

ILR New Conversations Project



SUSTAINABLE LABOR PRACTICES IN GLOBAL SUPPLY CHAINS

Mapping Social Dialogue in Apparel:

Synthesis Report

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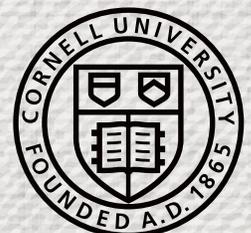


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Executive Summary

Overview

This synthesis report summarizes the findings of a year-long mapping exercise conducted by the *Social Dialogue in the 21st Century* Project, a collaboration between the New Conversations Project (NCP) at Cornell University's School of Industrial and Labor Relations (ILR) and the Strategic Partnership for Garment Supply Chain Transformation (SP), which includes Fair Wear Foundation (FWF), CNV Internationaal, Mondiaal FNV, and the Dutch Ministry of Foreign Affairs. This report provides a root-cause analysis of major barriers to impactful social dialogue in the project's ten target countries: Bangladesh, Bulgaria, Cambodia, Ethiopia, Honduras, India, Indonesia, Mexico, Myanmar, and Vietnam. The synthesis report is accompanied by individual reports on these ten countries.¹

This report also examines the impacts of the COVID-19 pandemic—a high-stakes 'stress test' for social dialogue structures and habits in the global apparel industry. The ILO encourages social dialogue in response to the crisis noting that “well established social dialogue can be used as a valuable control mechanism to ensure that social security schemes are functioning properly [and so that] social partners know the particular needs of the beneficiaries and the challenges encountered by businesses.” (ILO, 2020c). Despite this, supply chain governance initiatives tend to ignore or under-invest in social dialogue mechanisms. This report's analysis is important for stakeholders to understand this bias and to develop clearer understandings of the dynamics of productive social dialogue and the obstacles to it.

Stakeholders and Barriers

Lead Firms

Lead firms (global apparel and footwear brands) have attempted to address labor rights violations and improve working conditions in their supply chains through private regulation, specifically codes of conduct and auditing schemes, followed in some cases by factory-level remediation of violations. A recent generation of supply chains research shows that these voluntary programs have not resulted in sustainable improvements in working conditions or advancements in workers' rights.

Scholars attribute this lack of progress to the opaque nature of private regulation; that is, observers including insiders cannot see what works. (Kuruville, 2021). According to

1. Authors for the country reports in the order listed are: Jakir Hossain and Arfoza Akter; Dr. Elena Iankova; Veasna Nuon; Samuel Andreas Admasie; Yadira Minero; Surendra Pratap; Indrasari Tjandraningsih; Alex Covarrubias; Gavan Blau; and Do Quynh Chi.

an institutional theory analysis of private regulation in apparel, this opacity is the result of 'behavioral invisibility', 'practice multiplicity', and 'causal complexity'. Behavioral invisibility refers to the difficulty in observing and measuring the behavior of actors and it also enables suppliers with a low incentive to disguise their non-compliance, "pretend[ing] to be substantively compliant" (Kuruville, 2021). Practice multiplicity signifies the diversity of practices adopted by actors across different geographic, institutional, economic and cultural contexts which make it difficult to identify and engage in compliant behavior. Finally, causal complexity involves the difficulty in understanding what drives compliant behavior and inhibits lead firms' ability to implement effective practices.

Where lead firms have established programs related to social dialogue, these programs largely seek to develop legally-mandated social dialogue forums at the enterprise level but do not support freedom of association and collective bargaining.

Suppliers and Employers' Associations

We see variations in the composition, capacity, and relative strengths of employer associations across our target countries, but a few patterns nonetheless emerge from this comparison. Countries like Bangladesh and Cambodia have strong employers' associations with considerable influence in national politics. Conversely, in some countries, national level employer associations are weak, fragmented, or do not engage with labor issues in the garment industry. In Ethiopia, there is total fragmentation at the enterprise, sectoral, and federal levels. In Bulgaria, there has been no industry-wide collective bargaining agreement in the garment sector for the past eight to ten years despite industry agreements in other sectors. This is largely due to the existence of many nationally representative employer associations, which compete among themselves and have been unable to agree on common terms for signing a collective agreement with the trade union confederations. These patterns reveal a need to assess supplier organizations and capacities before promoting regional or industrial bargaining initiatives.

Another interesting finding is the growing power of foreign business associations in domestic policymaking as well as in consolidating business practices. In Vietnam, foreign suppliers are closely associated with business associations of their nationalities and tend to subscribe to common policies. For instance, all Korean firms use the same bank (Shinhan); the bigger Korean companies outsource to smaller Korean firms in the same industrial zone or district; both the Japanese and Korean groups agree upon the same wage package for rank-and-file workers and prevent worker-led wage arbitrage by not recruiting workers from other member companies. Likewise, in Indonesia, the Korean Garment Manufacturers Association (KOGA) has been successful in lobbying for its suppliers to be exempted from minimum wage increases. Some unified employer associations—Cambodia's suppliers' organization is a good example—are dominated by foreign buyers.

Government Institutions

The political landscapes vary dramatically across our target countries, affecting the capacities, motivations, and activities of government institutions. In this report, we characterize labor politics across our target countries as fluctuating, polarized, domineering, or cooperative. Fluctuating labor politics involves temporal and shifting labor politics contingent on external (international) pressures and internal power structures. Polarized labor and economic politics involves sharp divisions and mistrust among stakeholders. Domineering labor politics exist where governments seek to control the political narrative and labor practices through repression of civil liberties, particularly freedom of association. Lastly, cooperative labor politics refers to tripartite arrangements where negotiations and consultations take place.

Political Typology				
	Fluctuating	Polarized	Subsidiary	Cooperative
Country	Ethiopia Myanmar India Mexico*	Cambodia Indonesia	Vietnam Bangladesh Cambodia	Bulgaria Honduras

Table 1*Note that Mexico is undergoing in 2021 a period of significant labor reform

The centrality of the garment industry to the economy and wealth-creation, particularly in Bangladesh and Cambodia, has allowed for the out-sized political influence of garment manufacturers. In Myanmar, much of the government action geared toward regulating the garment industry results from external pressures to attract FDI rather than internal pressures from grassroots labor or social movements (Blau, 2021). The government is particularly sensitive to western buyers and sanctions from western governments as it had suffered heavily under such sanctions in the past. The Ethiopian government seeks to develop a USD 30 billion a year garment industry and to open 30 industrial parks by 2025 (Admasie, 2021).

