

Banning Hope

Bangladesh Garment Workers Seeking a Dollar an Hour Face Mass Firings, Violence, and False Arrests



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On the cover:

The home of Akhi Begum, a 45-year-old housewife who lives in a building adjacent to residential quarters of garment workers, was shot at by police during the protests. In addition to the damages made to her home (pictured above), Akhi Begum herself was hit in the stomach and leg by the rubber bullets that entered her home.

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I. Introduction

The government and apparel factory owners in Bangladesh have carried out a brutal crackdown on garment workers in retaliation for largely peaceful protests against the country's extremely low minimum wage. Since December of 2018, at least 65 workers have been arrested and subjected to baseless criminal charges, brought at the behest of factories that supply brands like H&M, Mango, and Next.¹ Factories producing for these and other brands have fired as many as 11,600 workers without legal justification, most of whom are unable to find other jobs due to systematic blacklisting.² Some factories have even hired thugs to physically assault employees. Meanwhile, widespread violence by the Bangladeshi security forces has resulted in the death of one worker and sowed fear across the industry.

This attack on workers was in response to protests that erupted after the Bangladeshi government announced an increase in the minimum wage that left workers' pay below \$22 per week (\$0.45 per hour), maintaining Bangladesh as the lowest-wage country among all major garment exporters. This report documents – via interviews with more than a hundred workers and extensive documentary research – that:

- The wage protests in December of 2018 were largely peaceful;
- The response by government security forces was characterized by indiscriminate use of physical force, in contravention of workers' rights of speech, assembly, and association;
- Arrests of, and criminal charges against, 65 workers were driven by demonstrably baseless complaints from managers of 30 factories, producing for a long list of well-known brands and retailers;
- Some workers were charged based on alleged acts that took place miles away from their actual workplaces and in which the workers cannot possibly have taken part;

¹ "Bangladesh: Investigate Dismissals of Protesting Workers," *Human Rights Watch* (March 5, 2019), <https://www.hrw.org/news/2019/03/05/bangladesh-investigate-dismissals-protesting-workers?fbclid=IwAR1pH3uQiM7gINEmSHWxPo2sjVtT0yX-rKH0STwMsNM24ZcNbi0AzUMLa4kfactoriea>.

² Over 11,600 Bangladesh garment workers lose jobs and face repression," *Industrial Global Union*, (February 11, 2019), <http://www.industrial-union.org/over-11600-bangladesh-garment-workers-lose-jobs-and-face-repression>.

- The mass firings, of as many as 11,600 workers, did not have valid grounds under the country's labor law and were not carried out in a manner consistent with required procedures; and
- Rather than terminating individual workers for documented violations of company rules, factory managers fired workers *en masse*, with no effort to credibly demonstrate cause, as a means of collective punishment of workers for their decision to participate in protests.

Since the scope of the repression makes it impossible to detail the circumstances of every arrest and every dismissal, this report focuses on a number of specific case studies that illustrate the broader pattern of unlawful behavior by factory management and the government.

The repression documented in this report is the most extensive the WRC has observed in two decades of work in Bangladesh. While it has not yet received the level of public attention of the crackdown on workers and labor leaders following similar mass wage protests in 2016, our research indicates that the scope of the recent repression is broader. During the previous crackdown, far fewer workers – roughly 1,200 – lost their jobs and 38 workers and labor leaders were detained.³ Efforts by international human rights and worker rights groups, brands, and governments in early 2017 ultimately succeeded in ensuring that some, although not all, of those charges were dropped and that some factories made commitments to offer reinstatement to workers; however, factory owners were never held meaningfully accountable for their role in the unlawful repression of peaceful protest and assembly. Western brands and retailers continued to pour business into Bangladesh; exports to the US, for example, have grown 19% in the last year.⁴ This impunity helps explain why factory owners, backed by the government and its security apparatus, are again responding to legitimate protests against poverty wages with a massive campaign of illegal retaliation.

³ The Editorial Board, "Bangladesh's Crackdown on Labor," *The New York Times* (February 1, 2017), <https://www.nytimes.com/2017/02/01/opinion/bangladeshs-crackdown-on-labor.html> and Rachel Adams and Maher Sattar, "Protests in Bangladesh Shake a Global Workshop for Apparel," *The New York Times*, (January 22, 2017), <https://www.nytimes.com/2017/01/22/business/bangladesh-protest-apparel-clothing.html>.

⁴ "Trade data: Bangladesh's apparel exports in labour unrest-hit Jan," *bdapparelnews.com* (February 10, 2019), <https://www.bdapparelnews.com/https://www.bdapparelnews.com/Trade-data-Bangladeshs-apparelexports-in-labour-unrest-hit-Jan/276/276>.

In order to remedy the harm that has been done to the workers directly affected and reverse the broader chilling effect on the right of all garment workers to peacefully protest and organize, the WRC asks all brands sourcing from Bangladesh to require all of their suppliers to:

- Withdraw any criminal complaints they have filed in relation to the recent protests (as well as any remaining criminal complaints against workers and leaders from 2016);⁵
- Reinstate and provide back wages to all workers terminated or forced to resign in the wake of the protests; and
- Commit to a nondiscriminatory hiring process, designed to end the blacklisting of workers based in their involvement in the protests.

A prompt and robust response by brands will be crucial to achieve any measure of justice for the thousands of workers facing unemployment and the dozens facing false criminal charges.

II. Methodology

The findings in this report are based on:

- In-depth individual and group interviews with 114 workers between December 2018 and March 2019;
- Police records of 30 criminal complaints;
- Dismissal notices;
- Court records;
- Review and analysis of 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 Bangladeshi laws and conventions of the International Labour Organization; and,
- Communications with buyers sourcing apparel from Bangladesh.

⁵ Cases 43 (filed by management at Cathay Apparels) and 30 (filed by police in Ashulia) in 2016 as well as cases 32 (filed by police in Joydeypur) and 44 (filed by police in Gazipur) that were filed in 2015 but used to arrest labor leaders in 2016.

III. Background: Wages and Freedom of Association in Bangladesh

Freedom of expression and association have become increasingly stifled by Bangladesh's Government in recent years. The Government, led by the Awami League, has most notably used the Information and Communication Technology (ICT) Act to arrest scores of civil society actors for criticizing governmental and political leaders, among others, in online newspapers, on Facebook, and on other social media sites. As many believed would happen, the threat to civil society increased in the months leading up to the national elections, which took place in December 2018. This wide-reaching legislation, clearly used to repress the media and political dissent, was most prominently cited in the arrest and detention of professor and activist Shahidul Alam. Alam was only released on bail in November 2018, after 100 days in prison and mounting international pressure. To the surprise of no one observing the situation in Bangladesh, as the country is increasingly seen to be led by a semi-authoritarian government, Sheikh Hasina was elected into her third term as Bangladesh's Prime Minister. The ICT act allows the prosecution of anyone found to have published material that "tends to deprave and corrupt" its audience, causes a "deterioration in law and order," or "prejudices the image of the state or a person." Labor leaders in Bangladesh are no exception to the threat of the government's crackdown on civil society.

