the four detainees facing immediate health risks are:

- *Vorn Pao*, who has suffered a head injury requiring 10 stitches and is experiencing pain in his kidneys after having being struck there. A cancerous tumor was removed from Pao’s kidneys seven months prior to his arrest. Reports indicate that Pao’s kidney condition is rapidly deteriorating.¹²⁸
- *Theng Savoeun*, who has suffered a serious head injury requiring 7 stitches and continued to cough up blood.
- *Sokun Sambath Piseth*, who has suffered multiple fractures in his hand which now require surgery to prevent permanent disability.
- *Yong Sam On*, who has been diagnosed by the LICADHO staff who examined him in detention as having four tumors (unrelated to the beating he received upon his arrest) which require further testing and treatment.

5. Conclusion

Despite considerable international outcry against the state-directed violence and repression in Cambodia over the past two months, including protests at Cambodian embassies in several countries around the world,¹²⁹ and statements of concern issued by both governmental and nongovernmental international organizations, including the United Nations,¹³⁰ and the International Labour Organization (ILO),¹³¹ Amnesty International,¹³² and Human Rights Watch (HRW),¹³³ the Cambodian government continues to defend the conduct of police officers and security forces during the recent crackdown.

The military police, through its spokesman Kheng Tito, defended the crackdown on January 2 and 3 as “very ethical,” and claimed that he didn’t know who killed the four workers. He reported that the military police “didn’t shoot to kill” and, therefore, there would be no investigation of their actions. Instead, he indicated that the government was considering investigating the protesters.¹³⁴ In addition, on January 30, police and military officers who had taken part in the crackdown were praised by government officials and presented with cash rewards on behalf of the Prime Minister and his wife.¹³⁵

Similarly, Interior Minister Sar Kheng awarded special bonuses totaling more than \$54,000 to 3,100 police officers at a gathering at the Ministry on March 7.¹³⁶ At this ceremony, Kheng congratulated the officers for their work in quelling the protests, providing each police officer with a bonus that he indicated was from himself, the National Police Chief General, and unnamed “associates.” Kheng told the officers, “There will be more bo-

nuses.... It is a little money for you, but it is an act to thank all of you for suppressing protests.”¹³⁷

At the same assembly, Kheng not only praised the police for their role in the crackdown, but also blamed human rights defenders and opposition politicians for the violence that occurred. Kheng stated, “[I]t is because of the violence of Sam Rainsy that protests became riots and violence caused injuries to both police and military police, and some four people died.”¹³⁸ The previous month, Kheng stated that striking garment workers, along with land and human rights activists, were responsible for “degrading security” in Cambodia.¹³⁹

Ironically, Kheng is also heading the committee the government has appointed to investigate the violence on January 2 and 3.¹⁴⁰ The report has not yet been made public, although the committee announced on February 4 that the report had been submitted to the Ministry of the Interior.¹⁴¹

B. Factory Owners’ Instigation of Government Repression and Retaliatory Termination of Workers

1. Instigation of Violence against Workers who Joined Wage Protests

Recent reports in Cambodian and Korean media indicate that the South Korean Embassy in Phnom Penh, at the request of local Korean factory owners, actively lobbied the Cambodian military to intervene against wage protests by garment workers, and, subsequently, applauded the government’s violent crackdown. Korean investors hold full or partial ownership of 84 of the 613 apparel factories that are members of the GMAC, and these plants supply many of the top brands and suppliers sourcing from Cambodia, including adidas, Gap, Kohl’s, Sears, H&M, Forever 21, JCPenney, Walmart, VF, Mango, Target, Costco, Spanx, Children’s Place, and Li & Fung. A list of major Korean apparel factories in Cambodia can be found in Table 1.



Photo: LICADHO

Labor leader Vorn Pao being beaten by soldiers; he remains in prison under indefinite detention.

Table 1: Major Korean Factories in Cambodia

| Factory | Workforce | Buyers |
|------------------------------|------------------|---|
| Cam Verna Fashion | 1359 | VF |
| Cambo Handsome | 6000 | adidas, Gap, Kohl's, Sears, Mango Forever 21, JCPenney, La Senza, H&M, Walmart, American Eagle Outfitters |
| Cambo Kotop | 1997 | Walmart, H&M, JCPenney, Gymboree, Mango, Kohl's, Gap |
| Columbus Apparel (Cambodia) | 1300 | Target, Children's Place |
| Indochine Apparel (Cambodia) | 1400 | Next |
| Injae Garment | 1890 | JCPenney, Moret Group, Aeropostale, Costco, Li & Fung |
| Now Corp. | 1300 | Walmart |
| Quicksew (Cambodia) | 1364 | Walmart, Children's Place, InMocean, Pacific Sunwear, Spanx, Breaking Waves |
| Sangwoo (Cambodia) | 4441 | Gap, H&M |
| The Willbes (Cambodia) | 1957 | Walmart |
| Tuki Sport (Cambodia) | 1310 | Cabela's |
| Yakjin Garment (Cambodia) | 2766 | Gap, Walmart, Pink, American Eagle Outfitters |
| YTC Corporation | 1250 | Gap |

According to these press reports, the South Korean embassy stated on January 6 that it had pressed the government to “understand the seriousness of this situation [the wage protests and strikes] and act swiftly.” More significantly, according to reporters, Korean Embassy representatives acknowledged that they had made direct overtures to the head of the Cambodian Army’s Counter-Terrorism Unit and other top army officials, and that these overtures resulted in Korean-owned factories at the Canadia Industrial Park (see Table 2), the site of the January 3 killings of protesters, receiving special protection by military units.¹⁴² The Army’s Counter-Terrorism Unit is a battalion of its Brigade 911, the

same special forces unit responsible for the violent attack on protesting workers outside the Korean-owned Yakjin Garment factory.

On its official Facebook page, the South Korean embassy reported that, at the request of local Korean factory owners, its representatives had made lobbying visits to police and military officers. The embassy stated on the online site that it was,

“Cooperating closely with the military and police authorities for the protection of Korean companies, and even accompanied business representatives to the Capital Garrison Command to explain the situation on the ground . . . [and that] [a]s a result of this the military has taken special measures specifically to protect Korean companies in the Canadia industrial park.”¹⁴³

After this intervention was reported in the Korean and Cambodian media, the embassy deleted the posts from its Facebook page and denied that it had lobbied the Cambodian military to respond aggressively to the protests.¹⁴⁴

South Korean media reports also indicate that at least one Korean-owned firm, Yakjin Garment, the factory where Brigade 911 troops violently attacked and illegally detained protesting workers, also directly requested support from the Army. According to the journal, *Kyunghyan Daily*, Yakjin Garment representatives acknowledged that they “called for military intervention by calling on personal relationships with military personnel,” because “the police were not very responsive.”¹⁴⁵ Yakjin Garment is the third largest Korean-owned factory owner in Cambodia. While the firm is headquartered in Seoul, the US investment firm, Carlyle Group, purchased a majority stake in the company in December 2013.¹⁴⁶

The South Korean Embassy also reported that the Korean Ambassador had pointed out to the Cambodian Vice Minister of Foreign Affairs, Outh Borith, that “the current situation is much more a cause for concern than past strikes” and encouraged the Cambodian government to “make a concerted effort to solve the problem for the safety of our [Korean] apparel companies.” According to the Embassy’s account of the conversation, the Vice Minister responded that the Cambodian government had taken a cautious approach toward responding to the protests due to pressure from Western nations on the issue of protection of human rights.¹⁴⁷ At no point do the postings by the South Korean Embassy indicate any concern for violations of the labor and human rights of Cambodian garment workers that could, and did, result from the resulting military crackdown.

By taking these steps, Korean-owned factories, both directly and via the South Korean embassy, not only pressed the Cambodian government to act more aggressively to quell the protests, but directly requested the intervention of the Cambodian military. The Cambodian military, as noted above, already has a history of violence and repression of human rights. Its units are trained for armed combat, rather than crowd control, use of nonlethal weapons, or tactics for nonviolently managing public protest. By contacting the military rather than the civilian police, and urging the Cambodian government to put down the

protests (with which these companies have significant economic influence), these factory owners played a significant role in creating the preconditions for the deadly violence that ensued.

Table 2: Korean Factories in Canadia Industrial Park

| Factory | Workforce | Buyers |
|----------------------------------|------------------|-----------------------------------|
| CMCW (Cambodia) | 730 | Fruit of the Loom, Robinson Mfg. |
| Dae Kwang Garment | 450 | Walmart |
| Sae Han International (Cambodia) | 1021 | Walmart, Nygaard, Groupe Dynamite |
| Sang Min (Cambodia) | 568 | PVH |
| W. Lingerie & Underwear Factory | 310 | Doris Intimates |

Photo: WRC



**Canadia Industrial Park,
site of the worst violence against
protesting garment workers.**

Japanese investors also requested government intervention through their embassy. According to an official of Cambodia’s Interior Ministry, the Japanese Embassy in Phnom Penh lodged an official complaint with the ministry citing concerns about “radical” protesters. The Japanese Embassy confirmed it had requested the Cambodian government to protect Japanese factories and staff, but said that its representatives had insisted on a nonviolent approach.¹⁴⁸

The GMAC, itself, has been significantly less restrained in its enthusiasm for the military’s violent crackdown. On January 5, GMAC General Secretary Ken Loo said military police personnel’s lethal response to workers who were throwing stones at them was “absolutely” appropriate. On the following day, Loo again made statements condoning the killings and blaming the protesters’ deaths on the strikers themselves.¹⁴⁹ When asked if police had been right to open fire on protesters, he responded, “Yes, absolutely. Af-

ter they [the protesters] were throwing rocks and stones and stuff, how do you expect them to respond?"¹⁵⁰ Similarly, GMAC Chairman Van Sou leng said, with regard to the deaths, "there must [be] collateral damage, ok, so we have to expect that."¹⁵¹

Indeed, in Loo's view, the primary parties harmed during the recent course of events have been factory owners themselves: "if anything, we are the victims of this violence that the rioters had started."¹⁵² But while the GMAC has made repeated references to property damage committed by strikers against its members' factories, it has not provided any specific information in support of these claims.