Trade Unions

Across our target countries, trade union structures varied in terms of union multiplicity, organizing opportunity, union activity, and union cooperation. Union multiplicity refers to the number of trade union confederations present in the garment industry. Organizing opportunity refers to the ability of workers to organize under the current industrial relations system. Union activity measures levels of activism; for example, unions are actively engaged in organizing or are more passive actors. Union cooperation refers to interactions among unions and levels of unity or fragmentation.

Union activity is most restricted in Vietnam and Mexico. Vietnam operates with a single, state-run trade union, the Vietnamese General Confederation of Labor (VGCL). Although recent labor law reforms allow for the formation of ‘independent’ Working Representative Organizations, labor rights advocates remain skeptical about the independence of these organizations, especially considering how fundamental freedom regarding expression and assembly are tightly controlled in Vietnam (San Juan, 2020) the Vietnamese National Assembly took a long-awaited decision on a demand that came from both inside and outside the country: the authorisation – at an enterprise level – of worker representative organisations from 2021. The measure, included in a reform of the labour code, was accompanied by two others: the retirement age will gradually increase to 62 for men and 60 for women (currently 60 and 58 years, respectively).

Mexican law does not explicitly prohibit union organizing but the 70 years of corporatist unionization has resulted in only one independent factory-level union in the entire garment industry; although that factory has since fell into the hands of corporate unions in recent years. Employers shut down independent unionization efforts, corrupt officials stifle dispute resolution proceedings, and organizing workers are terminated and blacklisted (Covarrubias, 2021).

We see evidence of voluntary union cohesion in some plural union systems. The primary example is Honduras where the three union confederations have come together under the Maquila Trade Union Network in Honduras (RSM-H in Spanish). And in others we see fragmentation. Fragmented union systems refer to union multiplicity and rivalry that undermines worker organizing. In Cambodia, union fragmentation takes place largely along political lines where there are pro-government, anti-government/ pro-opposition, and “independent” unions. Bangladeshi garment unions likewise reflect intense partisan fragmentation. In Indonesia, union fragmentation is in part a result of the mass wave of unionization that took place in reaction to Suharto-era corporatism and in part a product of the splintering that follows intra-union disputes.

Overall, unions across our target countries have limited power largely due to the difficult institutional environments in which they operate. They face significant obstacles to freedom of association and collective bargaining but also struggle against internal capacity constraints, competition, and limited funding. On funding and its impacts on union goals, we find that (1) unions are heavily dependent on international donors and have limited means of funding through dues-paying members, (2) funding is unequally distributed within unions with enterprise-level unions having far fewer financial resources, and (3) in some countries, unions rely on real estate, employer payouts, or state and party funds.

Freedom of Association and Collective Bargaining

Union formation is difficult or outright impossible in our target countries given restrictive legal provisions, employer and government interference, or lack of independent/ activist unions. Even where independent unions exist, collective bargaining is difficult as additional legal provisions limit bargaining or employers refuse to recognize unions and enter into collective bargaining agreements (CBA).

	Union Formation Process	Union Recognition and Duty to Bargain
Bangladesh	Burdensome. Unions are restricted in EPZs. Workers must show 20% support to organize.	Many factory owners have a negative perception of unions and CBAs
Bulgaria	Employer resistance most severe in small and mid-sized factories. Employers pressure workers to abandon trade union membership. No industry-wide collective bargaining agreement in the past 8-10 years.	Employers resist union organizing and are unwilling to sign CBAs at both company and industry levels. Employers pressure workers to abandon their trade union membership.
Cambodia	Burdensome. Trade Union Law places administrative barriers on union formation. Short-term contracts allow employers to weed out union activists.	Most Representative Status (MRS) restricts independent unions' ability to negotiate CBAs.
Ethiopia	Unions are de-facto banned from industrial parks.	Unions avoided and resisted in industrial parks.
Honduras	Anti-union culture prevails, companies close operations in response to unionization.	Companies use "collective pacts" to avoid negotiations
India	Labor law easements in special economic zones. Large-scale contractualization impedes organizing.	A code of practice exists requiring 10% member support for union recognition.
Indonesia	Burdensome. Workers subject to anti-union animus but noted improvements with FOA protocol.	Employers reluctant to negotiate with unions or pit multiple unions against each other.
Mexico²	Virtually impossible. Workers organizing independent unions subject to harassment, imprisonment, or union cooptation.	Employers do not recognize and actively work against independent unions.
Myanmar	Anti-union dismissals at factory level, particularly in registering Basic Labor Organizations.	No legal duty for employers to bargain in good faith. Lack provisions for CBA registration and enforcement.
Vietnam	Uncertain. New labor code requires unions to register with a "competent government authority"	Uncertain. Labor Code leaves union registration up to "relevant government authority"

2. Mexico has recently implemented labor law reform seeking to improve protections for freedom of association and collective bargaining. The reform process is ongoing and the conclusions presented here reflect the results to date.

Underpinning freedom of association and collective bargaining are weak institutional mechanisms necessary for enforcing agreements and resolving disputes. While there is a multiplicity of dialogue and conflict resolution schemes across our target countries, we find that the majority of these mechanisms do not function properly or do not exist. Workers and unions by necessity turn to strikes and transnational advocacy networks to compel action by trading partners and reputation-sensitive global brands.

COVID-19 and Social Dialogue

The COVID-19 pandemic has been an unprecedented test for industrial relations systems in garment-producing countries and an existential threat to many factories and their workers. At the onset of the pandemic, global brands cancelled billions of dollars' worth of orders, suppliers furloughed or dismissed millions of workers, and unions and CSOs fought for the wages and severance payments that workers were owed. After the initial wave of the pandemic, many re-opened factories have smaller workforces and many of those still employed are living in greater precarity: lower incomes, less job security, even widespread hunger (Kyritsis et al., 2020). Workers continue to face economic vulnerability. A May 2020 industry forecast predicted that COVID-19 would wipe USD 297 billion from the global apparel market in 2020 – a 15.2 percent decline from 2019 (GlobalData Retail, 2020). Governments, buyers, employers and unions have struggled to respond.