To understand the recent protests, it is helpful to review the context regarding wages and freedom of association in the garment industry in Bangladesh. While there are laws protecting workers' freedom of association in Bangladesh, both the International Labour Organization (ILO) and the European Union (EU) have repeatedly, over a period of years, criticized the Bangladeshi government's failure to protect workers' rights to freedom of association and urged the government to take concrete steps to ensure its laws and practices are in line with international standards. Garment workers seeking to form unions encounter bureaucratic hurdles from the government, paired with intimidation, retaliation, and sometimes violent repression by employers.⁶

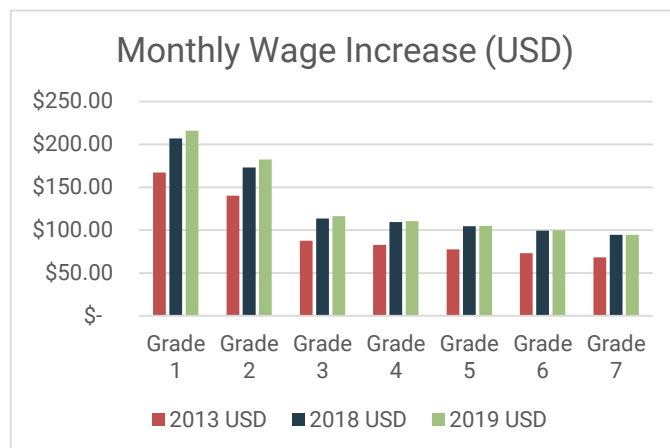
With limited opportunities to advocate for improved wages or working conditions, workers in Bangladesh often feel they have no other recourse but to take to the streets. Workers, often without significant encouragement or leadership from

⁶ "Whoever Raises their Head Suffers the Most," *Human Rights Watch* (April 22, 2015), http://features.hrw.org/features/HRW_2015_reports/Bangladesh_Garment_Factories/index.html

trade unions, have taken mass action over and over – in 2006, 2010, 2012, and 2016 – to press for higher wages.

On November 25, 2018, the government of Bangladesh set the new minimum wage at 8,000 BDT (US\$ 95) a month.⁷ The announcement followed months of public calls by workers and local labor groups – echoed by international brands and human rights groups – for the minimum wage to be set to at least 16,000 BDT (US\$ 188) a month. The new minimum wage, which came into effect on December 1, 2018, represents less than a quarter of what many experts believe to be a living wage in most areas in Bangladesh.⁸

After the protests described below, the Bangladeshi government created a tripartite body representing labor, government, and employers, to reassess the wage structure.⁹ On January 13, the government announced the readjusted minimum wage structure.¹⁰ While this represented an increase, nearly every labor group in Bangladesh agrees that it still falls well below what is necessary to cover workers' basic expenses. While the adjustments to all seven tiers (which are, in theory based on skill, experience, and tenure) were low, the wages of the lowest three pay grades – those most in need of higher wages – were changed by only a small amount, if at all. As can be seen in the chart below, grade six, received only an increase of 15 BDT (\$0.18 USD) per month, which is hardly enough to buy a cup of tea in Dhaka. Grade seven received no increase at all and remains at 8,000 BDT. These minimal increases do not augur well in terms of either workers' ability to meet their basic needs or future labor peace.



⁷ "Gazette published fixing Tk 8,000 as minimum wage for RMG workers," *United News of Bangladesh* (November 26, 2018), <https://unb.com.bd/category/Bangladesh/gazette-published-fixing-tk-8000-as-minimum-wage-for-rmg-workers/7285>.

⁸ Asia Floor Wage, <https://asia.floorwage.org/what>.

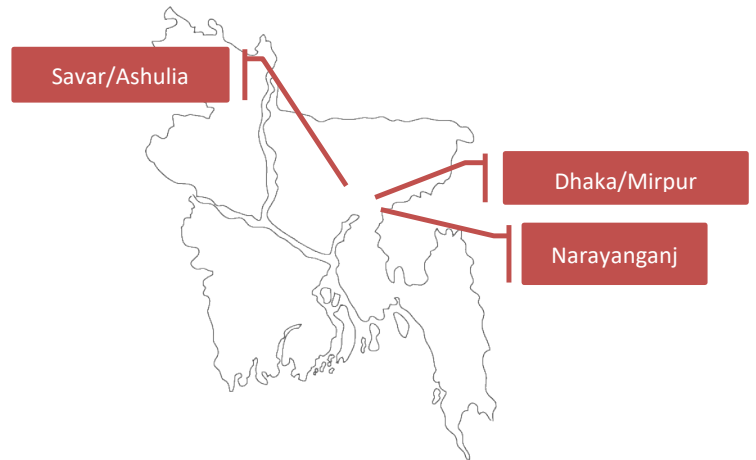
⁹ "Bangladesh boosts garment wage in six grades amid worker protests," *bdnew24.com* (January 13, 2019), <https://bdnews24.com/business/2019/01/13/bangladesh-boosts-garment-wage-in-six-grades-amid-worker-protests>.

¹⁰ The minimum wage structure is tiered in seven grades, depending on experience of the work. The Bangladeshi government originally established new minimum wages for all seven tiers.

IV. Findings: Mass Protests, Mass Repression

A. November – December 2018: Protests Begin

In the three weeks following the November 25 announcement of the new wage structure, workers in dozens of factories throughout the industrial areas of Mirpur, Savar, Narayanganj, Ashulia, and Gazipur held demonstrations protesting the new minimum wage. Hundreds of workers took to the streets. At least 50 factories were closed as a result of worker unrest during December, only reopening after three days.¹¹



Based on mutually corroborating worker testimony and media reports, the WRC concludes that the protesters were largely peaceful.¹²

During this period, factory owners vehemently asserted that the workers' protest was initiated and led by groups unrelated to the garment industry. Md. Siddiqur Rahman, the president of the Bangladesh Garment Manufacturers and Exporters Association (BGMEA), in a press conference on December 12, insisted that "a vested quarter" was behind the worker unrest.¹³ Statements of this nature are clearly intended to vilify protesting workers. To workers, this statement carried an implied threat that their protests were not seen as legitimate and could be subject to retaliation.

The WRC found no evidence to support the manufacturers' claims that workers were being led by any third party or even engaging in a coordinated national effort. Rather, extensive evidence reviewed by the WRC indicates that the protests were led by decentralized groups of workers as opposed to an established group of any kind.

¹¹ "50 RMG factories closed after workers protest," *The Daily Star* (December 21, 2018), <https://www.thedailystar.net/city/news/50-rmg-factories-closed-after-workers-protest-1676701>.