To the WRC's knowledge, the only evidence the GMAC has presented of such alleged property damage is a brief video clip that, according to media reports, depicted "garment workers kicking and punching a metal factory gate, but inflicting no actual damage."¹⁵³ When asked by reporters to give an estimate of the costs sustained by GMAC members' factories due to actual physical damage by protesters, its chairman, Van Sou leng, demurred, saying that this would be "premature."¹⁵⁴

In a January 9, 2013 letter to the *Cambodia Daily*, Loo stated that his prior remarks had been misinterpreted and the GMAC did not endorse the use of violence. However, he has continued to defend the actions of the Cambodian government, reiterating in his letter that, "GMAC supports the decision of the government to strictly ensure public order and safety, to protect public and private property and to help restore investor confidence."¹⁵⁵

Yet none of the extensive media coverage of the wage protests indicates that workers initiated any violence. Where workers did respond physically to the police and military police attacks, such as by throwing rocks, there is no indication that this was directed at or caused any damage to the country's garment factories.

In addition, leading Cambodian human rights organizations such as LICADHO and the Cambodian Human Rights and Development Association (known by its French acronym, ADHOC) that monitored the demonstrations stated that the protests were largely peaceful. Given this, and given the GMAC's failure to present evidence in support of its claims of violence and property damage by protesters, the WRC finds no basis for concluding that these allegations are credible. By contrast, the conduct of the military police on January 2 and 3, and, in particular, the killing of the four protesting garment workers appear to be a clear case of unjustified and excessive force.

Nevertheless, factory owners continue to claim that the future of Cambodia's garment industry hangs on the government's willingness to suppress worker protest, with violence, if necessary. According to press reports, following the killing of four workers by military police on January 3, GMAC General Secretary Loo stated that the government's violent response to worker protests would encourage factory owners to stay in Cambodia, saying, "The authorities cracked down on the protesters – that's a step in the right direction."¹⁵⁶ Yet, even such repressive measures by the state on factory owners' behalf failed to fully satisfy Loo. When asked the following month for his opinion of the 20% growth expe-

rienced by the Cambodian apparel industry during 2013, the GMAC spokesman redirected journalists' attention to the number of days garment factories had lost to workers' strikes over the previous year, claiming that the growth figure for the sector overstated the health of an imperiled industry.¹⁵⁷

2. Retaliatory Termination of Workers who Joined Wage Protests

Far from relying solely on the government to punish workers for demanding higher wages, garment factory owners also took matters into their own hands by terminating workers who had taken an active role in the recent protests. The Cambodian NGO, CLEC, has reported to the WRC that eleven garment factories in Cambodia have terminated at least 168 workers in retaliation for the latter's participation in the wage protests. As indicated in Table 3, these factories supply major apparel brands and retailers including adidas, Armani, Express, H&M, and Loblaw.

After being pressed to do so by their buyers, six of these factories reinstated the workers they had terminated. Still, more than half of the fired workers – at least 88 – remain off the job. In addition, factory owners reportedly have threatened at least seven other workers with termination for their participation in the wage protests. As noted previously, Cambodian apparel factories carried out a similar campaign of mass terminations following an industry-wide strike by garment workers in September 2010. In that case, the WRC concluded that many of those firings violated Cambodian law and university and buyer codes of conduct.¹⁵⁸

Cambodian law does not allow employers to terminate or otherwise penalize workers for participating in strikes, except under two specific circumstances.¹⁵⁹ First, workers can be terminated if they do not return to work after being ordered to do so by a court of law. Under Cambodian law, a strike is only deemed illegal after an employer has sought and received a court declaration to that effect.¹⁶⁰ If a court finds a strike illegal, it can order employees to return to work within 48 hours,¹⁶¹ with failure to return to work by this deadline punishable by immediate dismissal. Second, workers can be dismissed if they personally engage in violence during a strike.¹⁶²

While the WRC is still investigating these terminations, we are not aware of any evidence that the workers in question were ordered to return to work by any court or have been personally implicated in any acts of violence. In the absence of such evidence, these terminations violate Cambodian labor law and, by extension, applicable buyer and university codes of conduct. The WRC has confirmed that one of the factories that terminated employee union activists following the wage protests is Kin Tai Garment, a facility that produces apparel for the US firm 5.11 Tactical, a vendor to the City of Los Angeles and other public sector entities in the US. Kin Tai dismissed two such workers, one of whom is the president of the factory-level union at the company, less than a week after these employees returned to work following the end of the wage protests.

Kin Tai Garment employs 98% of its workers under consecutive short-term Fixed Duration Contracts (FDCs) of two to six months' duration. When the two union activists reached the expiration dates of their current contracts, Kin Tai's management refused to renew them. The company did not provide a reason to the two workers for its refusal to renew their contracts, stating only that the company had the right to exercise its own discretion in this matter. The WRC contacted Kin Tai Garment on February 11, 2014 about the company's decision not to renew the two workers' contracts. On March 24, 2014, CLEC informed the WRC that it had learned from the two workers that Kin Tai had offered them both reinstatement to their jobs at the factory and back pay. One worker, the union president, accepted reinstatement and back pay, while the second worker declined to return to the factory, but received her terminal benefits and back pay.

As the WRC and other labor rights researchers have noted previously,¹⁶³ Cambodian garment factories have repeatedly taken advantage of the employment of their workforces on short-term FDCs to retaliate against union leaders and activists by refusing to renew their contracts. Cambodia's Arbitration Council, the country's leading body charged with interpretation of the labor law, has determined that it is unlawful for an employer to decline to renew a worker's FDC on the basis of union membership or participation in union activities.¹⁶⁴ If any employers choose not to renew workers' FDCs due to these workers' exercise of their associational rights, this constitutes a violation of Cambodian law.



Photo: LICADHO

Military vehicles transport soldiers to the area near Canadia Industrial Park.

Table 3: Retaliatory dismissals

| Factory | Dismissed | Reinstated | Remaining | Buyers |
|-------------------------------------|------------------|-------------------|------------------|--|
| Manhattan Textile and Garment Corp. | 102 | 62 | 40 | DuPont |
| Kin Tai Garment | 2 | 2 | 0 | 5.11 Tactical, Armani Jeans, Nygaard, Mark's Work Wear |
| Tainan Enterprises (Cambodia) | 3 | 0 | 3 | Express, Reitman's (Addition Elle), Northern Reflections |
| Top Sports Textile | 1 | 0 | 1 | Unknown |
| Bowker Garment Factory (Cambodia) | 4 | 4 | 0 | adidas |
| Elite (Cambodia) | 1 | 0 | 1 | adidas |
| Smart Tech (Cambodia) | 41 | 0 | 41 | Norco Bicycles (Live to Play Sports) |
| Noble Apparel | 1 | 1 | 0 | Loblaw |
| Sam Embroidery | 1 | 1 | 0 | Unknown |
| King Lim | 5 | 5 | 0 | Loblaw |
| Long Victory | 1 | 1 | 0 | H&M |
| Total | 168 | 69 | 88 | |

The WRC is currently investigating whether employers have compounded these illegal terminations by refusing to pay workers legally required compensation. Two workers who were shot and wounded on January 3 report that they were not only terminated, but also were not provided with paid sick leave (which is required under Cambodian law)¹⁶⁵ during the time when they were recuperating from their injuries. Similarly, a young man who was released from police detention on February 7 reported that his employer initially refused to pay the wages he was owed for his final period of work prior to imprisonment, and only paid these wages to his relatives after repeated pleas from his family and his line leader (foreperson). Under Cambodian law, workers have the right to determine by what method they are paid (including authorizing payments to their representatives)¹⁶⁶ and must be

paid within 48 hours of being dismissed.¹⁶⁷ While this particular case has been resolved, it raises concerns that other workers may have experienced similar treatment. The WRC will continue to investigate such allegations of underpayment of statutorily required compensation.

3. Ongoing Efforts to Repress Associational Rights

Since the beginning of the recent crackdown, factory owners also have pressed aggressively both in the Cambodian courts and in the arena of public opinion the claim that workers' wage protests lack legal sanction.

On January 5, three days after protesters were shot dead as a result of factory owners' calls for military intervention, the GMAC filed a civil lawsuit on behalf of its member factories against the elected leaders of six labor federations.¹⁶⁸ According to reports in Korean media, the litigation was brought at the behest of factory owners who had pressed the GMAC to file suit against union leaders for compensation for the financial losses caused by the strike.¹⁶⁹ On February 26, 2014, the GMAC confirmed that 170 factories had given the association their power of attorney to represent them in the lawsuit.¹⁷⁰

According to the GMAC, the lawsuit charges that its member factories were unlawfully damaged as a result of the union leaders' "pushing workers to stay at home and join in the mass strikes." These protests, factory owners charged, had harmed their businesses by: (1) delaying production and transportation of goods due to the factories' closure, resulting in sanctions and penalties from buyers; (2) delaying payment from buyers due to delays in shipment of goods; (3) causing losses due to employees' absence from work; and (4) damaging property.

Yet apart from factory owners' claims regarding physical damage to their property – which, as noted, have not yet been substantiated – all of the allegations the GMAC lawsuit raises concern the ordinary impacts of a peaceful labor strike. As established by the ILO Committee on Freedom of Association, the leading body charged with interpreting rights in this area, holding union leaders economically liable for such losses is inconsistent with respect for fundamental labor rights.¹⁷¹

At the same time, the GMAC, along with the Cambodian Federation of Employers and Business Associations (CAMFEBA), has campaigned aggressively in the arena of public opinion against the very existence of workers' right to protest. The GMAC and CAMFEBA bought a full-page advertisement in the *Phnom Penh Post* on January 29 asserting that "the right to strike is NOT a fundamental right." The GMAC/CAMFEBA advertisement also emphasizes legal actions that can be taken against union leaders who lead strikes, including civil suits and criminal charges.