The pandemic tested social dialogue mechanisms in all our target countries and revealed in each the extent to which dialogue frameworks were operative and productive in a crisis. The overall picture is mixed. Across our target countries there is variation in the quality, composition, and outcomes of social dialogue at different levels and in some instances, industry or government actors have effectively disregarded dialogue structures. In other instances there has been a strengthening of dialogue. And in a few of the target countries—Cambodia, Myanmar, and Bangladesh—COVID-19 policy responses undermined dialogue with limits on meetings which curtailed organizing and campaign efforts by unions and labor rights organizations. Overall, we find that social dialogue was productive where the structures and habits were already in place and, in particular, where participants were linked with active international pressure campaigns.

Across our target countries, national-level social dialogue has generally been functional, ritualistic, or opportunistic. Functional refers to dialogue that was, for the most part, legitimate in that it involved and incorporated input from social partners, and led to an agreement. Ritualistic dialogue refers to dialogue coopted by either the state or employers without regard for worker interests or demands. Opportunistic describes government or industry actions using the pandemic as cover for a derogation of worker rights and protections.

	Functional	Ritualistic	Opportunistic
National - Level Dialogue	Honduras Ethiopia Myanmar Bulgaria Vietnam	Bangladesh Mexico Vietnam	India Cambodia Indonesia

Even where national-level social dialogue has been functional, we find that it has failed to ensure adequate oversight of factory-level management of the impacts of COVID-19, particularly with regard to worker dismissals, worker furloughs, and temporary shutdowns. Across our target countries, we find violations of agreements and health provisions at the sectoral and factory levels. This impunity for employers has been aggravated where governments have placed restrictions on freedom of assembly, severely restricting workers’ ability to mobilize, protest, and strike. With the combination of low union density, lack of effective dialogue and conflict resolution mechanisms at the enterprise level, many workers have turned to protests for recourse. Workers in India engaged in country-wide protests in May and July 2020 (Sundar, 2020). Worker protests have also taken place in Bangladesh, Cambodia, and Myanmar. In response, governments have cracked down on public assembly. In Myanmar, the government introduced the “Prevention and Control of Communicable Diseases Law” which banned gatherings of five people or greater. This restricted workers’ ability to undertake legal protest (Blau, 2021). Likewise, a state of emergency law implemented in April 2020 in Cambodia allows the government to curtail freedom of assembly in the name of a “more civilized society” (Nuon, 2021).

Conclusions

The barriers to social dialogue identified in this report are abundant, immense, and constantly fluctuating. Social dialogue initiatives—whether focused worker organizing and mobilization, sectoral bargaining, or consensus building—have had limited success in apparel’s complex and crowded ecosystem.

The COVID-19 pandemic has shown that responsiveness of the state and global brands to the social partners is critical. This has not been the case during the COVID-19 crisis in India, Cambodia and Bangladesh where social dialogue—and engagement with workers and bona fide workers’ organizations, in particular—has been opportunistic or merely ritualistic. In contrast, the state in Myanmar and Ethiopia has engaged not just employers but workers and their organizations.

Where the definition of social dialogue extends to brands, union access to brands has grown, but trust among partners and the habits of productive discussion are built over time, and not in the throes of an economic crisis. Where these relationships already

existed—as in Myanmar, for example—public pressure (or a credible threat of public pressure) on brands has confirmed that publicity concerns and buying power of major brands continues to be the most effective leverage available to workers attempting to use social dialogue to win remedies. On the other hand, we have seen in this crisis that trust has been destroyed where brands have unilaterally cancelled orders.

Effective social dialogue cannot be conjured. It cannot happen in Mexico’s apparel industry, for example, which does not have a single independent union. It is not an end, but a means. It cannot substitute for the near absence, in Myanmar and Bangladesh, of social insurance schemes. And it cannot deliver where there are vast power imbalances that—coupled with the pandemic’s urgency—have foreclosed on meaningful negotiation. It is still early to say if new modes of social dialogue are emerging out of the COVID-19 pandemic but the profound impacts of the crisis and the concomitant uncertainty for global apparel producers means that new forms are needed.



1.0 Introduction

This report summarizes the findings of a year-long mapping exercise conducted by the *Social Dialogue in the 21st Century* project, a collaboration between the New Conversations Project (NCP) at Cornell University's School of Industrial and Labor Relations (ILR) and the Strategic Partnership for Garment Supply Chain Transformation (SP), which includes Fair Wear Foundation (FWF), CNV Internationaal, Mondiaal FNV, and the Dutch Ministry of Foreign Affairs.

Social Dialogue in the 21st Century aims to develop a strategic action plan for developing effective industrial relations in global garment supply chains. The project began with a listening phase which focused the project's research questions by drawing insights and input from key stakeholders. This report explores these research questions through a root-cause analysis of major barriers to impactful social dialogue in the project's ten target countries: Bangladesh, Bulgaria, Cambodia, Ethiopia, Honduras, India, Indonesia, Mexico, Myanmar, and Vietnam. This synthesis report is accompanied by individual reports on these ten countries.³

Bangladesh, Cambodia, Myanmar, Vietnam, and Indonesia are Strategic Partnership focus countries. The research partners included analyses of Honduras and Mexico because of their roles in export production for the US, Ethiopia because it is an emerging sourcing country, India because of its scale, and Bulgaria because it is both an EU supplier country and member state. Together, these countries total 23 percent of total global garment exports.⁴ In late 2020, the global research team conducted additional research to gauge the impacts of the COVID-19 pandemic on social dialogue and has integrated it here.

Underlying this project is the understanding that 25 years of corporate-led audit and code-of-conduct programs have failed to provide significant and lasting improvements in conditions for workers in global supply chains (See Kuruvilla 2021, Anner 2020, Brown 2017). Effective social dialogue and industrial relations systems provide an alternative to the familiar audit-remediate-repeat cycles and—according to recent quantitative analyses by the New Conversations Project—have demonstrated their ability to deliver better working conditions in apparel supply chains.

However, the social dialogue systems developed in the early 20th century were never designed to cope with transnational supply chains, the speed at which production jumps from country to country, the power imbalances between local employers and

3. Authors for the country reports in the order listed are: Jakir Hossain and Arfoza Akter; Dr. Elena Iankova; Veasna Nuon; Samuel Andreas Admasie; Yadira Minero; Surendra Pratap; Indrasari Tjandraningsih; Alex Covarrubias; Gavan Blau; and Do Quynh Chi.

4. This figure is calculated from International Trade Centre Export data for 2019 using HS codes 61, 62, and 64

global brands, and the literal and figurative distances between lead firms and the workers making their products. While employers, trade unions, and governments still form the core of social dialogue, globalization has expanded the constellation of actors involved in the governance of global supply chains.