¹² For more information about the worker demonstrations, see Appendices 1 and 2 of this report.

¹³ Niaz Mahmud, "BGMEA senses plot to create unrest in RMG," *Dhaka Tribune* (December 13, 2018), <https://www.dhakatribune.com/business/2018/12/13/bgmea-senses-plot-to-create-unrest-in-rmg>.

Each of the 114 workers employed at 13 different factories interviewed by the WRC who witnessed the December protests testified that they and/or their colleagues first attempted to verbally raise their concerns over the low wage to their management and began protesting only after they received unsatisfactory – and in some cases threatening – responses from managers.

For example, at two unrelated factories, Abanti Colour Tex (Abanti) and Al Gausia Garments (Al Gausia), workers in collective groups raised wage demands directly to their respective managers. In response, on the days following, those two factories invited outside men (“thugs”) into the factories to physically intimidate workers and/or called the police on the workers.¹⁴ Workers consistently described how these men and police officers threatened the workers in an effort to deter them from pressing their demands. For instance, in Al Gausia, workers claimed that a retired army colonel, brought into the factory by the management, threatened them, saying, “If I want 10 workers to disappear, I can make them disappear, just like that. The administration is at my beck and call. It doesn’t matter how many cases you file against me, you can’t catch me.”

Not only at Al Gausia and Abanti but at 13 other factories, testimony gathered by the WRC indicates that it was only after factory managers failed to address employees’ concerns that workers became agitated and sought other avenues to make their voices heard. It was at this point that the workers launched their protests and work stoppage, which depending on the factory lasted for one or more days, during which time many factories remained closed. Workers reported to the WRC that their employers responded to these protests in threatening ways or by assuring them that their wages would be increased by the next pay period. Workers in some factories were also threatened with state repression; some employers told workers that no agitation would be tolerated by the government during election time, and that continued strikes or protests on the streets would draw a more serious response from the state apparatus.

¹⁴ The use of thugs to intimidate workers from acting collectively and discourage dissent is a tactic often employed by Bangladeshi employers. See: “Union Leaders Attacked at Bangladesh Garment Factories, Investigations Show” *New York Times*, (December, 23, 2014), <https://www.nytimes.com/2014/12/23/business/international/attacks-on-union-leaders-at-azim-factories-in-bangladesh-are-documented.html>.

B. January 2019: Renewed Protests Met with Violent Repression

A new wave of protests began in the first week of January, after workers had received their wages. In Bangladesh, employers are required, by law, to provide workers' monthly salary within the first seven days of every month. Shortly after receiving their December wages, workers throughout the industrial areas around Dhaka resumed their wage protests. The WRC estimates that workers from over 100 factories participated in some form of protest during this period. In many cases, factories suspended operations during the protests.

Police, along with thugs apparently acting at the behest of employers, responded violently to the workers' protests, with indiscriminate assaults on garment workers and their neighbors.

Interviews and reviews of physical evidence and medical reports by WRC investigators confirm reports by Human Rights Watch and other observers as to the excessive, deadly violence of the police in responding to the workers' protest.¹⁵

By January 16, after being met with violence, criminal charges, and dismissals, as described below, most workers had ceased their protests, and most factories had resumed their operations.¹⁶ In the days and weeks that followed, local labor leaders, most notably the Industrial Bangladesh Council (IBC) called on the manufacturers and government to reinstate the dismissed workers and withdraw the criminal complaints.¹⁷

1. *The Death of Sumon Mia*

In the most tragic example of this violence, on January 8, 22-year-old Sumon Mia, a worker at Anlima Textile in Savar, was shot dead by police on the street on his way home during his lunch break. The WRC has interviewed the Managing Director of Anlima and Mia's family regarding this case. Both the family and the

¹⁵ See, "Bangladesh: Investigate Dismissals of Protesting Workers," *Human Rights Watch*, (March 5, 2019), <https://www.hrw.org/news/2019/03/05/bangladesh-investigate-dismissals-protesting-workers?fbclid=IwAR1pH3uQiM7gINEmSHWxPo2sjVtT0yX-rKHOSWmsNM24ZcNbi0AzUMLa4k>

¹⁶ Maliha Khan, "The Layoffs," *The Daily Star* (February 15, 2019), <https://www.thedailystar.net/star-weekend/spotlight/news/payback-protesting-1702354>.

¹⁷ Ovi, Ibrahim Hossain, "Industrial calls for reappointing sacked RMG workers, case withdrawal," *Dhaka Tribune*, (February 13, 2019), <https://www.dhakatribune.com/business/2019/02/13/industrial-calls-for-reappointing-sacked-rmg-workers-case-withdrawal>.

Managing Director report that there were no demonstrations at Anlima. Mia had done his duty that day and was on his way home for lunch when he was attacked.



Owner of a shop near where Mia was killed, who was shot by police with rubber bullets the same day.

Workers at Anlima and Standard Garments – a neighboring factory – and other witnesses confirm that the police had been called to suppress the protests by workers at Standard Garments. Eye-witnesses to the event report that Mia was not participating in the protests, did not provoke the police in any way, and was not engaging in vandalism or violence.

One worker at Anlima, who was with Mia at the time, told the WRC that Mia had tried showing his badge to the police in an attempt to prove to them that he was not involved in the protests at Standard Garments but that they shot him anyway. Two witnesses, who were in the immediate vicinity where Mia was shot by the police, claim they were shot with rubber bullets, threatened, and beaten by law enforcers.

2. Police Violence at Garment Factories

The 114 workers interviewed for this report reported that protests inside and outside factories had been met, in many cases, with violence from police and thugs. These workers, across factories, were consistent in reporting that it was these individuals that initiated any violence that occurred in order to quash

workers' peaceful protests. In some cases, workers escalated their behavior in response, engaging in property damage or engaging in physical aggression towards the police. One example of the excessive response by police is that of East West Industrial Park in Gazipur.

After receiving their pay slips on January 5, the full 7,500-person workforce of East West Industrial Park, a majority of whom were women, ceased work for two days in protest of the low wages.

On January 7, union representatives from one of the park's 11 units wrote their demands to the management on a banner and, along with workers from the third and fourth floor, proceeded to convene on the ground floor, in the huge compound of the park. Workers from the rest of the units followed suit and all 7,500 workers took up positions in the compound.



By this time, Industrial Police were positioned in front of the factory gates, attempting to prevent workers from leaving the factory premises. Workers report that when the group of workers attempted to exit, to launch a protest on the streets outside the compound, police began to hit them with batons. Some workers responded to this by throwing stones towards the police. Police subsequently threw tear gas into the factory premises. The factory housed a daycare for workers' children; one worker testified to the WRC that the painful impacts of the tear gas were felt not only by workers but also by the children in the daycare. The police then engaged in additional physical assault on the workers, who were disoriented from the tear gas. One worker recounted the incident:

There is a day care center in our factory. We heard that one of the children had died. This made workers very angry. We later found that it was a rumor, but at the time we had no way of knowing otherwise. You could already see so many people lying on the ground from the tear gas and beatings. Why would the police attack us like this for no reason? Workers just couldn't take it when they heard that a child had died... some of them broke the glass [windows] on the ground floor.