The GMAC/ CAMFEBA advertisement presents, at the very least, a questionable characterization of workers' right to strike under national and international law. Tim de Meyer, a senior international labor law specialist for the ILO, responded to the advertisement

by pointing out that, “the claims that the right to strike is not a fundamental right and that [Convention] 87 does not establish a right to strike are not consistent with the position taken by the International Labour Organization and its tripartite constituency as a whole (i.e. governments, employers and workers) over a period of at least the last 60+ years.”¹⁷² Following the advertisement’s publication, United Nations Special Rapporteur on the Rights to Freedom of Peaceful Assembly and of Association, Maina Kiai, also affirmed that “there is absolutely a right to strike.”¹⁷³ The GMAC/CAMFEBA advertisement also failed to mention that the right to strike is explicitly guaranteed under Cambodian law.¹⁷⁴

On March 4, 2014, Cambodia employers continued to advance their aggressive public opposition to freedom of association by asking the government to withdraw its ratification of the core international standard on this right, ILO Convention 87.¹⁷⁵ Ironically, as the country’s factory owners now seem to have forgotten, much of the initial growth of Cambodia’s export garment manufacturing industry in the early 2000s resulted from trade preferences granted to the country by the United States in return for the industry’s much-vaunted progress *improving* respect for freedom of association.¹⁷⁶



Photo: Dae-oup Chang/cc

Workers are calling for the minimum wage to rise to \$160 per month.



V. Other Recent Developments

Both government officials and factory owners have avoided face-to-face talks with worker representatives over the issue of the minimum wage. On January 6, 2013, the Minister of Labor postponed a meeting among these parties that he initially had called for January 8, claiming that he was “busy.”¹⁷⁷ Despite calls from Cambodian unions for direct negotiations with the GMAC, and the government over the minimum wage, no such meetings have been held.¹⁷⁸ For its part, the GMAC has refused to negotiate with the unions, and the Ministry of Labor called more negotiations on the minimum wage “out of the question.”¹⁷⁹

Instead, on January 10, the government established a new committee headed by the country’s former finance minister, Keat Chon, to “research the government’s capacity to introduce wage increases for civil servants and factory workers.”¹⁸⁰ The committee’s first meeting, held on February 5, did not yield any concrete results. This committee has announced that it will report its findings to the LAC to inform the LAC’s future discussions on increasing the minimum wage.¹⁸¹ Given that this committee will only issue recommendations to the LAC, which will in turn need to issue its own recommendations to the Ministry of Labor, however, its establishment does not promise a speedy resolution to the present crisis.

On February 12, 2014, sixteen Cambodian union federations announced a series of demands for steps the government and factory owners should take to end the country’s labor relations crisis. These included calling on the government to: (1) release the remaining 21 detainees and drop all charges against both them and the two detainees whom it has already released; (2) increase the minimum wage immediately to \$160 per month; (3) punish the state security personnel responsible for the violent attacks on January 2 and 3, and pay compensation to the victims; (4) remove the ban on public gatherings; and (5) resume registration of newly-formed unions. In addition, the unions called on employers to: (1) withdraw all lawsuits against the unions and (2) reinstate the workers who had been dismissed in retaliation for their participation in the wage protests, with back pay for wages as a result of factories’ temporary closure by employers.¹⁸²

The sixteen labor federations announced a series of escalating actions they would take if their demands were not met: First, during the week of February 24-28, they would call on their members to refuse to work overtime. Second, on March 8, 2014, International Women’s Day,¹⁸³ they would invite representatives from the ruling party and the opposition party to a public forum in Phnom Penh to discuss the unions’ demands.¹⁸⁴ Third, if, by March 11, no progress had been made in achieving their demands, the unions would call another strike from March 12-19. Union leaders specified that they would call upon their members to strike by staying home from work, rather than holding protests in front of factories, due to their fear of violent reprisals against worker in the latter case.¹⁸⁵

On February 19, Prime Minister Sen announced that the heads of the Royal Cambodian Armed Forces, National Military Police, and National Police would be added to the government's standing Committee to Solve Strikes and Demonstrations of All Targets. This government committee, which is charged with managing the government's response to major protests,



Photo: CLEC

Hundreds of police, military police, and district security guards attempted to prevent workers from holding a public forum on March 8; several hundred workers still gathered in and near Freedom Park.

had previously only included lower-level members of the armed forces. Union leaders expressed concern that the government's appointment to the committee of high-level security officials was an attempt to intimidate workers from engaging in future wage protests. Ath Thorn, President of the Coalition of Cambodian Apparel Workers' Democratic Unions (C.CAWDU), worried that, with these new appointments, "the influence of the armed forces will cause [workers] ...to not dare to protest to demand to raise their wages."¹⁸⁶

On February 24, 2014, members of the unions began the previously announced boycott of overtime work.¹⁸⁷ Unions estimated that tens of thousands of workers participated in the boycott.

Both the government and factory owners attempted to suppress the union's overtime boycott. Prime Minister Hun Sen called on workers not to participate in strikes that he said could destroy the garment industry, saying, "We try to contact and facilitate factories to invest in Cambodia...and they have moved out from the countries that have high labor prices to our location, which has reasonable labor prices."¹⁸⁸

Military personnel armed with assault rifles were stationed outside of key industrial areas, and questioned workers leaving factories earlier than usual.¹⁸⁹ On February 27, 2014, two representatives of the National Trades Union Congress (NTUC) were arrested outside the Evergreen Apparel factory for distributing literature supporting the boycott. The two were released an hour later.¹⁹⁰ Some other factories, such as Complete Honour Footwear (a supplier to Skechers), reportedly locked their doors and stationed police outside their gates to prevent workers from leaving without performing overtime.¹⁹¹

While the prime minister indicated on February 25, 2014, that the government ban on public assemblies had been lifted, it does not appear that, in practice, the government is

willing to tolerate public protests. On March 6, 2014, in the lead-up to the public forum announced by the unions on the minimum wage, some 2,000 police officers carried out public drills demonstrating tactics for suppressing protests.¹⁹² The unions organizing the event indicated that they would go ahead with their forum, but expressed fears of another police and military crackdown.¹⁹³

On March 8, the date chosen for the forum, hundreds of riot police engaged in “training exercises” in Freedom Park, where the forum was planned to take place. Hundreds more military police were stationed close by at the Phnom Penh train station.¹⁹⁴ At 7:00 a.m., police erected a perimeter around the east and west sides of the park, and blocked roads entering the park from north and south.

Thereafter, black-helmeted district security guards chased away any group of people that gathered in and near the park, including human rights observers and journalists. According to press reports, a municipal official speaking over a loudspeaker ordered all people to leave the park, saying, “This is International Women’s Day[;] citizens not only need to relax, but authorities need to relax too... [Y]ou don’t use your brain and you come to make anarchy. We do not violate you, but you violate our rights.”¹⁹⁵

Despite the heavy presence of security forces and the government’s efforts to prevent workers from gathering in the park, media estimates indicated that 300-500 people gathered in Freedom Park that day. Some union leaders were able to give speeches in and near the park, despite efforts by police and security guards to prevent any gathering from being held.¹⁹⁶



Photo: CLEC

Following the disruption of their planned public forum, the majority of the unions calling for the “stay-at-home strike” had announced that they were postponing the start of the job action until April 17, after the Khmer New Year holiday.¹⁹⁷



VI. Responses from University Licensees and Other Brands and Retailers

Immediately following the deadly attacks on protesting workers on January 3, the WRC contacted the largest university licensees that purchase collegiate apparel from Cambodia: adidas, Columbia, Nike, Outerstuff, Under Armour, Delta Apparel (the parent company of MJ Soffe), VF, and Fruit of the Loom (the parent company of Russell Athletic). The WRC urged these licensees to immediately urge the Cambodian government to refrain from violence against garment workers engaging in nonviolent protest, and to press their Cambodian suppliers to communicate the same message to the government. The WRC urged licensees to make it clear to their suppliers and the Cambodian government that violent attacks on workers and repression of human and labor rights would endanger their ability to do business in Cambodia.

The licensees the WRC contacted provided a range of responses. Columbia and adidas noted that they were among the signatories to a letter that a number of apparel brands and retailers sent to the Cambodian government, the GMAC, and union federations on January 7, 2014, “calling on all parties to exercise maximum restraint and refrain from the use of force or violence.” Other signatories to the letter included H&M, Gap, Levi Strauss, and Inditex. This letter, however, did not condemn the Cambodian government’s violation of workers’ human rights. Rather, it referenced two causes for concern, “widespread civil unrest” and “the government’s use of deadly force” – appearing to equate workers’ wage protests, which had not caused any serious injuries, with a military mass shooting that had resulted in the deaths of four garment workers and the wounding of dozens more.

Fruit of the Loom informed the WRC that it was not producing collegiate apparel in Cambodia, even though the most current supplier factory disclosure list available to the WRC identifies two factories in Cambodia as producing collegiate apparel for its subsidiary, university licensee Russell Athletic. Fruit of the Loom did report, however, that the company nonetheless had contacted its Cambodian suppliers of noncollegiate apparel to emphasize that further violence against protesters must be prevented and that workers have the right to return to work after legal strikes.

Under Armour indicated that, for its part, its representatives had contacted the company’s supplier factories in Cambodia and intended to contact the Cambodian government regarding the concerns raised by the WRC, but it did not provide any information as to the content of these communications. VF also reported that it had contacted its Cambodian suppliers regarding the importance of “civil dialogue.” Outerstuff reported that, while it

had not engaged with the Cambodian government or its suppliers in the country regarding the recent incidents of violence, it had communicated with its suppliers regarding worker safety and compensation.