This research therefore looks beyond the traditional social partners in order to map the interests and roles of the complex network of actors in supply chains: factory-level, national and global unions, employer organizations, local civil society organizations (CSOs), and government agencies and regulators in the main apparel-producing and consuming countries. The research also takes into account the diverse legal frameworks, habits of social dialogue and democratic interaction, structures of work organization, understandings of industrial relations, and degrees of coordination among suppliers, unions, governments and other actors. This diversity of understandings and habits is both the strength and—where the definition of social dialogue has been corrupted or stretched beyond repair—the weakness of social dialogue. This project is animated by the need to more accurately reflect the complexity and fluidity of the industry's supply chain eco-system and to improve the definition and mapping of social dialogue practices, taking care to distinguish between the social dialogue habits that are consistently democratic, inclusive, *bona fide*, and productive, and those that are not.

This report also examines the impacts of the COVID-19 pandemic—a high-stakes 'stress test' for social dialogue structures and habits in the global apparel industry. The ILO encourages social dialogue in response to the crisis noting that “well established social dialogue can be used as a valuable control mechanism to ensure that social security schemes are functioning properly [and so that] social partners know the particular needs of the beneficiaries and the challenges encountered by businesses.” (ILO, 2020c). Despite this, supply chain governance initiatives tend to ignore or under-invest in social dialogue mechanisms. This report's analysis is important for stakeholders to understand this bias and to develop clearer understandings of the dynamics of productive social dialogue and the obstacles to it.

This synthesis report compiles and compares researchers' findings from ten country-level reports on barriers to social dialogue which mapped the relevant stakeholders, assessed their capacities, motivations, and interactions, examined current initiatives, and identified cases—both successful and unsuccessful. Researchers undertook extensive desk research and conducted interviews with key stakeholders in each target country in 2019 and 2020. This synthesis report draws much of its evidence from the country reports; matters now directly cited are attributable to its respective country report. The reports, to our knowledge, comprise the most expansive and in-depth analysis of social dialogue in the garment industry to date.

1.1 Research Framework

The ILO enabling conditions for social dialogue provide a useful framework for our research: freedom of association and collective bargaining, political will and motivation, stakeholder capacity and institutional support⁵. In this paper we expand the cast of actors to include international actors in addition to domestic ones, and in lieu of lengthy comparisons of legal frameworks, we explore the diversity and interactions among various stakeholders at the international, national, industrial, and enterprise levels. We focus on what takes place in *practice* and gauge the extent to which these enabling conditions are met.

The report first examines stakeholder capacity, namely brands, suppliers, trade unions, government institutions, civil society organizations, and international organizations. Second, we analyze barriers regarding political will and institutional support across the target countries. The third section provides an analysis of lessons learned from cases of success and failure. Fourth is an analysis of the enabling conditions for freedom of association and collective bargaining. Finally, the paper regards pandemic responses in the garment industry as a stress test for social dialogue systems globally and in the target countries.

5. For a more detailed description of the ILO enabling conditions, see Ratnam & Tomoda, 2005

2.0 Lead Firm Capacity

2.1 Brand Sourcing and Distribution Networks

Brand sourcing practices are a barrier to social dialogue in garment supply chains. Scholars argue that while lead firms push suppliers to implement labor standard compliance programs, prices and lead times have decreased resulting in a decline in real wages and an increase in overtime and work intensity (Anner, 2020; Raworth & Kidder, 2008; Vaughan-Whitehead & Caro, 2017). Squeezed in this way, suppliers have little room to negotiate over substantive labor issues including wages and working hours. In Bangladesh, the price paid by lead firms to supplier factories declined by 13 percent since Rana Plaza, factory profit margins decreased by 13.3 percent from 2011 to 2016, and real wages have fallen by 6.47 percent since December 2013 (Anner, 2020). Cambodian managers corroborate this pattern. They note that buyer-driven compliance programs are “expensive, time consuming and difficult to comply [with] ... and [buyers] don’t accept our request for higher price orders” or for more time to complete production orders. Buyer pressure interferes with compliance so “we just encourage workers to work harder” (Nuon, 2021).

These pricing and sourcing barriers to social dialogue grew with the outsized role of East Asian ‘middlemen’ firms. Hong Kong-based sourcing and logistics company Li & Fung until recently⁶ had a portfolio of over 15,000 supplying factories in over 60 countries with clients that comprised nearly a third of US retailers including Sears, Macy’s, JC Penney, and Kohl’s (Urbina & Bradsher, 2013). These intermediaries are attractive to brands for their ability to negotiate cheaper prices and secure inputs. These vendor firms not only find and secure suppliers; they also provide consulting services and purport to guarantee compliance with labor provisions.

A simplified, vertical view of buyer-supplier relationships also overlooks the complex networks at both the production and distribution ends of the supply chain. Some brands find their own suppliers and sell goods in their own stores but many large brands rely heavily on retailers. Licensors add further complexity to brand behavior. Hanesbrands, for example, designs, manufactures, sources, and sells products licensed from third parties such as Polo Ralph Lauren underwear and Donna Karan and DKNY intimate apparel (Hanesbrands 2019 10-K). Likewise, Nike is renowned for securing licensee agreements with professional sports leagues and universities.

The explosive growth since the onset of the COVID-19 pandemic of e-commerce and on-demand customized apparel, plus new pressures for near-shoring of apparel has

6. Li & Fung has experienced financial hardships starting from its drop from the Hang Seng Index in 2017 and privatization in 2020 before the COVID-19 pandemic. See <https://digital.hbs.edu/platform-digit/submission/li-fung-the-down-fall-of-a-platform/>

already produced a shake-out of suppliers, brands and retailers in the US and EU—including some of those mentioned above (MFTranscribers, 2019a). Amazon has become a major apparel seller, reportedly overtaking Walmart as America’s No. 1 apparel seller (WSJ Oct. 23, 2019). Amazon’s third-party marketplace complicates labor monitoring and compliance as shown in a recent *Wall Street Journal* article exposing Amazon selling clothing from Bangladesh from factories banned from export because of poor factory conditions. Third-party retailers are largely anonymous and “aren’t subject to some of the oversight Amazon applies to its own brands and to items it sells directly” (Ibid.).

Finally, the widely-condemned cancellations by brands of their pre-pandemic apparel orders, including those already completed and in-process, and a general apparel market contraction in 2020 and 2021 will re-shuffle global buyer-supplier relationships. Suppliers struggling to survive in the post-pandemic period are unlikely to invest in social dialogue except where it helps to leverage government support for the industry (ILO, 2020d).