Many workers were made ill by the tear gas. As one worker noted:

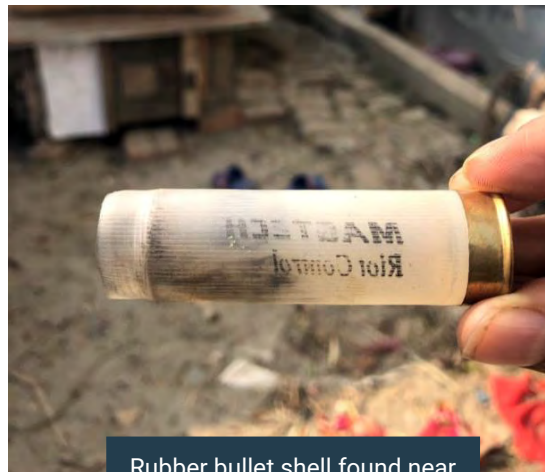
We were not prepared for the ruthlessness of the violence. All of a sudden, our eyes started to burn [from the tear gas] and while we were trying to get away from the smoke, police started beating us again. Can you imagine? You are blinded, and then they beat you. I saw many collapse on the ground, unable to run away. Hundreds of workers were injured that day from the police violence but there was no one to take them all to the hospital. We all went to our local clinics, when we could finally manage to leave the compound. We were later told that we could have used fire to ease the burn in our eyes, but we didn't know it then.

According to worker testimony, several windows were broken in the melee. Workers did not report any violence towards managers or other individuals associated with the factory.

The following day, management began terminating workers. According to workers, as many as 1,500 workers have been terminated, including 41 union activists from 5 unions. The East West Group ultimately filed a criminal complaint

alleging that workers had engaged in unlawful assembly, trespassing, and theft, and had threatened to kill factory staff. The WRC is aware of one worker who has been arrested under this case, who is now out on bail. According to workers, between January 8 until January 25, at least a dozen thugs were stationed near the factory. Several workers report seeing these men carrying knives, metal rods, and wooden sticks. Workers report that, when they come to the factory to collect their severance benefits, these men demand money from them.

The East West case is a clear example of the pattern evident in the WRC's extensive interviews with workers from 13 factories affected by the January protests: while workers sometimes did damage property or respond aggressively to police, this was almost always occasioned by the fear and anger brought on by the use of excessive force by the police. As is discussed below, management's



Rubber bullet shell found near where Mia was killed.

response to this case also demonstrates the manner in which East West, like other firms, responded with an effort at collective punishment rather than a specific, proportionate response based on the specific facts of the incident in question.

3. Indiscriminate Violence against Workers and Their Neighbors



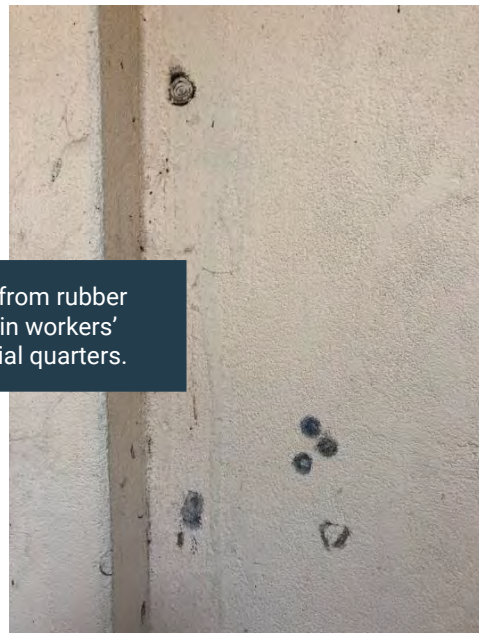
Robeya Khatun who was shot at by police during protests on January 8, 2019.

In addition to the police violence at the protests, police launched a reign of terror in the neighborhoods and buildings occupied largely by garment workers in Savar and Ashulia. They beat and threatened the residents and shot rubber bullets indiscriminately into residences. The WRC spoke to three more workers with severe wounds, who claim they were beaten and shot with rubber bullets in their own homes, and presented medical reports confirming

their accounts. WRC investigators saw first-hand the rubber bullet indents on the walls, broken glass windows, damaged doors, and tear gas shells in workers' homes.

"I was hiding in my room from the tear gas when the police started kicking down the doors. Then they just started shooting. They shot through this closed window, and the bullet went through my leg," says Rubia Begum, a worker and a resident of the Baghbari area of Hemayetpur.

Begum's medical report from Enam Medical College and Hospital states that she had a "foreign body in [her] right leg due to gunshot injury."



Indents from rubber bullets in workers' residential quarters.

Akhi Begum, a 45-year-old housewife who lives in a building adjacent to the residential quarters of ready-made garment (RMG) workers, sustained severe injuries from a gunshot. Shots fired from outside penetrated through the second-floor window of their three-story house – one went right into her stomach, another pierced through her skin and into her TV a few meters from her bed, and another is still lodged inside one of the walls of her home. She and her husband believe their building was targeted because whoever fired the shots thought that workers had taken refuge there.

C. January – Present: Collective Punishment through Criminal Charges, Dismissal, and Blacklisting

1. *Trumped-Up Criminal Cases Used to Intimidate Workers*

To date, the WRC has reviewed the criminal complaint filings of 30 cases filed in Ashulia, Gazipur, Tongi, and Savar related to the January protests. All but one of the cases, which was filed by police in Savar, were filed by factory managers. In these filings, the managers describe protests at a number of factories and allege serious acts of violence, including “attempt to murder” by workers.

The 29 criminal charges filed by factory managers have led to the arrest of at least 65 workers. While the WRC can confirm that all 65 workers have been released on bail, the exact number of those arrested and detained, however, remains unknown. Most of the complaints filed by factory managers allege the involvement of dozens, and in some cases, hundreds of *unnamed* people who engaged in criminal behavior during the protests and who could face criminal charges in the future. This tactic, of filing complaints against significant numbers of unspecified individuals, was used by the employers and the state in 2016 – 2017 to target union leaders and was clearly used to instill fear into workers and discourage further dissent.¹⁸

After careful review of local media reports and witness testimony, the WRC found no evidence to prove the level of property damage alleged by managers in their filings with the police. Based on extensive analysis of the case documents and worker testimony, the WRC is confident that these cases are not based on facts

¹⁸ “Bangladesh: Investigate Dismissals of Protesting Workers,” *Human Rights Watch* (March 5, 2019), <https://www.hrw.org/news/2019/03/05/bangladesh-investigate-dismissals-protesting-workers?fbclid=IwAR1pH3uQiM7gINEmSHWxPo2sjVtT0yX-RKHOSTwMsNM24ZcNbi0AzUMLa4kfactoriea>.