In its response to the WRC's communication, Nike expressed its concern with the recent violence in Cambodia and "the lack of respect for workers' rights to peacefully assemble and protest." Nike committed to ensure that the family of a worker employed at Shen Zhou, a Nike supplier factory in Phnom Penh, who had been killed by security forces on January 3, would receive "appropriate" compensation.

Subsequently, on January 17, 2014, three of these university licensees, Nike, adidas, and Under Armour, joined a number of other international apparel buyers, including H&M, Gap, Inditex, New Balance, and PVH, and three international labor bodies, the International Trade Union Confederation (ITUC) and the Global Union Federations, IndustriALL and UNI, in sending a communication to the Cambodian government that was stronger than the initial letter sent by brands and retailers on January 7.

The January 17 letter expressed "grave concern at the killing and wounding of workers and bystanders by security forces," and called on the Cambodian government to respect the rights of detainees and freedom of association. The letter also urged the government to work with the ILO to reform the country's trade union law and "honor previous commitments to institute a methodologically sound and inclusive process for determining the minimum wage."

Photo: VOD



Military forces massing in areas with concentrations of garment factories (early January).

On February 19, the ITUC, IndustriALL and UNI, along with a number of international apparel firms, including H&M, Gap, and Puma, met with Cambodian government representatives concerning the setting of the minimum wage, the development of legislation regulating trade unions, and the status of the 21 detainees.¹⁹⁸ While no concrete results of the meeting were revealed, the participating Global

Unions and companies stated that another meeting with the government would be held in May.¹⁹⁹ In a subsequent letter sent to the Cambodian government dated March 14, the same group of global unions and international apparel firms called on the government to respect the right of the 21 detainees and promptly establish a new, inclusive process for setting the minimum wage. This letter also expressed concern that legal action against unions for property damage contained false allegations.

In their comments following this meeting, however, both government officials and brand and retailer representatives also made a point of publicly criticizing media coverage of the government's violent crackdown on the wage protests. Minister of Commerce Sun Chantol said that "the government was at the mercy of media portrayals of its repression of the strike." Government minister Sok Siphana added that the government was a victim of the "unbelievable freedom" that the news media enjoyed in Cambodia, and that "the media had a habit of creating problems between the public and private sector."

While blaming the media for creating problems might be expected from a government that was the perpetrator of the violence the media depicted, it is deeply concerning that major apparel brands appeared to support the claim that the coverage of the crackdown had been unfair to the government. A representative of Gap who participated in the meeting, reportedly stated, "[M]ore often than not, [the media] doesn't present a situation in a context or fully balanced, so it's important we're able to come to Cambodia and hear directly from you [the government]." The Gap representative did not explain which portions of the media's depictions of the government's violent crackdown on protesting garment workers were unfair to the government or presented out of context.

The fact that the Gap would join with the Cambodian government in insinuating that the news media did not provide an accurate view of the crackdown is particularly deplorable given the wealth of photographic and video evidence of police and military brutality against workers. Such comments also ignore the challenging circumstances under which Cambodian reporters and journalists actually work. The NGO, Reporters Without Borders, has ranked the country 144 out of 180 countries in the world for media freedom in 2014.²⁰⁰ Similarly, the human rights organization, Freedom House, describes the news media in Cambodia as "not free" and ranks the country 149 out of 196 nations in liberty of the press.²⁰¹

Given that their Cambodian suppliers have helped instigate and escalate the current labor rights crisis, international brands and retailers have an obligation to act in a manner that meaningfully addresses – rather than willfully obscures – the repressive actions the government has taken at factory owners' behest. The WRC will be contacting the colleague licensees and other brands and retailers named in this report its current recommendations for addressing this crisis, as detailed below.

VII. Recommendations

The WRC recommends that collegiate licensees and other brands and retailers producing apparel in Cambodia take the following steps to help remedy the following human and labor rights violations committed against garment workers in retaliation for recent wage protests, and addressing the underlying cause of the current crisis – inadequate wages:

A. Remedying Employer Retaliation against Workers who Participated in Wage Protests

Licensees and other brands and retailers should ensure that their supplier factories do not retaliate or otherwise discriminate against employees on account of the exercise of associational rights. As noted above, any retaliation by factories against workers in violation of Cambodian law or international labor standards on freedom of association also constitutes a violation of the codes of conduct of those universities and colleges whose licensed goods these factories may produce. It also, in nearly all circumstances, constitutes a violation of the codes of conduct of the licensees, brands, or retailers themselves.²⁰²

Specifically, given reports of discriminatory terminations at a number of factories of workers who participated in the recent wage protests, licensees and other brands and retailers should require their suppliers to:

- Refrain from any further such retaliation;
- Where workers have been discharged in retaliation for participating in a strike, protest or other associational activity, require supplier factories to promptly reinstate these workers to their former position with full back pay, unless employers can demonstrate that these terminations complied with the requirements of Cambodian law and international labor standards, as discussed above;
- Reinstate with back pay, also, any workers against whom factories retaliated by refusing to renew short-term contracts (Fixed Duration Contracts, “FDCs”) under which these workers had been employed. Workers should be made whole for any time that they were off the job as a result of such retaliation by being paid their lost expected wages for that time period; and
- Provide workers any legally or contractually required compensation that they have been denied.

Photo: WRC



B. Ending Government Use of Violence and Detention against Garment Workers

University licensees and other brands and retailers must take active steps to help end the government's repression of worker rights. Because of the importance of export garment manufacturing to the Cambodian economy, international apparel firms are the parties best situated to influence the course of actions taken by not only factory owners, but also the Cambodian government, itself.

The WRC recommends that buyers both communicate directly with the government and press their suppliers to communicate with the government to end the current crackdown. To ensure transparency, this communication should be made publicly and in writing. University licensees and other brands and retailers should communicate to both factory owners and the Cambodian government that:

- The use of violence and detention against garment workers and worker representatives are an unacceptable response to wage protests by factory workers.
- Persons responsible for excessive use of force during the January wage protests, especially those responsible for causing death or injury, either directly or via command authority, must be criminally prosecuted.
- The families of the four workers identified as having been killed by police on January 3, as well of as the youth who was shot in the chest and remains unaccounted for, and those workers injured by police and military attacks on the wage protests, including the 26 who sustained gunshot wounds, must receive proper compensation. Factory owners, governments and international brands and retailers should all contribute to its payment. While the Cambodian government bears the most direct responsibility for the deaths and injuries that occurred, factory owners who are the brands and retailers' business partners contributed to this tragedy through their refusal to negotiate a resolution to the wage issue, their escalation of the dispute by calling a national lock-out, and, most significantly, their lobbying of the military to intervene.
- All persons who have been detained as a consequence of their participation in or association with the recent wage protests should be immediately and unconditionally released, unless the legal standard for criminal indictment is clearly met. In the latter case, any persons properly indicted detained in connection with the protests should be granted applicable bail, access to chosen counsel, and a prompt, fair and public trial before a competent, independent and impartial tribunal.
- Until their release, all detainees should be treated in accordance with international standards. This includes ensuring that detainees have, in addition to access to counsel, necessary medical care, and visits from family members. Regarding the four detainees requiring urgent medical attention, these individuals must immediately be provided proper care, which is likely to require transfer to medical facilities in Phnom Penh.

C. Addressing the Root Cause of Unrest and Repression: Inadequate Wages

It is imperative that university licensees and other brands and retailers purchasing garments from Cambodia not only address the human and labor rights violations resulting from the recent repression of wage protests, but also take steps to address the underlying cause of the country's ongoing cycle of worker unrest and government repression, the unsustainably low wages paid to Cambodian garment workers.

Both the GMAC and the Cambodian government have expressed concern that increases in wages for garment workers will harm the competitiveness of Cambodia's garment sector – i.e., cause brands and retailers to shift orders to other countries. If university licensees and other brands and retailers make a binding commit to not only require their suppliers to provide a meaningful increase in wages for Cambodian garment workers, but also factor such an increase into the prices they pay for garments, it will substantially address both the concerns of factory owners and the government and the underlying causes of worker unrest.

Cambodian worker's call for an immediate wage floor of \$160 per month, which as noted, is the minimum required to provide for the basic needs of an individual workers (without providing any support for children or other dependents) – should be supported by licensees and other brands and retailers, particularly given that this figure has already been endorsed by a tripartite task force of employer, labor and government representatives.

The WRC recommends, therefore, that university licensees and other apparel brands and retailers doing business in Cambodia meet and negotiate with representatives of Cambodian garment workers a written and binding commitment to:

- Require their supplier factories in Cambodia pay workers a minimum of \$160 per month, as the wage needed to meet an individual worker's basic needs;
- Adjust their pricing practices as needed to permit their supplier factories to sustainably pay workers this \$ 160 per month minimum; and
- Assuming compliance with their other commercial requirements, to maintain their business with factories that implement the \$160 per month minimum for at least the next two years.

By committing to support such an increase in the minimum wage, and to adjust their prices to reflect the increased costs that would result for factory owners, university licensees and other brands and retailers can play a positive role in reaching a sustainable resolution of this issue.

¹ LICADHO, "Photo Album: Three Days of Terror: State Forces Crack Down on Garment Factory" (January 2014), http://www.licadho-cambodia.org/album/view_photo.php?cat=61.

² *Radio Free Asia*, "Four Shot Dead as Cambodian Police Open Fire on Workers' Protests" (January 3, 2014), <http://www.rfa.org/english/news/cambodia/shooting-01032014110118.html>.

³ See, LICADHO, "List of the Dead and Missing Men from January 3, 2014 Demonstration" (January 2014), <http://licadho-cambodia.org/reports/files/190LICADHODoc-BiographyDeaths+Missing-English.pdf>.