Developing social dialogue systems in the context of fashion’s fragmented and fluid, complex and opportunistic relationships means that practitioners must be cognizant of the complex economic dynamics underpinning lead firm and supplier behavior. These networks show that ‘responsible purchasing practices’ is far more demanding than a sourcing department with a list of audit-approved suppliers.

2.2 Lead Firms Shift to a ‘Portfolio of Approaches’

For the past two decades, lead firms have attempted to address labor rights violations and improve working conditions in their supply chains through private regulation, specifically code of conducts and auditing schemes followed, in some cases, by factory-level remediation of violations. These initiatives have created a flourishing auditing industry but a recent generation of supply chains research shows that these voluntary programs have not resulted in sustainable improvements in working conditions or advancements in workers’ rights.

Scholars attribute this lack of progress to the opaque nature of private regulation; that is, observers, including insiders, cannot see what works (Kuruville, 2021). According to an institutional theory analysis of private regulation in apparel, this opacity is the result of ‘behavioral invisibility’, ‘practice multiplicity’, and ‘causal complexity’. Behavioral invisibility refers to the difficulty in observing and measuring the behavior of actors and it also enables suppliers with a low incentive to disguise their non-compliance “pretend[ing] to be substantively compliant” (Kuruville, 2021). Practice multiplicity signifies the diversity of practices adopted by actors across different geographic, institutional, economic and cultural contexts, which make it difficult to identify and engage in compliant behavior. Finally, causal complexity involves the difficulty in understanding what drives compliant behavior and inhibits lead firms’ ability to implement effective practices.

Recent research, however, has described a shift: lead firms are “seeking to go beyond firm-level compliance initiatives” and adopting a “portfolio of approaches” (Schüßler et al., 2019). These ‘portfolios’ typically consist of capacity-building programs and limited political advocacy. Many of these capacity-building programs focus on awareness raising among factory management and workers on legal frameworks, occupational safety, and (more rarely) social dialogue and ‘worker voice’. Many of these programs are designed to supplement firm code of conducts and auditing through continuous improvement. We see several examples of these programs in our country studies. Although many of these programs are designed in good faith and may lead to positive outcomes, they are often piecemeal, labor-intensive and rarely disclose the data needed for an independent evaluation of their long-term impacts. Programs like H&M’s Participation Committee Program in 227 of its Bangladesh supplier factories aimed to train workers and ensure democratic elections in participation committees but there is no data available on concrete improvements. Rather, interviews with workers revealed that some workers did not receive information about their participation committees, viewed the committee as dominated by management, and did not trust the committees (Granath, 2016).

Many brands have also participated in limited political advocacy to exert pressure on sourcing-country governments. Often reacting to civil society campaigns or scandal, brands have exited sourcing factories or countries and participated in letter-writing campaigns. For example, in July 2017, 14 international apparel brands, the Fair Labor Association, and the Maquila Solidarity Network released a joint letter to the Mexican government declaring their support for constitutional labor reform (MSN, 2017). And in one of several letters to the Cambodian government, brands including Gap, H&M, and ASOS and several multi-stakeholder initiatives sent an open letter expressing concern over restrictions on freedom of association (FLA, 2020). The last decade has seen a surge in this brand of advocacy with Cambodia and Bangladesh, in particular, subject to regular scrutiny.⁷

This proliferation of capacity-building programs, as with auditing, has resulted in program multiplicity. Factories can be subject to multiple training programs or capacity-building schemes, which may affect the impact of these programs, especially if managers begin to experience training fatigue. Moreover, the impact of these programs and possibilities for upscaling are limited considering how programs generally target a singular brand’s suppliers (and not necessarily all of them). “It is important to stress ... that having more diverse portfolios does not necessarily imply having a greater impact of factory labor standards.” “Larger, leading brands and retailers highlight important limits in what they can achieve in the absence of public regulatory support they will remain a small group and risk losing their competitive advantage if other firms are not incentivized to change their practices” (Schüßler et al. 2019).

Furthermore, global brands’ private regulation programs and audits have generally been poor at detecting violations related to freedom of association and collective bar-

7. For example see: <https://www.fairwear.org/stories/fwf-joint-letter-on-bangladesh-accord> ; <https://www.ethicaltrade.org/resources/cambodia-open-joint-letter>

gaining (Kuruvilla, 2021), let alone favoring social dialogue with organized workers. As seen in the H&M example above, where brands' CSR programs do engage with social dialogue, it favors management-led processes or weak legally mandated regimes over collective bargaining. In effect, these programs may actively undermine workers' rights to freedom of association and collective bargaining rather than creating opportunities for *bona fide* dialogue.



3.0 Employers and Employer Associations

As described in the preceding section, external forces affect employer capacity, strategy, and actions. Lead firm behavior creates a dissonance effect: they impose economic constraints for suppliers and at the same time encourage implementation of labor compliance programs, a phenomenon which scholars have referred to as “asymmetrical cooperation” (Schüßler et al. 2019). Furthermore, internal factors such as employer socialization of labor relations and workers’ rights issues, perceptions of unions, and internal capacity constraints inform suppliers’ response to social dialogue. Our analysis breaks down the complex matrix of external pressure, internal understanding, and internal responses that affect supplier behavior and the associations that represent them.

Table 1: Employer Capacity Matrix

	External Forces	Internal Forces	Current Practices	Current initiatives
Enterprise Level	<ul style="list-style-type: none"> • Sourcing practices • Buyer relationships • Legal obligations • Competitive market 	<ul style="list-style-type: none"> • Practice and understanding of IR • Wages • Ownership • Work organization • Middle Manager Capacity • Type of production 	<ul style="list-style-type: none"> • Low-wage arbitrage • Factory closures, bankruptcy • Union subversion • Union cooptation • Worker dismissal 	<ul style="list-style-type: none"> • Auditing • Capacity building programs • Training and audit fatigue • Enterprise-level dialogue mechanisms
Association Level	<ul style="list-style-type: none"> • Participation in Tripartite Forums • Legal restrictions 	<ul style="list-style-type: none"> • Fragmentation • Financial and staff capacity • Practice and understanding of IR 	<ul style="list-style-type: none"> • Failure to engage in dialogue • Promotion of anti-union policies 	<ul style="list-style-type: none"> • Engagement in tripartite forums • Capacity building programs

3.1 Enterprise Level

External Pressures

As described in section 2.1, lead firm sourcing practices – namely, reduced prices and lead times – have led to a reduction in real wages and increase in work hours and intensity. Suppliers face economic constraints and, in turn, exert pressure on workers. One such effect is low-wage arbitrage whereby large suppliers shift production to cheaper regions within garment-producing countries or between countries.