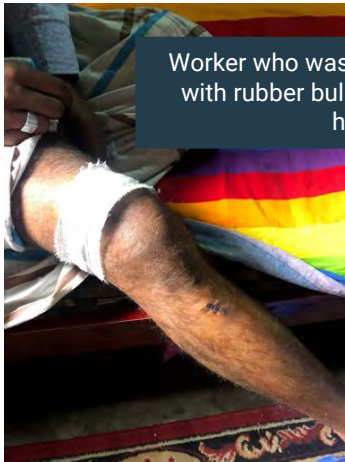
or intended to hold individuals accountable for criminal activity. Rather, they are intended as a way to intimidate workers and discourage further dissent. These arrests send a clear message to workers throughout the industry that any worker is subject to retaliatory, arbitrary punishment for participating in collective action, regardless of the nature of their participation.

The below case studies provide key examples of the flaws present in every level of these complaints. According to worker testimony, they allege violence that never occurred by workers who were not in the factory on the day the events are supposed to have occurred – because they have no connection to those factories. They contain internal contradictions. The police have exacerbated the impact of these complaints by arresting further unrelated individuals under the umbrella of the additional “unnamed people” claimed to have perpetrated violence.

A local journalist who covered the protests in Ashulia and Savar extensively provided information further supporting the WRC’s conclusions. This journalist informed the WRC that a factory owner who was responsible for filing one of the criminal charges informed him that the criminal cases would not be pursued, as these cases were only intended to instill fear in the workers and halt any further protest in the future. This is cold comfort to workers who will have these charges hanging over their head and a notable piece of evidence regarding the motivation for the charges.

a. Case Study 1: Targeting Union Leaders at AR Jeans Producer Ltd.

On January 11, factory managers from AR Jeans Producer Ltd. (AR), in Narayanganj, filed a criminal case alleging that, on January 10, AR employees beat up factory staff, locked them in a room, and destroyed property worth nearly \$6,000 USD. The WRC interviewed 15 AR employees regarding the protests at the factory on and around that date. Based on credible, mutually corroborating worker testimony from these workers, the WRC concluded that no such violence took place.



Worker who was assaulted and shot with rubber bullets by police in his home.

Workers interviewed separately by the WRC reported peaceful protests in the facility, held during the second week of December.

They report that, as at Al Gausia, they were subsequently threatened by outside thugs allowed into the factory by management. According to mutually corroborating worker testimony, on December 12, as many as 12 thugs threatened workers inside of the factory. One thug is reported to have said: "Every worker must do their duty, if any son of bitch does not work, he'll be beaten to a pulp.

We won't accept any kind of bullshit [protests] anymore." According to workers, the factory resumed normal operations by the third week of December, after management assured workers that their concerns over wages would be addressed and reflected in the following month's (January) paycheck.

Then, on January 9, many workers walked out to join the wage protests. They returned to work on the morning of January 10 but left again after "punching" their attendance cards. On Friday, January 11, the factory was closed for its weekly day off; on January 12, it was again closed, apparently due to the protests. When workers returned to the factory on January 13 they reported seeing suspension notices and photos of over 250 AR employees.

The workers interviewed by the WRC identified only one incident of workers damaging property: on January 9, they reported that some individuals outside the factory threw rocks at the building, apparently in an effort to encourage the AR workers inside to join the protests, causing some damage to the factory windows and gates. As one worker notes, "[t]hose protesting on the streets were angry with us for not participating in the protest. Everybody else had already closed down their factories but ours was still running." This incident occurred on a different day and involved outside individuals rather than AR workers; neither the incident nor the involvement of outsiders is mentioned in the criminal filing. Worker testimony indicates there is no basis for the charges leveled by the AR factory management. Indeed, it is marred by internal inconsistency. The filing alleges that the wrongdoing was conducted by AR employees. However, of the 63 individuals named in the complaint, at least seven are not employed by the factory. Rather, these workers are employed at another factory, FGS Denim Wear Ltd., which is located 800 meters, or a 10-minute walk, away from AR.

Importantly, FGS is under the same ownership as AR. The seven FGS workers named in the AR case are all members of a newly formed union and include the union's vice president, finance secretary, office secretary, and executive member. Because AR and FGS are under the same ownership, there is strong reason to believe that the AR management responsible for filing the criminal complaint named the FGS union leaders knowing full well of their positions in the union.

The fact that the factory representatives' allegations are contradictory – that the alleged incident was carried out by AR employees but that workers from another, geographically separate, factory are claimed to have been among them – raises serious questions as to the veracity of the allegations, which is buttressed by the fact that 15 workers interviewed separately deny that any such an incident took place in any case. The fact that the seven FGS workers are union leaders, in the strongly anti-union context of the Bangladeshi garment industry, sheds some light on the company's possible motives for these contradictory allegations.

b. Case Study 2: Saybolt Tex Ltd Workers Arbitrarily Arrested

Consistent testimony gathered by the WRC indicates that workers are being indiscriminately arrested through the abuse of the ability to make allegations against unnamed individuals in criminal complaints. For example, two employees of Saybolt Tex Ltd, Sabuj and Aatur, were arrested on January 11. Police came to their homes late at night, and physically dragged them from their homes. When the police came for Aatur, they yelled, "what did you tell the AGM [Assistant General Manger]?" and slapped Aatur's brother when the brother asked the reason for the arrest. These arrests were pursuant to a complaint filed by a senior executive at Mahmud Fashion, a separate factory located more than six miles away from Saybolt. The complaint alleges that on January 9, 2019, 20 to 25 unnamed workers employed in the sewing section of Mahmud Fashion stopped working, encouraged other workers to do the same, severely beat managers, stole garments, and damaged machinery, resulting in a loss of over \$3,000 USD.

Neither Sabuj nor Aatur are named in the Mahmud case document, nor is there any claim in the filing that individuals *not* employed by the factory were involved in the alleged incident. The two men live and work six miles away from Mahmud Fashion. It is also worth noting that garment factories are generally secure facilities staffed by security guards; outside parties cannot enter at will.

Furthermore, five Saybolt employees interviewed by the WRC independently verified that Sabuj and Ataur were present and working at Saybolt on the day of the alleged incident. At the time of writing, Sabuj and Ataur are currently out on bail, but their cases still stand, and, if convicted, they could face up to 10 years in jail.