⁴ See, e.g., Brendan Brady, "Cambodia Garment Workers Protest Low Pay," *Los Angeles Times* (September 3, 2010), <http://articles.latimes.com/2010/sep/19/world/la-fg-cambodia-garment-strike-20100919>.

⁵ See, e.g., Prak Chan Thul, "Hundreds Sick in Mass Fainting at Cambodian Factory," *Reuters* (August 25, 2011), <http://www.reuters.com/article/2011/08/25/us-cambodia-faintings-idUSTRE77O2TC20110825>.

⁶ See, May Titthara and Stuart White, "A Year after Trial, Still Free," *Phnom Penh Post* (February 27, 2014), <http://www.phnompenhpost.com/national/year-after-trial-still-free>.

⁷ See, LICADHO and CLEC, "One Dead, Seven Injured Amid Violent Clashes in SL Garment Workers Strike," joint statement (November 12, 2013), <http://www.licadho-cambodia.org/pressrelease.php?perm=327>.

⁸ See, Thomas Fuller, "Cambodia Steps Up Crackdown on Dissent with Ban on Assembly," *New York Times* (January 6, 2014), http://www.nytimes.com/2014/01/06/world/asia/cambodia-crackdown-on-dissent.html?_r=0.

⁹ See, Mech Dara and Colin Mey, "Appeal Court Denies Bail to 21 Jailed Protesters," *Cambodia Daily* (February 12, 2014), <http://www.cambodiadaily.com/news/appeal-court-denies-bail-to-21-jailed-protesters-51973/>.

¹⁰ See, Asian Forum for Human Rights and Development, LICADHO, and ADHOC, "Latest Crackdown on Peaceful Dissent further Perpetuates Impunity and Fuels Tensions," press release (January 28, 2014), <http://www.licadho-cambodia.org/pressrelease.php?perm=338>.

¹¹ See, Sen David, "No Union for Workers in Food Biz," *Phnom Penh Post* (January 15, 2014), <http://www.phnompenhpost.com/national/no-union-workers-food-biz>.

¹² See, Sean Teehan, Mom Kunthear and Meas Sokchea, "Strike Numbers Swell," *Phnom Penh Post* (December 27, 2013), <http://www.phnompenhpost.com/national/strike-numbers-swell>.

¹³ See, Cain, Jeffrey. "South Korea Pulled Strings as Cambodia's Military Cracked down on Protesters," *The Global Post* (January 7, 2014), <http://www.globalpost.com/dispatch/news/regions/asia-pacific/south-korea/140107/globalpost-exclusive-south-korea-boasts-role-c>.

¹⁴ See, Aun Pheap, "100 Factories Suing Unions Behind Strikes," *Cambodia Daily* (January 10, 2014), <http://www.cambodiadaily.com/business/100-factories-suing-unions-behind-strike-50409/>.

¹⁵ See, Mech Dara and Alex Willemyns, "As Garment Sector Strikes Loom, Soldiers Watch Over Factories," *Cambodia Daily* (February 27, 2014), <http://www.cambodiadaily.com/news/as-garment-sector-strikes-loom-soldiers-watch-over-factories-53275/>.

¹⁶ See, Radio Free Asia, *supra*, n. 2.

¹⁷ See, UN, "Statement by the United Nations Special Rapporteur on the Situation of Human Rights in Cambodia, Professor Surya P. Subedi," press release (January 16, 2014), <http://www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=14175&LangID=E>.

¹⁸ See, ILO, "ILO calls on Cambodian Government to End Violence" (January 28, 2014), http://www.ilo.org/global/about-the-ilo/who-we-are/ilo-director-general/statements-and-speeches/WCMS_234644/lang--en/index.htm.

¹⁹ See, Amnesty International, "Cambodia: Investigate Protest Killings by Security Forces" (January 3, 2014), <https://www.amnesty.org/en/news/cambodia-police-kill-striking-garment-workers-2014-01-03>.

²⁰ See, HRW, "Cambodia: UN Should Condemn Rights Onslaught" (January 27, 2014), <http://www.hrw.org/news/2014/01/27/cambodia-un-should-condemn-rights-onslaught>.

²¹ See, HRW, "Cambodia: Detainees in Crackdown Denied Rights" (January 9, 2014), <http://www.hrw.org/news/2014/01/08/cambodia-detainees-crackdown-denied-rights>.

²² See, HRW, "Cambodia: Garment Factories Thwarting Unions" (February 3, 2014), <http://www.hrw.org/news/2014/02/02/cambodia-garment-factories-thwarting-unions>.

²³ See, Cambodian Labor Law §104 ("[T]he wage must be at least equal to the guaranteed minimum wage; that is, it must ensure every worker of a decent standard of living compatible with human dignity.").

²⁴ See, Worker Rights Consortium, *Global Wage Trends for Apparel Workers, 2001-2011* (Center for American Progress: July 11, 2013), <http://www.americanprogress.org/issues/labor/report/2013/07/11/69255/global-wage-trends-for-apparel-workers-2001-2011/>.

²⁵ *Ibid.*

²⁶ *Ibid.*

²⁷ Cambodian wages are set and paid in U.S. dollars, which is the primary currency in Cambodia. The Cambodian national currency, the *riel*, is generally used only for small transactions.

²⁸ See, Ministry of Labor and Vocational Training, Notification 206 §1 (December 13, 2011) ("[A] monthly US\$ 5 health allowance will be provided to all workers in the textile, garment and footwear production sectors. This allowance will not be incorporated into actual wages (base wages).").

²⁹ See, Ministry of Labor and Vocational Training, Notification 103 (April 9, 2013).

³⁰ See, Denise Hruby and Hul Reaksmey, "For Workers, Wage Rise is a Shift from Surviving to Thriving," *Cambodia Daily* (January 9, 2014), <http://www.cambodiadaily.com/archives/for-workers-wage-rise-is-shift-from-surviving-to-thriving-50378/>.

³¹ See, Cambodian Labor Law §104 ("[T]he wage must be at least equal to the guaranteed minimum wage; that is, it must ensure every worker of a decent standard of living compatible with human dignity.").

³² See, Anna McMullen, *Shop 'til They Drop: Fainting and Malnutrition in Garment Workers in Cambodia* (Community Legal Education Center and Labor Behind the Label: 2013), <http://www.labourbehindthelabel.org/resources/item/1195-shoptildrop>.

³³ See, Cambodia Institute of Development Study, *Living Wage Survey for Cambodia's Garment Industry*, (February 2009), http://www.fes.or.id/fes/download/Survey_Result_Cambodia.pdf.

³⁴ See, McMullen, *supra*, n 32.

³⁵ See, Food and Agriculture Organization (FAO), World Health Organization (WHO), and United Nations University (UNU), "Human Energy Requirements: Report of a Joint FAO/WHO/UNU Expert Consultation" (Rome: October 17-24, 2001), ¶¶19 (noting that a human's total energy expenditure is equal to the basic metabolic rate times physical activity level), ¶37, table 5.2 (noting that the basic metabolic rate of a woman aged between 18 and 30 weighing 45 kilograms would be $14.818 \times 45 + 692.6 = 1359.4$); ¶36 Table 5.1; ¶95, annex 5 (The physical activity level of a garment worker working 10 hours per day and commuting either on foot or standing on a crowded truck would be 1.98, assuming an 'active or moderately active lifestyle' to include ten hours of 'tailoring' activity, which has a physical activity level of 2.5, adding one hour of cooking, while reducing the number of "light activity hours" from three to zero), <ftp://ftp.fao.org/docrep/fao/007/y5686e/y5686e00.pdf>.

³⁶ The results of this research were presented at the Peoples' Tribunal on the Minimum Living Wage and Decent Working Conditions as a Fundamental Human Right, conducted in Cambodia on February 5-8, 2012.

³⁷ *Ibid.*

³⁸ See, Prak Chan Thul, *supra*, n 5.

³⁹ See, McMullen, *supra.*, p. 9.

⁴⁰ See, Sam Rith, "As Prices Rise, Workers Go Foraging," *Phnom Penh Post* (October 22, 2008), <http://www.phnompenhpost.com/national/prices-rise-workers-go-foraging>. Foraging as an important supplement to workers diets was also confirmed by worker interviews by the WRC in July and August 2011.

⁴¹ See, Brendon Brady, "A Tale of Two Factory Disasters: What Cambodia Can Teach Bangladesh," *Time World* (May 20, 2013), <http://world.time.com/2013/05/20/a-tale-of-two-factory-disasters-what-cambodia-can-teach-bangladesh/#ixzz2sfmyVoIE>.

⁴² *Ibid.*

⁴³ See, Mom Kunthear and James O'Toole, "Strikes Face Legal Hurdle," *Phnom Penh Post* (September 15, 2010), <http://www.phnompenhpost.com/national/strikes-face-legal-hurdle>.

⁴⁴ See, Hul Reaksmey, "800 Workers Still Not Allowed to Return," *Cambodia Daily* (October 4, 2010).

⁴⁵ See, Cambodian Labor Law, § 333 ("[T]he employer is prohibited from imposing any sanction on a worker because of his participation in a strike. Such sanction shall be nullified and the employer shall be punishable by a fine in the amount set in Article 369 of Chapter Sixteen.").

⁴⁶ See, *id.*, § 337 ("[T]he Labor Courts or, in the absence of the Labor Courts, the common courts, have sole jurisdiction to determine the legality or illegality of a strike. If the strike is declared illegal, the strikers must return to work within forty-eight hours from

the time when this declaration is given out. A worker who, without valid reason, fails to return to work by the end of this period is considered guilty of serious misconduct.”).

⁴⁷ The body was established on August 7, 2013, by the Ministry of Social Affairs, Veterans and Youth Rehabilitation (MSVYR). See, Minister of Social Affairs, Veterans, and Youth Rehabilitation, Decision 12 (The Establishment of Tripartite and Stakeholder Task Force for Carrying on the Research on a Decent Minimum Wage for Workers) (August 7, 2013).