Suppliers in Indonesia engage in domestic low-wage arbitrage. Variations in regional minimum wages have led to factories transferring operations from West Java to the Central and Eastern Java. Oftentimes, these closures are carried out in an irresponsible and non-transparent manner. One major case involved PT Hansae 3, a Korean firm, in which the factory declared bankruptcy and closed after an increase in the provincial minimum wage. However, according to the workers, the garment orders were simply transferred to another Hansae factory in Jepara, Central Java where the minimum wage is lower (Friana, 2019).

Mexico is an example of international wage-arbitrage in which garment production has largely left a once-dominant country. Scholars had mistakenly thought that NAFTA would allow Mexico to develop and integrate the garment value chain as was done in Korea, Hong Kong, and Taiwan. However, China's accession to the WTO and the end of the Multi-Fiber Agreement in 2005 led to China, Bangladesh, Turkey, Vietnam, and others overtaking the Mexican garment industry, in part because of lower labor costs (Covarrubias, 2021). In 2001, Mexico was the primary exporter to the United States in the chain of thread-textile-garment, exporting as much as USD 7.8 billion and accounting for 4 percent of the world market. By 2012, Mexico had dropped to 17th place in global apparel exports and its contribution to the global apparel export market decreased to 1 percent (Covarrubias, 2021).

Ethiopia is the paradigmatic destination for brands and suppliers engaging in low-wage arbitrage. Manufacturing employment has increased from 173,000 in 2010 to 380,000 in 2014. Ethiopia currently does not have minimum wages. "Average Ethiopian wages are currently less than one tenth the price of those in China, with textile manufacturing wages often as low as around USD 26/month" (Admasie, 2021). In fact, wages are so low that "taking up manufacturing employment in contemporary Ethiopia does not appear to affect the income of job seekers positively at all" (Ibid).

Aside from the macro-level effects of relocating production and shifting orders among factories, low-wage arbitrage and production pressures such as ever-shorter lead times are evident in supplier sub-contracting. Fully 52 percent of the over 40,000 apparel suppliers surveyed by the ILO in 2017 reported accepting orders at below the cost of production (Vaughan-Whitehead & Caro, 2017). These downward pressures on wages and labor compliance more generally encourage first-tier factories to sub-con-

tract to lower-cost suppliers or homeworkers. Among the countries in this report, Bulgaria's informal workers in the garment industry make up approximately one third of the total workforce (von Broembsen, 2019).

Together, these pressures from buyers and the reactions of suppliers work against social dialogue and undermine industrial relations. The frustrations of workers with these dynamics has been the subject of countless campaigns since the mid-1990s, but suppliers' frustrations with and tolerance for these conditions were largely invisible to outside observers. They have broken out into the open in recent years with the advent of anonymous reporting by suppliers on buyer practices and, in dramatic fashion, following the cancellation of contracts in the early months of the 2020 pandemic (See Better Buying Institute, 2020; Hug, 2020). Accelerating demands for mandatory public regulation of buyer practices in the EU and US, in particular, have focused on due diligence, meaningful legal liabilities and public reporting for buyers, but a role of sectoral collective bargaining—as an example of social dialogue—has not figured prominently or at all in the leading proposals (LSE, 2020)^{author:{{"family":"LSE","given":""}},accessed:{{"date-parts":["2021",1,14]}},issued:{{"date-parts":["2020",2]}}},schema:"https://github.com/citation-style-language/schema/raw/master/csl-citation.json"}.

Internal Capacity Constraints

We examine *internal* supplier capacity for social dialogue by looking at ownership, the degree of management understanding of industrial relations, and work organization and production types.

Ownership

We first focus on the varieties of ownership and the impact different ownership ecosystems have at the industry and national levels. Among our target countries, there is a diverse landscape of suppliers reflecting various structures, capacities and roles in industrial relations. These variations matter in understanding employer capacity for social dialogue.

Table 2: Supplier Ownership Variation	
Country	Supplier Ownership
Bangladesh	<ul style="list-style-type: none"> • Mostly owned by Bangladesh nationals • A few Korean and Taiwanese groups
Bulgaria	<ul style="list-style-type: none"> • Mostly EU ownership (Greek, Italian, German) • Some Bulgarian ownership
Cambodia	<ul style="list-style-type: none"> • Over 90% are foreign-owned
Ethiopia	<ul style="list-style-type: none"> • Foreign-owned factories (East Asian) dominate export garment industry • Locally owned factories primarily produce for the domestic market. • Brands directly controlling production (PVH)
Honduras	<ul style="list-style-type: none"> • 70% are foreign-owned • US companies account for 40% of foreign owners • China makes up 27% of foreign owners • Some US brands (Fruit of the Loom) own and manage their own factories
India	<ul style="list-style-type: none"> • High degree of domestic ownership
Indonesia	<ul style="list-style-type: none"> • Majority foreign ownership • Korean-owned factories comprise approximately 40% of garment exporters
Mexico	<ul style="list-style-type: none"> • High degree of domestic ownership
Myanmar	<ul style="list-style-type: none"> • 39% locally-owned • 31% Greater Chinese (Hong Kong, Mainland China, Taiwan) • 18% Korean • 6% Japanese
Vietnam	<ul style="list-style-type: none"> • 84% private domestic • 15% foreign owned • 1% state owned
Source: Social Dialogue Project Country Reports	

We see variation in the degree of domestic versus foreign ownership within our target countries. Bangladesh, India, Mexico, and Honduras have mostly domestic factory owners. Myanmar and Vietnam likewise have a high degree of domestic ownership but there is a divergence between domestic and foreign factories in terms of market destination. East Asian suppliers in these countries produce exclusively for foreign markets while domestic producers mainly cater to the domestic garment market or are second tier suppliers. Foreign employers dominate the Indonesian, Cambodian, and Ethiopian apparel production. There, the small number of domestic suppliers likewise cater to the domestic market.