The fact that Sabuj and Ataur were arrested and are facing charges, related to an alleged incident at a different factory involving only workers of this other factory, on a day when multiple witnesses state that they were not present, strongly suggests that the police are not guided in their arrests by concern for the facts of specific cases. Rather, in this case, the police have taken advantage of the ability to include significant numbers of unnamed individuals in criminal filings in order to target other individuals for reasons unrelated to the allegations made in the complaint. Whether these individuals are being targeted for reasons unrelated to any incident at Mahmud, or whether they are being arrested arbitrarily, this constitutes an attempt to punish workers collectively, regardless of the facts of any particular incident, and to suppress associational activity.

2. Mass Suspensions and Dismissals

According to labor and human rights groups, between 7,500 and 11,600 workers so far have been fired following the January 2019 strikes.¹⁹ Based on extensive documentation reviewed by the WRC, employers have dismissed workers based on a range of allegations of misconduct including “vandalism,” “looting,” and “arson attack.” In Bangladesh, when a worker is dismissed for misconduct, there is a multi-step termination process prescribed by law.²⁰ Given the unprecedented scope of the situation, obtaining consistent and accurate numbers has been challenging. Some of these workers are still in the termination process; others have accepted their discharges, in some cases, pursuant to agreements between factories and labor unions that are discussed in the conclusion.

Based on consistent testimony from 100 workers who have either been suspended or terminated, the WRC concludes that these terminations are not a legitimate response to specific incidents of rule-breaking. Rather, they constitute a form of collective punishment, in which workers are punished in a scattershot

¹⁹ Over 11,600 Bangladesh garment workers lose jobs and face repression,” *IndustriALL Global Union*, (February 11, 2019), <http://www.industrialall-union.org/over-11600-bangladesh-garment-workers-lose-jobs-and-face-repression>.

²⁰ See, Bangladesh Labour Act, 2006, Article 23 and 24.

manner with, often, little regard for these workers' actual conduct, in an effort to create a sense of fear and deter future protests. As such, these constitute a violation of workers' right to freedom of association and collective action. Because the dismissals were done in such a way, many workers who were not even involved in the protests have also been dismissed as a result. In addition, perhaps in order to push through terminations based on generic allegations without evidence, some employers failed to conduct the steps legally required for dismissals.

a. Case Study 1: Workers Who Demonstrated at Abanti Assaulted and Indiscriminately Terminated

The Abanti factory management responded to mass worker demonstrations by terminating at least 1,200 workers, according to the Bangladesh Center for Solidarity Studies and Bangladesh Garment and Industrial Workers Federation (BGIWF). As will be shown below, these terminations were not based on evidence of specific behavior by specific workers and were not conducted in accordance with national law. Even more concerning, according to multiple workers, workers were physically assaulted by thugs presumably hired by management, on factory premises, during the termination process. The WRC interviewed 15 dismissed Abanti workers and reviewed documents including their "show cause" letters (a letter setting out the alleged basis for termination).

Factory management initiated the process by issuing show cause letters, accusing workers of illegally stopping work on December 6, 2018 and causing economic damage to the company. The show cause letters also state that the workers "attacked law enforcement agencies positioned outside the gates" and continued their strike for the next two days. These letters are dated December 18, 2018. The 15 letters reviewed by the WRC were identical in the language describing workers' alleged behavior.

Multiple workers interviewed by the WRC report that there was no such attack on any law enforcement personnel. Rather, they report, the workers were peacefully protesting when they were attacked by law enforcement personnel.

i. Indiscriminate Terminations

Abanti appears to have made broad accusations against workers, without regard to their individual behavior. Their show cause letters are completely generic,

without specific accounts of what the given individual is alleged to have done. Given this and the worker testimony, not only is there a serious question as to whether any assault on police even occurred, it is unclear what role any individual allegedly played in such an assault. Issuing such vague show cause letters strongly indicates that the company was simply seeking to punish all workers for the protest, rather than holding individual persons responsible for any actual wrongdoing that they themselves committed.

ii. Violation of Workers' Legal Right to Due Process

The company also violated workers' legal right to due process by failing to follow the required procedure for terminating employees under Bangladeshi labor law. According to the law, an employer seeking to terminate a worker must issue the employee a show cause letter and afford the worker seven days to respond to the employer's allegations,²¹ prior to the next stage of the disciplinary protocol, which is a hearing on the allegations before an internal "enquiry committee."²² The law establishes that both the accused worker and the employer have the right to appoint equal numbers of representatives to this enquiry committee.²³

Abanti's management however, failed to follow the procedure required under Bangladeshi law, and thereby violated its workers' legal due process rights. First, the company failed to give workers the legally required seven-day notice after the company issued its show cause letters.²⁴ Instead, on the same day that Abanti issued these letters, it also notified these employees that company had *already* established an enquiry committee to hear the allegations against them.

Second, the company violated workers' rights to select half of the members of the enquiry committee.²⁵ Instead, when Abanti notified the workers that the enquiry committee had been informed, the company also announced that the factory management had already selected *all* of enquiry committee's members, a clear violation of the law's requirements.

According to consistent worker testimony, during the investigation hearings, which took place throughout the last week of December, the investigation

²¹ Article 24 (a) and (b)

²² Article 24 (c) and (d)

²³ Article 24 (d)

²⁴ Article 24 (a) and (b)

²⁵ Article 24 (d)

committee made no attempt to investigate the allegations against the worker. Workers stated that they were directed to sign a piece of paper which they identified as the attendance sheets for the investigation hearing.

According to workers, the management told them that they would be asked to rejoin the factory if they were found innocent, and that if not, they could return to collect their severance pay. A few days later, between December 25 and January 15, each of the 15 workers were called by managers over the phone and directed to go to the factory to receive their severance benefits.

Those who went to the factory were instructed to sign a blank piece of paper and were given cash in an amount equal only to the days worked in December. According to one worker, when he asked about his severance benefits, one manager stated, "you should be grateful you are getting as much as you are." A majority of the workers interviewed by the WRC had not, at the time of the interviews, gone to the factory to receive their severance.

iii. Physical Attacks on Workers at Factory

Not only was the enquiry committee a charade, but the company used the hearings as an opportunity to physically assault and intimidate workers who were attempting to defend their jobs. After receiving an allegation of these assaults from the union BGIWF, the WRC spoke to four workers who stated that they had been physically assaulted in the factory at the behest of management by outside goons. One worker reported:

When I went to the factory for the investigation hearing, there were lots of outside goons on the premises. There were investigations going on in many rooms. When I went to my designated room, the committee took my photo and video. I tried telling them that I wasn't causing any trouble – that I was demanding the same thing as any other worker – but they didn't listen further. They asked me to sign two pieces of paper – I didn't know what they were, so I didn't want to sign, but they said I would have to sign. Afterwards, as I was leaving the room, quality in-charge Rakib, and floor in-charge Harun took me aside. Then three or four goons grabbed me and took me to an underground room in the building, where they beat me with sticks. They beat me so badly my whole body swelled.