⁴⁸ The subcommittee also calculated that under the then-current minimum wage of \$80 per month, workers are earning on average \$169 per month. For a worker to earn this amount, noted the subcommittee, she would have to work two hours of overtime six days a week plus two full Sundays or holidays per month, for an average of 64 work hours per week. This is well above the amounts permitted by many relevant codes of conduct. The subcommittee’s data also assumes that workers are, on average, receiving \$34 per month in bonuses, not all of which are received by every worker.

⁴⁹ See, Aun Pheap, “Government Proposes 100% Hike in Minimum Wage by 2018,” *Cambodia Daily*, (December 17, 2013), <http://www.cambodiadaily.com/archives/government-proposes-100-hike-in-minimum-wage-by-2018-49396/>.

⁵⁰ The options presented by the task force were: (1) increasing the wage to \$160 in 2014 and postponing further adjustment until 2018; (2) increasing the wage incrementally by \$16 per year; and (3) beginning with annual increases of more than \$16, with smaller increases in subsequent years.

⁵¹ See, International Monetary Fund, “World Economic Outlook Database; Inflation, Average Consumer Prices” (2014-2017)(forecasting consumer price inflation in Cambodia at 3.105% for 2014, 3.042% for 2015, 3.042% for 2016, and 5.724% for 2017), <http://www.imf.org/external/pubs/ft/weo/2012/01/weodata/weorept.aspx?sy=2010&ey=2017&scsm=1&ssd=1&sort=country&ds=.&br=1&c=522&s=PCPIPCH&grp=0&a=&pr1.x=67&pr1.y=11>.

⁵² See, Mom Kunthear and Sean Teehan, “Raise Now or Pay Later,” *Phnom Penh Post* (December 17, 2013), <http://www.phnompenhpost.com/national/raise-now-or-pay-later>.

⁵³ See, Aun Pheap and Alex Willemyns, “No End in Sight for Svay Rieng SEZ Strikes,” *Cambodia Daily* (December 23, 2013), <http://www.cambodiadaily.com/archives/no-end-in-sight-for-svay-rieng-sez-strikes-49560/>.

⁵⁴ See, Cheang Sokha and Sean Teehan, “GMAC Makes Push for 130 USD,” *Phnom Penh Post* (December 19, 2013), <http://www.phnompenhpost.com/national/gmac-makes-push-130>.

⁵⁵ See, Sean Teehan, “GMAC Floats ‘No Strike’ Bonus,” *Phnom Penh Post* (December 16, 2013), <http://www.phnompenhpost.com/national/gmac-floats-%E2%80%98no-strike%E2%80%99-bonus>.

⁵⁶ See, Cambodian Labor Law §107 (2) (“[T]he minimum wage is set by a Prakas (ministerial order) of the Ministry in Charge of Labor, after receiving recommendations from the Labor Advisory Committee. The wage is adjusted from time to time in accordance with the evolution of economic conditions and the cost of living.”).

⁵⁷ The five labor federations were the Coalition of Cambodian Apparel Workers’ Democratic Unions (C.CAWDU), National Independent Federation Trade Unions of Cambodia (NIFTUC), Cambodian Alliance of Trade Unions (CATU), Free Trade Union of Workers of the Kingdom of Cambodia (FTUWKC), and Collective Union of Movement of Workers

(CUMW); they were later joined by the Cambodian Confederation of Unions (CCU).

⁵⁸ While Cambodian law gives the LAC a mandate to recommend increases in the minimum wage, it is also clear that the LAC's deliberations are not intended to substitute for collective bargaining between employers and unions. See, Royal Government of Cambodia, Sub-Decree 47 §1 (2006) ("[...] The Labour Advisory Committee has the following duties: - Initiate the introduction of guaranteed minimum wage; - Provide prior advice to extend the implementation range of the collective bargaining agreement or *if collective bargaining agreement does not exist*, the Labour Advisory Committee may eventually provide prior advice regarding the provision of labour conditions in a profession or in any specific activity.") (emphasis added).

⁵⁹ See, Mom Kunthear, "Strike Picks Up Steam," *Phnom Penh Post* (December 26, 2013), <http://www.phnompenhpost.com/national/strike-picks-steam>.

⁶⁰ See, Christal Chan, et al., "A Week that Shook Cambodia: The Hope, Anger and Despair of Cambodian Workers after the General Strike and Violent Crackdown (Dec 2013 – Jan 2014)," ¶19 (Asia Monitor Resource Center, Asian Study Group, SOAS, University of London, Asian Human Rights Commission, Center for Trade Union and Human Rights, Korean Confederation of Trade Union, Korean House for International Solidarity, Oxfam Solidarity Belgium, and Serve People Association: February 2014), http://www.amrc.org.hk/files/FFM-Cambodia-Report-022014-amrc_0.pdf.

⁶¹ See, Mom Kunthear, Sean Teehan, and James Hall, "Keep Striking for \$160, Rainsy Urges," *Phnom Penh Post* (December 27, 2013), <http://www.phnompenhpost.com/national/keep-striking-160-rainsy-urges>.

⁶² See, Sean Teehan, Mom Kunthear and Meas Sokchea, "Strike Numbers Swell," *Phnom Penh Post* (December 27, 2013), <http://www.phnompenhpost.com/national/strike-numbers-swell>.

⁶³ See, Khuon Narim and Zsombor Peter, "Some Factories Stay Open Despite GMACs Call for Shutdown," *Cambodia Daily* (December 31, 2013), <http://www.cambodiadaily.com/archives/some-factories-stay-open-despite-gmacs-call-for-shutdown-49766/>.

⁶⁴ See, Abby Seiff, "Cambodia Strike Faces Deadly Crackdown," *Al Jazeera* (January 4, 2014), <http://www.aljazeera.com/indepth/features/2014/01/cambodia-strike-faces-deadly-crackdown-20141314036635971.html>.

⁶⁵ See, *Washington Post*, "Cambodian Troops Quash Protest at Garment Factory," (January 2, 2014).

⁶⁶ See, Chan, *supra*, ¶10.

⁶⁷ See, e.g., International Labor Organization, *Freedom of Association: Digest of Decisions and Principles of the Freedom of Association Committee of the Governing Body of the ILO*, ¶¶ 520-525 (5th ed. (rev.)2006).

⁶⁸ See, GMAC, "Open Letter" (December 12, 2013), <http://www.gmac-cambodia.org/default.php>.

⁶⁹ See, Ministry of Labour and Vocational Training, Letter No. 2101 (December 30, 2013).

⁷⁰ See, Aun Pheap, "Factories Closed Until Safety Guaranteed," *Cambodia Daily* (December 30, 2013), <http://www.cambodiadaily.com/archives/factories-closed-until-safety-guaranteed-49749/>.

⁷¹ See, Kong Sotharith, "Striking Workers Refuse Government Offer in Wage Dispute," *Voice of America – Khmer* (January 2, 2014).

⁷² Ibid.

⁷³ See, GMAC, Letter to Ministry of Economy and Finance, re Propose for a Precise Procedure and Coordination for a Re-export, (January 2, 2014) (unofficial translation), http://gmac-cambodia.org/news_event/2014/01/02-01-2014/Letter%20to%20MoEF.pdf.

⁷⁴ See, *Cambodia Daily*, "Paratroopers Deployed at Protest: 15 Detained, Injured (January 3, 2014), <http://www.cambodiadaily.com/archives/paratroopers-deployed-at-garment-protest-15-detained-injured-49960/>.

⁷⁵ See, May Thithara and Sean Teehan, "Strike Violence Erupts: Troops Beat, Arrests Protesters and Monks," *Phnom Penh Post* (January 3, 2014), <http://www.phnompenhpost.com/national/strike-violence-erupts>.

⁷⁶ Adams, Brad, "Brigade 911 Had Brutal History Before Garment Factory Strike," *Cambodia Daily* (January 9, 2014), <http://www.cambodiadaily.com/opinion/brigade-911-had-brutal-history-before-garment-factory-strike-50386/>.

⁷⁷ Ibid.

⁷⁸ See, LICADHO, "Military Special Command Unit Deployed to Crackdown on Striking Workers" press release (January 2, 2014); "Video: Workers and Political Activists under Attack in Cambodia" (January 7, 2014).

⁷⁹ See, Cambodian Center for Human Rights, "CCHR Releases a Briefing Note on the Excessive Use of Force against Demonstrators in 2013 and Condemns Yesterday's Violence," press release (January 3, 2014), http://www.cchrcambodia.org/index.php?url=media/media.php&p=press_detail.php&prid=458&id=5.

⁸⁰ See, Chan, *supra*, n 14.

⁸¹ See, May Thithara and Sean Teehan, *supra*, n 75.

⁸² See, Khy Sovuthy and Alex Willemyns, "Court Charges Protesters as Supporters, Police Scuffles Outside," *Cambodia Daily* (January 4-5, 2014), <http://www.cambodiadaily.com/archives/court-charges-protesters-as-supporters-police-scuffle-outside-50079/>.

⁸³ See, LICADHO, "When Freedom Meets Oppression: Timeline of Recent Events" (February 9, 2014).

⁸⁴ In 2006, several union leaders were repeatedly beaten by thugs in front of the Bright Sky garment factory, which is located a few hundred meters away. In WRC's investigation, both factory workers and one of the company's security guards indicated that the beatings had been ordered by Phal Vannak, a local thug employed by Bright Sky who also headed a union dominated by factory managers and government authorities. The following year, in 2007, the president of an independent union at Bright Sky's next door sister factory, Suntext, Hy Vuthy, was shot and killed on the street nearby. Subsequently, Phal Vannak was convicted of being accomplice to the murder and was sentenced to serve 18 years in prison. See, Buth Reaksmeay Kongkea, "Verdict in murder reversed," *Phnom Penh Post* (February 7, 2014), <http://www.phnompenhpost.com/national/verdict-murder-reversed>.