In countries with majority domestic ownership, we see variation in industrial relations outcomes. Scholars have shown that local ownership embeddedness matters to a firm's governance structure and potential to move up the apparel value chain (Morris & Staritz, 2014). These studies argue that local embeddedness is a product of (1) language, cultural, political, and economic history, (2) trade agreements, and (3) sourcing practices and buyer expectations. These factors underlie firms' motivations and strategies.

In applying this embeddedness framework to industrial relations outcomes, we find that local embeddedness is a double-edged sword. For example, many Honduran factories are locally owned and receive a significant amount of US investment. Honduras also has a long economic and political history with the US, a formal trade agreement (CAFTA), as well as a recent history of transnational labor activism and organization. Together, these factors have created a high level of local embeddedness, which, with pressure from local and international union movements, have engaged in successful social dialogue (Minero, 2021).

On the other hand, local embeddedness can cement corrupt governance structures and stifle social dialogue and industrial relations upgrading. Despite having a majority domestic ownership, Bangladeshi industrial relations are weak or non-existent and corrupted by employer bias (Hossain & Akter, 2021). Corruption and bias likewise plagues Mexico's weak industrial relation system despite similar transnational institutional support and investment to Honduras (Covarrubias, 2021; Minero, 2021). In Mexico and Bangladesh, domestic owners are very wealthy and have powerful connections in national and regional levels of government. In the research for this report, it is clear that local embeddedness is less a constraint that can positively shape behavior but a tool to secure economic and political hegemony.

The Bulgarian industry—largely foreign-owned—provides an interesting contrast to the rest in this study. As an EU country that exports overwhelmingly to EU member states and is dominated by EU owners, an observer might assume that labor conditions and respect for workers' rights would meet international standards. This is not the case in the Bulgarian garment industry. Working conditions and wages as well as the right to freedom of association in Bulgaria have been under siege, and beneficial impacts for the sector of EU ownership, and the regional legal framework and enforcement mechanisms are hard to see (Iankova, 2021).

At the enterprise level, we see ownership impacts on strikes. In Vietnam, recent reports show the majority of strikes taking place at Korean and Taiwanese owned factories and primarily in more recently-established firms rather than older firms (Do, 2021). Here, we see the significance of **foreign** local embeddedness. Likewise, not surprisingly, we see this also evident in Myanmar where the increasing number of wildcat strikes are happening at foreign owned factories servicing large brands due to harsh working conditions and cultural barriers.

Our takeaways:

- Ownership matters. Local embeddedness impacts the firm's response to economic, social, or political pressure.
- Local embeddedness is a double-edged sword. It can increase supplier motivation to engage in dialogue and, depending on the issues, be leveraged to secure employer interests.
- Good industrial relations and social dialogue in supplier countries of origin (e.g. Germany, Japan) do not guarantee good industrial relations practices in sourcing countries.

Understanding of Industrial Relations

Supplier understanding of industrial relations (IR) is chiefly a function of employer training on and experience with unions and their purpose, collective bargaining, and workers' legal protections. Although the level of IR understanding varies among individual enterprises, we find that systemic forces at the national and industrial levels underlie significant variations in capacity across our target countries. These are (1) the relative age/history of a country's industrial relations system, (2) the socialization of IR principles and practices, and (3) experience of and available training for managers.

Myanmar's modern industrial relations institutions are very new, having only emerged alongside the country's political and economic transition since 2012. During the long period of military rule, unions were outlawed and many union leaders were exiled in Thailand. Hence, many employers do not know the relevant labor laws, remain unaware of emerging labor law standards, and rarely feel pressure to comply. Many factory owners are also not at all familiar with worker organizing practices (Blau, 2021). In general, the industrial relations landscape is characterized by mistrust and polarization. Parties rarely view social dialogue as an ongoing process or compromise, building trust and working together towards mutually beneficial outcomes. Rather, social dialogue is seen as an issue-specific stage within the dispute process (Blau, 2021). A concerted effort that includes IndustriALL, Myanmar trade unions, some buyers, and to a lesser degree, suppliers and the Myanmar Government, has worked to improve this perception of dialogue. A Freedom of Association protocol signed in November 2019 between ACT member brands and the Industrial Workers' Federation of Myanmar (IWFMM) proved to be an essential tool in the reinstatement of two terminated union members (ILO, 2020d).

Related to the industrial relations system history, the degree of IR socialization, particularly how managers culturally view unions, is important in understanding comparative IR variations. In Vietnam, foreign-owned companies keep union leadership under tight control. It is commonplace for human resource (HR) managers to be union representatives. Unions in effect rubberstamp HR decisions. Furthermore, managers often view the role of unions as a social liaison, rather than an industrial relations actor; for example, unions are responsible for organizing employee raffles, wedding parties, and funeral donations.

The degree of IR socialization and IR culture are connected to the level of IR training and education available to managers. In Honduras, a WRC representative indicated a “lack of education among supervisors, middle managers, and managers who do not accept that workers have the right to organize. They don’t like working with the trade union, they come from universities with an anti-union culture, and they don’t know what a trade union is and how to behave in collective negotiation” (Minero, 2021).

Limited management training and IR capacity is evident in Bangladesh. Even though domestic ownership is very high, there is a dearth of local low- and mid- level managers available. Given this, many factories employ foreign managers. Recent studies show that foreign nationals account for 47 percent of management staff at large enterprises (Mahmud, 2018). The pay gap between expatriates and locals is reportedly more than 100 percent. Furthermore, trade union officials state that workers do not favor foreign managers because of their “harsh management practices” and that their short-term assignments give them little accountability (Lee, n.d.). This phenomenon is present in Cambodia as well. “GMAC estimates that 80 percent of the middle managers at the garment factories are foreign ... the excessive use of foreign supervisors is a source of tension, misunderstandings, and conflicts. It also limits the career opportunities of the (ordinary) Cambodian workers” (Jeroen Merk, 2016).

On the other hand, industrial relations in Bulgaria is highly institutionalized and embedded, resulting in its relative stability and recent effectiveness in response to the COVID-19 pandemic. Industrial relations, particularly tripartism, in Bulgaria has been long established, from its development during the transition from the Soviet-era to its enhancement during the country’s ascension to the European Union. Here, rather than a lack of understanding or experience with industrial relations, competing employer associations have faced difficulty with coming to agreement on common terms for negotiating with trade unions (Iankova, 2021).

Key takeaways:

- Social dialogue capacity is affected by the overall age of a country’s IR system, IR culture, and availability of trained managers.
- Ownership and management are not the same – despite high levels of domestic ownership or long-established industries, suppliers continue to rely on expatriate managers. Varying experiences, incentives, and perspectives affect the execution of workplace relations in factories.