While Abanti initially made a show of complying with the legally required termination process, it quickly abandoned this pretense by failing to convene a properly constituted investigative committee and pressing workers to sign blank sheets of paper. It appears that the company chose to bypass the proper procedure in order to ensure that it could terminate workers en masse without regard for their individual behavior, in an unacceptable act of collective punishment. Disturbingly, this was compounded by a physical assault on workers on factory premises.

b. Case Study 2: Rejaul Terminated despite Not Participating the Strike

On January 13, AR Jeans put up a large banner with the names and photos of over 250 employees stating that they were suspended from work. In the following days, the management also put up billboards with the names and photos of these workers around the factory. In addition to these 250 workers, the



management also terminated other workers throughout the week (the WRC has not been able to independently verify how many).

Workers look for their names on lists that were posted by factory managements indicating that they had been terminated from work.

(Photo from the Daily Star)

Rejaul, a worker employed by AR Jeans, was one of the terminated workers. Rejaul was absent from the factory between January 9 and January 10, 2019, the same days that workers at his factory engaged in peaceful protest. A note issued by AR's own clinic, and reviewed by the WRC, states that Rejaul visited the clinic on January 8, 2019, and, due to "mild, painful swelling of penile shaft since the previous night" prescribed the worker medicine and ordered that he go home and rest.

Due to his illness, Rejaul did not work for several days. Because the factory was shuttered on January 11, 12, and 13 as a result of the protests, Rejaul did not return to work until January 14, the day the factory reopened after the protests. He reports that he did not participate in the protests. On that day, around 9 am, Rejaul was asked to meet with a manager known as Riaz in an administrative office. Riaz, who was accompanied by one police officer, verbally informed the worker that he was being dismissed for allegedly participating in the wage protests and directed him to leave the factory. In an effort to prove that he had not participated, Rejaul suggested that the management review the closed-circuit television. "If I am guilty, you can suspend me," he reports telling the manager. According to Rejaul, Riaz replied, "this is the management's decision, I am not responsible for it."

Riaz required Rejaul to turn in his factory identification card and sign a blank piece of paper; based on past experience, the WRC believes that this paper was likely intended to be used later as proof of Rejaul's voluntary resignation. The manager told Rejaul that he would be able to receive his salary and severance benefits in the coming days. On January 18, Rejaul was informed by his colleagues that he could receive his payment at the office of the National Garment Worker Federation (NGWF). Two factory managers were present at the NGWF office on the day that the worker went to pick up his payment on January 19. According to Rejaul, he received only 15,000 BDT on that day. Having been employed by AR for 14 months, if Rejaul were terminated without cause, he would legally be owed 11,000 BDT and an additional 20,000 BDT, because his employer failed to provide him with any notice of his termination.

Rejaul's testimony indicates that his termination was not based on any empirical evidence that he had even participated in the protests, let alone engaged in any specific activity warranting termination. Additionally, he reports that he suggested that the available evidence, the security camera footage, be reviewed, but the factory management dismissed this suggestion.

This case is a clear example of what the WRC consistently found in interviews with workers from dozens of factories: factory managers did not respond to the protests by specifically identifying workers who might have engaged in offenses warranting termination, but rather they engaged in arbitrary mass terminations.

In addition, as in the case of Abanti described above, the factory did not implement the legally required procedure for termination. Rather, the factory attempted to circumvent this process by coercing Rejaul to resign.

c. Case Study 3: Shabana Forced to Resign

Shabana, a senior sewing operator of Nur Group, worked at the factory for three years before being dismissed by factory management on January 13, 2019. Shabana recounted to the WRC how workers at Nur Group staged a demonstration on January 6, after receiving their monthly salaries. According to Shabana, workers had identified errors in the management's implementation of the new pay scale. On January 7, after management refused to investigate and address the workers' concerns, workers began to leave the factory at around 9 am to protest the low wages and management's refusal to consider their concerns. The Nur Group workers blocked the road in front of the factory. Police responded by throwing tear gas at the group of workers. Shabana, however, reports that she, along with a few other women from her line, remained in the factory.

The following day, on January 8, while workers were entering the factory at the beginning of their shift, management began separating out certain workers. Shabana witnessed management provide a payment to these workers, which she suspects to have been termination benefits, and directed them to leave the factory. According to Shabana, the workers identified appeared to be randomly selected and not necessarily participants in the wage protests.

At that time, Shabana was allowed to enter the factory. She worked normally through January 12. On January 13, however, her line chief directed her to go with him to the management's office. Shabana recalls:

There were 15 to 20 workers, three managers, at least four unknown men, and at least seven police officers in the room. The police officers asked us for our home addresses and the phone numbers of our fathers, husbands, siblings, and other relatives. The police and management were forcing us to give them all the information and to sign a blank paper. Another piece of paper, which we were also directed to sign, stated that we had vandalized the factory.

Shabana recounts that she attempted to explain that she had not been involved in the protests. One of the managers replied, “this is just a formality, we will not dismiss you.” The worker recalls that the unknown men were taking photos and video during this time. Shabana describes feeling afraid that she could be arrested, detained, and face criminal charges. Given this, she refused to sign the false confession, and instead offered to resign voluntarily. The management agreed to this request and provided her with a prewritten resignation letter, which she signed. Shabana did not receive a copy of the document, and reports that she was not paid any severance benefits.

Shabana, like Rejaul, provides a clear picture of factory managers responding to the protests by indiscriminately terminating workers, without regards to the facts of their specific cases.

3. Blacklisting

Union leaders estimate that over 1,700 workers have been blacklisted from working at other factories as a result of the protests.²⁶ Workers have reported to the local media, as well as the WRC, that, regardless of their own participation or nonparticipation in the protests, potential employers have refused to employ them based on the fact that they had been dismissed by a factory that had been the site of protests. Although the scope of this problem is difficult to discern, consistent and credible worker testimony indicates that a significant number of workers are affected. These workers may continue to face retaliation for the protests in years to come. Shabana, whose termination from Nur Group is described above, provides a clear example as to how workers are being blacklisted:

On January 15 [after resigning from the Nur Group], I successfully obtained employment at Niagra Textiles Ltd. Because I had worked there previously, the staff and management know me very well, so they gave me a job. However, after 4 days, the management called me into the office and said, “you cannot work here because you are on a blacklist.” They showed me my photo, my address, and my national identification number on the computer screen. I requested them to reconsider their decision to terminate my

²⁶ “Bangladesh: Investigate Dismissals of Protesting Workers,” *Human Rights Watch* (March 5, 2019), <https://www.hrw.org/news/2019/03/05/bangladesh-investigate-dismissals-protesting-workers?fbclid=IwAR1pH3uQiM7gINEmSHWxPo2sjVtT0yX-rKHOSTwMsNM24ZcNbi0AzUMLa4kfactoriea>.

employment, because I had not been suspended from the Nur Group but had voluntarily resigned. The management asked me to bring the resignation letter from Nur Group but, because the Nur Group did not give me a letter, I could not provide them with any proof of my resignation. As a result, I could not get the position.”