⁸⁵ See, LICADHO, "When Freedom Meets Oppression: Timeline of Recent Events" (February 9, 2014).

⁸⁶ See, Abby Seiff, "Cambodia Strike Faces Deadly Crackdown," *Al Jazeera* (January 4, 2014).

⁸⁷ See, Mom Khunthear, "Exodus Follows Violent Clash," *Phnom Penh Post* (January 6, 2014), <http://www.phnompenhpost.com/national/exodus-follows-violent-clash>.

⁸⁸ See, ADHOC, "ADHOC Condemns the Disproportionate Use of Force Against Protesters" (January 3, 2014), <http://www.adhoc-cambodia.org/?p=4303>.

⁸⁹ See, LICADHO and CLEC, "Civilians Killed and Injured by Security Forces amid civil unrest in Phnom Penh," joint statement (January 3, 2014).

⁹⁰ Ibid.

⁹¹ See, Chan, *supra* n. 17.

⁹² See, LICADHO, "Photo Album: Three Days of Terror: State Forces Crack Down on Garment Factory."

⁹³ See, Abby Seiff, "Cambodia strike faces deadly crackdown," *Al Jazeera*, (January 4, 2014).

⁹⁴ See, Phak Seangly and Khouth Sophak Chakrya, "Fate of teen still a mystery" *Phnom Penh Post* (February 10, 2014), <http://www.phnompenhpost.com/national/fate-teen-still-mystery>.

⁹⁵ See, LICADHO, *supra*, n. 85.

⁹⁶ Ibid.

⁹⁷ See, LICADHO, "List of the Dead and Missing Men from January 3, 2014 demonstration" (January 2014), <http://licadho-cambodia.org/reports/files/190LICADHODoc-BiographyDeaths+Missing-English.pdf>.

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¹⁰² Wong, Chun Han, "Cambodia Arrests Activists Under Phnom Penh Protest Ban," *Wall Street Journal* (January 6, 2014), <http://online.wsj.com/news/articles/SB10001424052702304887104579303550446156032>.

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¹¹⁰ HRW, “Cambodia: UN Should Condemn Rights Onslaught” (January 27, 2014), <http://www.hrw.org/news/2014/01/27/cambodia-un-should-condemn-rights-onslaught>.

¹¹¹ See, LICADHO, “Gatherings Continue for Justice and Release” (March 3, 2014), <http://www.licadho-cambodia.org/flashnews.php?perm=44>.

¹¹² See, Kuch Naren and Alex Willemyns, “Flouting Law, Government Holds Protest Prisoners Incognito,” *Cambodia Daily* (January 7, 2014), <http://www.cambodiadaily.com/archives/flouting-law-government-holds-protest-prisoners-incognito-50237/>.

¹¹³ See, Cambodian Criminal Code § 218 (“[A]ggravating Circumstances. The intentional violence is punishable by an imprisonment between 2 (two) and 5 (five) years and a fine of between 4,000,000 (four million) Riels and 10,000,000 (ten million) Riels when it is committed: 1. with premeditation; 2. with utilization of or threatening with a weapon; 3. by many persons acting their capacity as perpetrator, instigator or accomplice.”).

¹¹⁴ See, Cambodian Criminal Code § 411 (“The offence specified in Article 410 (Intentional Damage) is punishable by an imprisonment from 2 (two) years to 5 (five) years and a fine from 4,000,000 (four million) Riels to 10,000,000 (ten million) Riels for the following cases: 1. when it is committed by several persons acting in their capacity as perpetrator, co-perpetrators, instigator or accomplice; 2. when it is committed in a premise serving as a residence; 3. when it is committed in a premise served as a place of storage of funds, assets, merchandises or materials; 4. when it is committed at the expenses of the public buildings or public roads; 5. when it is committed at the detriment of cultivation or crops.”).

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¹¹⁶ Ibid.

¹¹⁷ See, Kuch Naren, “Lawyers Prevented from Seeing Protest Detainees at CC3,” *Cambodia Daily* (January 10, 2014), <http://www.cambodiadaily.com/archives/lawyers-prevented-from-seeing-protest-detainees-at-cc3-50395/>.

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¹²³ See, HRW, "Cambodia: Detainees in Crackdown Denied Rights" (January 9, 2014), <http://www.hrw.org/news/2014/01/08/cambodia-detainees-crackdown-denied-rights>.

¹²⁴ Ibid.

¹²⁵ See, Michael M. Calavan, Sergio Diaz Briquets, and Jerald O'Brien, *Cambodian Corruption Assessment*. (USAID/Cambodia: May-June 2004).

¹²⁶ See, Sebastian Strangio, "UN diplomat Denounces Court System," *Phnom Penh Post* (September 21, 2010), <http://www.phnompenhpost.com/national/un-diplomat-denounces-court-system>.

¹²⁷ See, Mech Dara and Alice Cuddy, "Bailed Garment Workers Speak of Injustice Ahead of March," *Cambodia Daily* (February 10, 2014), <http://www.cambodiadaily.com/news/bailed-garment-workers-speak-of-injustice-ahead-of-march-51759/>.

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¹⁵⁸ See, WRC, *Assessment of E Garment (Cambodia): Findings, Recommendations and Status* (December 13, 2012), [http://www.workersrights.org/Freports/WRC%20Assessment%20re%20E%20Garment%20\(Cambodia\)%202012.11.12.pdf](http://www.workersrights.org/Freports/WRC%20Assessment%20re%20E%20Garment%20(Cambodia)%202012.11.12.pdf).

¹⁵⁹ See, Cambodian Labor Law, §333 ("[T]he employer is prohibited from imposing any sanction on a worker because of his participation in a strike. Such sanction shall be nullified and the employer shall be punishable by a fine in the amount set in § 369 of Chapter sixteen.").

¹⁶⁰ See, *id.*, §337 (1) ("[T]he Labour Court or, in the absence of the Labour Court, the general court, has sole jurisdiction to determine the legality or illegality of a strike").

¹⁶¹ See, *id.*, §337 (2) ("[I]f the strike is declared illegal, the strikers must return to work within forty-eight hours from the time when this judgment is issued. A worker who, without valid reason, fails to return to work by the end of this period is considered guilty of serious misconduct.").

¹⁶² See, *id.*, §330 ("[A] strike must be peaceful. Committing violent acts during a strike is considered to be serious misconduct resulting in punishment, including work suspension or disciplinary layoff.").

¹⁶³ See, Allard K. Lowenstein International Human Rights Clinic, *Tearing Apart at the Seams* (Yale Law School: 2011) ("Yale Law School Report"), http://www.law.yale.edu/documents/pdf/Intellectual_Life/Cambodia_TearingApartattheSeams.pdf.

¹⁶⁴ See, Arbitration Council Award 10/03 (Jacqsintex Garment Co., Ltd.), ("In any case (for contracts of fixed or undetermined duration) the employer is strictly prohibited from terminating or not hiring a worker for reasons of union membership or participation in union activities in accordance with Arts. 12 and 279 of the Labor Law. In these circumstances both *the decision not to renew a contract of fixed duration* and the decision to terminate a worker on an undetermined duration contract should be considered to *fall within the category of decisions which an employer cannot make for reasons of union membership or participation in union activity.*" (emphasis added)).

¹⁶⁵ Cambodia's labor law requires any company with more than eight employees to formulate internal work rules. See, Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation, Notification No. 14 (August 16, 2002); Notification on the Internal Work Rules of the Enterprise, Clause 1; ("[T]he owners or directors of the above mentioned [businesses] which employ at least 8 employees shall have internal rules for their enterprises."). These internal work rules must include language on provision of sick leave. See, Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation, Appendix for Notification No. 14 (October 16, 2002); Model Internal Rules, Clause 4 ("[-][W]orking hours including both night work and work shifts; - Weekly time off; - An-

nual leave, public holidays and special leave; - Maternity leave; - Sick leave.”). Before they are posted in the work place, the internal work rules must be approved by the Ministry of Labor. See, Ministry of Social Affairs, Labour, Vocational Training and Youth Rehabilitation, Notification No. 14 (August 16, 2002); Notification on the Internal Work Rules of the Enterprise, Clause 3; (“[T]he internal rules shall be organized by the owners or directors of the enterprise after discussion with the staff representatives within three months after the opening of the enterprise. After their creation, the owners or directors of the enterprise shall send two copies of these internal rules with the written ideas and opinions of the shop stewards in order to apply for a visa from the labour inspector before applying the rules.”). An established practice of the Ministry of Labor is to only approve internal work rules that provide paid sick leave, indicating that the Ministry regards paid sick leave as a requirement for all firms. The standard rate for sick leave payment is 100% of the wages for the first month of sick leave, 60% of the wages from the second and third month of sick leave, and for the fourth to sixth month the sick leave is unpaid, but the position will be kept.

¹⁶⁶ See, Cambodian Labor Law, § 113 (“[T]he wage must be paid directly to the worker concerned, unless the worker agrees to get paid through other methods. The wage shall be paid in coin or bank note, which is legally circulating, notwithstanding provisions to the contrary.”).

¹⁶⁷ See, *id.*, § 116 (“[L]aborers’ wages shall be paid at least two times per month, at a maximum of sixteen day intervals. Employees’ wages must be paid at least once per month.... For all taskwork or piecework that is to be executed for longer than fifteen days, the dates of payment can be fixed by agreement, but the laborer must receive partial payments every fifteen days and be paid in full in the week following the delivery of the work. In the event of termination of a labor contract, wage and indemnity of any kind must be paid within forty-eight hours following the date of termination of work.”).

¹⁶⁸ The presidents of Coalition of Cambodian Apparel Workers’ Democratic Unions (C.CAWDU), National Independent Federation Trade Unions of Cambodia (NIFTUC), Cambodian Alliance of Trade Unions (CATU), Free Trade Union of Workers of the Kingdom of Cambodia (FTUWKC), and Collective Union of Movement of Workers (CUMW) and Cambodian Confederation of Unions (CCU).