While Niagra agreed to allow Shabana to work at the factory as a temporary employee, the factory refused to allow her to continue as a permanent employee, which would have allowed her increased job protection and benefits.

V. Recommendations to Buyers

In 2016 – 2017, action by international buyers was crucial to address the violations of workers’ fundamental rights that resulted from the action of the employers and the government.²⁷ The WRC urges all apparel firms sourcing from Bangladesh to promptly require their suppliers to take the following actions:

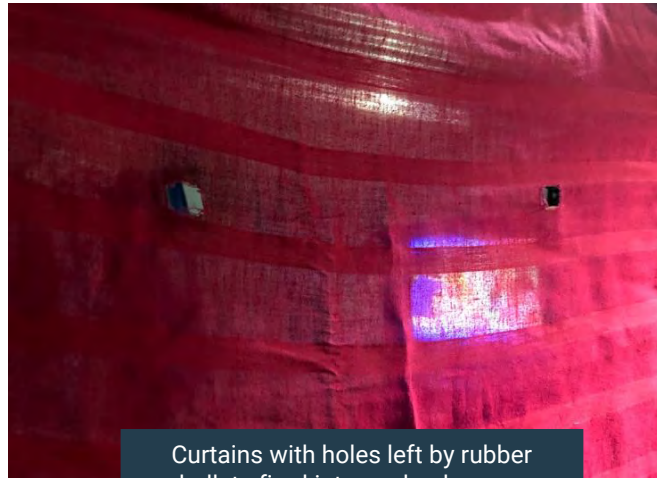
- Withdraw all criminal complaints filed in relation to the strikes;
- Reinstate and provide back wages to all workers terminated or forced to resign in the wake of the protests; and
- Commit to a nondiscriminatory hiring process at the impacted factory (including ending all blacklisting based on workers’ participation in collective action).

A. Financial Payments: An Inadequate Remedy

Many workers have accepted severance benefits from their employers, either as individuals or as part of agreements reached between labor groups and factory management. Providing funds in lieu of reinstatement, however, is not an acceptable remedy in cases where workers have been wrongly terminated, particularly for reasons related to freedom of association. The appropriate remedy is reinstatement, with back pay for time off the job.

²⁷ Clean Clothes Campaign, International Labor Rights Forum, and Worker Rights Consortium, “Major Developments in Bangladesh Labor Crackdown; Important First Step Taken However Crisis Not Resolved,” (February 24, 2017) <https://laborrights.org/releases/major-developments-bangladesh-labor-crackdown-important-first-step-taken-however-crisis-not>.

Workers may have accepted these agreements because they feared further retaliation, just as Shabana accepted the lesser evil of resignation over the more frightening option of signing a blank sheet of paper and possibly facing criminal charges. They may also have accepted these payments simply because they believed it was the best that they would receive, given the impunity with which Bangladeshi garment factories often operate with regards to their violation of worker rights.



Curtains with holes left by rubber bullets fired into worker homes.

Such financial agreements, signed under implicit or explicit pressure, do not eliminate employers' culpability for the wrongful terminations, or their obligation to fully remedy such violations by offering workers reinstatement.

B. The Need for a Collective Solution

As was the case following the 2016 – 2017 crackdown, one of the greatest obstacles to reversing the collective punishment carried out by management is the sheer scope of the assault on workers' rights. The garment manufacturers would prefer to insist that workers should address any objection to their dismissals and arrests through local channels on an individual basis. For example, when questioned on the issue of mass firings on February 15, Md. Siddiqur Rahman, president of the BGMEA, is quoted in the *Daily Star* stating:

If anyone has not received severance benefits, they can come to BGMEA where we have an arbitration cell and these can be settled there. Everyone has to follow the labour law, workers too. If they have demands, there are several platforms to express it. They can take it up with the factory's owners, if there is a member of BGMEA or BKMEA they can complain there, there is a labour inspector at DIFE [Department of Inspection for Factories

and Establishments] where they can complain, and they can go to the labour court and ministry.²⁸

This response is inadequate in two ways. First, the inadequacies of the Bangladeshi government's structures for adjudicating worker rights issues are well-documented, as noted above. Second, the scope of the retaliation against workers requires a broader solution. Any person-by-person solution will inevitably leave out a large number of workers, who will not have the knowledge or capacity to pursue their cases. The number of workers who have a right to redress exceeds the capacity of unions or NGOs to provide them support in navigating the process and likely exceeds the capacity of the government process itself. Rather, in order to come anywhere close to fully remedying the violations, factories must implement across-the-board remedies, dropping all charges and offering universal reinstatement without forcing each worker to plead their case.

VI. Conclusion: The Ongoing Labor Rights Crisis in Bangladesh

The government of Bangladesh and the garment manufacturers have responded to the wage protests by the collective punishment of workers in a manner vastly out of proportion to any incidents of minor misconduct reported during the protests in December or January. The worker testimony, documentation, and other evidence that the WRC has gathered demonstrates the extent to which workers protested out of desperation, seeing no other route to improve their situation; did so in a largely peaceful manner; and were, as a result, swept up in companies' retribution without regard to their actual individual behavior during the strike.

Above, we provide recommendations to firms sourcing from Bangladesh for actions that would constitute the minimum adequate response to the gross violation of workers' rights that has occurred. It is imperative that brands press their suppliers to commit to these remedies.

These events have unfolded in the broader context of the deteriorating labor rights environment in Bangladesh. The government and factory owners appear increasingly to operate with a sense of impunity, a belief that they can indiscriminately fire, physically attack, and otherwise victimize workers for

²⁸ Maliha Khan, "The Layoffs," *The Daily Star* (February 15, 2019), <https://www.thedailystar.net/star-weekend/spotlight/news/payback-protesting-1702354>.

exercising rights protected by Bangladeshi law. The government and factory owners are demonstrating a similar attitude toward the ongoing fire and building safety crisis. At present, the government of Bangladesh seems determined to expel the Dhaka office of the Accord on Fire and Building Safety in Bangladesh, ending the Accord's locally-run inspection program and forcing the Accord to operate remotely, even as a spate of recent deadly fires has laid bare unwillingness and unreadiness of the Bangladeshi authorities to ensure building safety.

In both cases, the government and the manufacturers appear impervious to concern about workers' human rights. Whether by indiscriminately opening fire on the buildings where workers live or by attempting to shut down the most effective program addressing the deadly risks in the buildings where they work, the industry and the government seem to be driven by a desire to maintain control and low prices, regardless of the risks to workers' lives and well-being. They are clearly betting that Western brands and retailers care a great deal about prices and very little about labor standards. The brands' and retailers' response to this latest crisis will indicate whether this assumption is correct.