¹⁶⁹ *Yunhap News* (January 5, 2014), <http://www.yonhapnews.co.kr/economy/2014/01/05/0302000000AKR20140105036200084.HTML>.

¹⁷⁰ See, Sean Teehan, “Scores of Factories ‘Set to Sue’ over Wage Strike,” *Phnom Penh Post* (February 27, 2014), <http://www.phnompenhpost.com/national/scores-factories-%E2%80%98set-sue%E2%80%99-over-strike>.

¹⁷¹ See, ILO, *Freedom of Association: Digest of Decisions and Principles of the Freedom of Association Committee of the Governing Body of the ILO 664* (5th ed. (rev.) 2006) (“[T]he Committee could not view with equanimity a set of legal rules which: (a) appears to treat virtually all industrial action as a breach of contract on the part of those who participate therein; (b) makes any trade union or official thereof who instigates such breaches of contract liable in damages for any losses incurred by the employer in consequence of their actions; and (c) enables an employer faced with such action to obtain an injunction to prevent the commencement (or continuation) of the unlawful conduct. The cumulative effect of such provisions could be to deprive workers of the

capacity lawfully to take strike action to promote and defend their economic and social interests." (emphasis added)).

¹⁷² Worrell, Shane, and Mom Kunthear, "Right to Strike 'Fundamental,'" *Phnom Penh Post* (January 30, 2014), <http://www.phnompenhpost.com/national/right-strike-%E2%80%98fundamental%E2%80%99>.

¹⁷³ Kevin Ponniah, "Strike Debate a 'Red Herring,'" *Phnom Penh Post* (February 7, 2014), <http://www.phnompenhpost.com/national/strike-debate-%E2%80%98red-herring%E2%80%99>.

¹⁷⁴ See, Article 37 of the Constitution and Article 319 of the 1997 Labor Law.

¹⁷⁵ See, Shane Worrell, "ILO Convention Still Debated," *Phnom Penh Post* (March 6, 2014).

¹⁷⁶ See, e.g., Yale Law School Report, *supra*, n.142.

¹⁷⁷ See, *Chhay Channyda*, "Minister 'Too Busy' to Sit Down with Unions," *Phnom Penh Post* (January 7, 2014).

¹⁷⁸ See, Aum Pheap, "Unions Want Government and Factories to Resume Wage Talks," *Cambodia Daily* (January 13, 2014); Zsombor Peter and Aum Pheap, "Unions Warns of More Strikes Unless Wage Talks Resume," *Cambodia Daily* (January 16, 2014).

¹⁷⁹ *Ibid.*

¹⁸⁰ See, Kuch Naren, "Committees to 'Research' Minimum Wage, 'Study' Killings," *Cambodia Daily* (January 11-12, 2014), <http://www.cambodiadaily.com/archives/committees-to-research-minimum-wages-study-killings-50431/>.

¹⁸¹ See, Radio Free Asia, "Cambodian Panel Begins to Grapple With Minimum Wage Reforms" (February 6, 2014), [http://www.rfa.org/english/news/cambodia/committee-02062014185924.html?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+NamNguyen-GooglePublicPosts+\(Google%2B+Posts\)](http://www.rfa.org/english/news/cambodia/committee-02062014185924.html?utm_source=feedburner&utm_medium=feed&utm_campaign=Feed%3A+NamNguyen-GooglePublicPosts+(Google%2B+Posts)).

¹⁸² See, Collective Union of Movement of Workers (CUMW), Cambodian Alliance of Trade Unions (CATU), Worker Friendship Union Federation (WFUF), National of Trade Unions of Coalition (NTUC), Coalition of Cambodian Apparel Worker's Democratic Union (CCAWDU), National Independent Federation Textile Union of Cambodia (NIFTUC), Free Trade Union of Workers of Kingdom of Cambodia (FTUWKC), and Independent Youth Trade Union (IDYTU), "Intervention letter to Walmart" (February 14, 2014).

¹⁸³ Mech Dara and Aun Pheap, "Unions Plan 2nd Round of Mass Strikes," *Cambodia Daily* (February 13, 2014), <http://www.cambodiadaily.com/news/unions-plan-2nd-round-of-mass-strikes-52078/>; Thomas Maresca, "CAMBODIA: Unions call for mid-March strike," *Just-Style* (February 18, 2014).

¹⁸⁴ Mom Kunthear, "Unions plan forum," *Phnom Penh Post* (March 3, 2014), <http://www.phnompenhpost.com/national/unions-plan-forum>.

¹⁸⁵ Mom Kunthear and Sean Teehan, "Strike Strategy Shifts: Stoppages Planned Sans Protests," *Phnom Penh Post* (February 13, 2014), <http://www.phnompenhpost.com/national/strike-strategy-shifts>.

¹⁸⁶ Aun Pheap, "Hun Sen Adds Armed Forces Chiefs to Strike Committee," *Cambodia Daily* (February 21, 2014), <http://www.cambodiadaily.com/news/hun-sen-adds-armed-forces-chiefs-to-strike-committee-52873/>.

¹⁸⁷ See, Mech Dara and Colin Meyn, "Garment Workers Begin Boycott of Overtime," *Cambodia Daily* (February 25, 2014), <http://www.cambodiadaily.com/news/garment-workers-begin-boycott-of-overtime-53140/>.

¹⁸⁸ See, Mech Dara, "As Workers Boycott Overtime, CPP Goes on Counteroffensive," *Cambodia Daily* (February 26, 2014), <http://www.cambodiadaily.com/news/as-workers-boycott-overtime-cpp-goes-on-counteroffensive-53241/>.

¹⁸⁹ See, Mech Dara and Alex Willemyns, "As Garment Sector Strike Loom, Soldiers Watch Over Factories," *Cambodia Daily* (February 27, 2014), <http://www.cambodiadaily.com/news/as-garment-sector-strikes-loom-soldiers-watch-over-factories-53275/>.

¹⁹⁰ See, Khouth Sophak Chankrya and Sean Teehan, "Leaflet Arrests Questioned," *Phnom Penh Post* (February 28, 2014), <http://www.phnompenhpost.com/national/leaflet-arrests-questioned>.

¹⁹¹ See, Mom Kunthear and Sean Teehan, "Workers 'Locked Inside' During Overtime Strike," *Phnom Penh Post* (March 4, 2014), <http://www.phnompenhpost.com/national/workers-%E2%80%98locked-inside%E2%80%99-during-overtime-strike>.

¹⁹² See, Mech Dara and Matt Blomberg, "Security Forces Hold Drills Ahead of Saturday's Union Forum," *Cambodia Daily* (March 7, 2014), <http://www.cambodiadaily.com/news/security-forces-hold-drills-ahead-of-saturdays-union-forum-53671/>.

¹⁹³ Sean Teehan, "Unions Expect Violence, but Forum to Go On," *Phnom Penh Post* (March 6, 2014), <http://www.phnompenhpost.com/national/unions-expect-violence-forum-go>.

¹⁹⁴ Mech Dara, "Protest Ban Firmly in Place on International Women's Day," *Cambodia Daily* (March 10, 2014), <http://www.cambodiadaily.com/news/protest-ban-firmly-in-place-on-womens-day-53745/>.

¹⁹⁵ Ibid.

¹⁹⁶ See, Mech Dara, "Protest Ban Firmly in Place on International Women's Day," *Cambodia Daily* (March 10, 2014), <http://www.cambodiadaily.com/news/protest-ban-firmly-in-place-on-womens-day-53745/>; Daniel Quinlan, Marta Soszynka, and David Boyle, "Women's Day Forum Blocked," *Phnom Penh Post* (March 8, 2014), <http://www.phnompenhpost.com/video/womens-day-forum-blocked>.

¹⁹⁷ See, Mech Dara, "Six Unions Suspend 'Stay-at-Home' Garment Strike," *Cambodia Daily* (March 12, 2014), <http://www.cambodiadaily.com/news/six-unions-suspend-stay-at-home-garment-strike-53961/>, and, "Workers' Strike Delayed, Rescheduled for Post-Khmer New Year," *Cambodia Herald* (March 11, 2014), <http://www.thecambodiaherald.com/cambodia/detail/1?page=13&token=NmU5MTVjY2ExZTQ>.

¹⁹⁸ See, UNI Global Union, "Global Unions and Brands Meet with Cambodian Government," (February 20, 2014), <http://www.uniglobalunion.org/news/global-unions-and-brands-meet-cambodian-government>.

¹⁹⁹ Sean Teehan, "Brands, Gov't, Unions Meet on the Issues," *Phnom Penh Post* (February 20, 2014), <http://www.phnompenhpost.com/national/brands-gov%E2%80%99t-unions-meet-issues>.

²⁰⁰ See, Reporters without Borders, "World Press Freedom Index 2014," <http://rsf.org/index2014/en-index2014.php>

²⁰¹ See, Freedom House, "Freedom of the Press 2013: Global Press Rankings," <http://www.freedomhouse.org/sites/default/files/Global%20and%20regional%20tables.pdf>

²⁰² See, Collegiate Licensing Company, *Special Agreement Regarding Labor Codes of Conduct*, Seched. I (II)(A)(Legal Compliance)(“Licensees must comply with all applicable legal requirements of the country(ies) of manufacture in conducting business related to or involving the production or sale of Licensed Articles. Where there are differences or conflicts with the Code and the laws of the country(ies) of manufacture, the higher standard shall prevail, subject to the following considerations. In countries where law or practice conflicts with these labor standards, Licensees agree to consult with governmental, human rights, labor and business organizations and to take effective actions as evaluated by CLC, the applicable Collegiate Institution(s) or their designee, and the applicable Licensee(s) to achieve the maximum possible compliance with each of these standards.”).