Production Type and Work Organization

What works in one country or a subset of factories may not work in another. Garment factories differ because of the nationalities of owners and managers, size and production capacities, product lines, buyers and so on. Locke (2007) argues that differing systems of work organization and human resource management are important in shaping workplace conditions, as are the kinds of technical assistance provided by brands. However, while work organization may differ, garment production is relatively uniform.

The majority of garment producers in our countries rely on a cut-make-trim form of production. Suppliers in Vietnam, Bangladesh, Cambodia, Myanmar, and elsewhere import materials for production. This type of production cuts down suppliers' profit margins and limits the controls suppliers have over costs, production planning and timing and, by extension, working conditions. Absent low-cost capital and stable buyer relationships, apparel suppliers find that labor costs and worker productivity are the only things they can manipulate to protect their bottom line (Vaughan-Whitehead & Caro, 2017). On top of the socialization and training constraints note above, this fragmented, largely horizontal manufacturing model limits suppliers' willingness and ability to engage in meaningful social dialogue (See Thomas & Johnny, 2018).

Is a shift toward consolidation among buyers and suppliers, and more 'partnership'—the more equitable sharing of costs and risks along global supply chains—promised for the post-pandemic era part of the solution? In a recent investor call, Gap's CFO noted that "we haven't fully exploited what [our strategic suppliers] can bring to the party in terms of co-creation" (MFTtranscribers, 2019b). McKinsey routinely identifies this growing supplier collaboration in 'future of apparel' reports: "a shift is needed from transactional supplier management to strategic partnership. This requires apparel companies to establish professional supplier evaluation and development processes, along with investments for strategic suppliers" (McKinsey, 2017). What effect will this have on workers' rights and social dialogue? In theory, an easing of price and production pressures for suppliers allows for negotiation with workers and their organizations for improvements in working conditions and higher wages. But the countervailing pressures of a global downturn in demand, digitization, just-in-time production and production tracking technologies that can help buyers identify and appropriate suppliers' growing margins point instead to an intensification of pressures.

3.2 Employer Association Level

In some countries, there is clear differentiation between an employers' organization and other types of business organizations. In others, the role of employers' organizations is undertaken by more general types of business organization.

Table 3: Employer Associations, Role in IR, and Social Dialogue Capacity			
	Employer Associations	Role in IR	Social Dialogue Capacity
Indonesia	APINDO Korean Garment Manufacturers' Association (KOGA)	APINDO active in lobbying for lower wages KOGA very influential in influencing policy	High capacity to engage in labor matters
Myanmar	MGMA Various Foreign Employers' Associations	MGMA – resistant to union, wants to grow exports and attract investment Asian Associations – pragmatic approach to curry favor with buyers	Moderate capacity for sectoral interventions and bargaining Low capacity in pressuring individual suppliers
Cambodia	GMAC CFA	Participates in bargaining although at times resistant to reform	High capacity – powerful, represents many employers, and is able to engage in negotiations
Vietnam	VCCI VCA Various Foreign Associations	Engage in national tripartite minimum wage forum Foreign companies not represented in official Vietnamese employer associations.	High capacity at the national level
Bangladesh	BGMEA BKMEA	Very influential in policy Expressed support of unions but has yet to show actual commitment to respecting labor laws Works as arbitrator to resolve disputes between unions and factory owners	High technical capacity

India	Apparel Export Promotion Council (AEPC). Various industry associations in garment producing clusters.	Influential in industry policy. Very limited role in IR.	High technical capacity
Bulgaria	Bulgarian Industrial Assoc. (BIA) Bulgarian Chamber of Commerce and Industry (BCCI) Bulgarian Industrial Capital Assoc. (BICA) Confederation of Employers and Industrialists in Bulgaria (CEIBG)	Active in social dialogue. Bulgaria has extensive dialogue institutions	High technical capacity
Ethiopia	EEF/EIEC EEC	Two competing confederations; both participate in tripartite fora	Low capacity; understaffed, limited membership, and low revenue
Mexico	Chamber of Commerce of the Clothing Industry (CANAIIVE)	Mainly a business organization Very limited role in IR since all bargaining is at enterprise level	Virtually no engagement in labor dialogue
Honduras	Honduran Maquila Association (AHM)	Has engaged in good faith SD through bipartite commission	Well resourced. High capacity to engage in labor matters

Employer Associations Resistance to Unions and Workers Rights & Benefits

Many employer associations in our target countries have long been or have become resistant to labor unions and have sought policies undermining union activity at national and industrial levels.

In Myanmar, the MGMA has not been supportive of social dialogue and has an adversarial stance towards unions. The MGMA not only declined to take part in various social dialogue projects, but also discouraged certain factories from participating, stymying industrial bargaining at the sectoral level. The animosity between unions and the MGMA is long standing, stemming from political differences, mistrust and oppression experienced by unions under the previous political regimes. For the most part the MGMA is motivated by attracting FDI and ensuring that no sanctions are placed on Myanmar, particularly the loss of its EU EBA preferences (Blau, 2021). However, there has been a recent thaw in employers' openness to social dialogue. In November 2019, ACT member brands and their suppliers and IndustriALL affiliate Industrial Workers' Federation of Myanmar (IWFMM) signed a Freedom of Association Guideline specifying the practical application of the principles of freedom of association (IndustriALL, 2019).

Indonesia's *Asosiasi Pengusaha Indonesia* (APINDO) is the only officially recognized employers' association that deals with industrial relations and human resource development issues. The association actively lobbies for slowing minimum wage increases and has recently advocated for a revision of the Employment Act – specifically, provisions regarding severance pay and pensions. The APINDO chairman expressed pressure to compete with lower wages in Cambodia, Vietnam, and Bangladesh (Am-Cham Indonesia, 2015).

The Garment Manufacturers Association in Cambodia (GMAC) is the peak employer organization with 606 member factories. GMAC is very powerful and influential in Cambodian politics, particularly regarding garment and textile policy as the industry is dominant in the export sector. The association is highly technically capable in negotiations, plays a significant role in the arbitration council, and is involved in policymaking. GMAC has had a tense relationship with Cambodian labor unions, excepting those it supports through direct or indirect payments. Following worker protests in 2014 in which five protestors were killed by the Cambodian military, GMAC filed complaints against six independent union federations, alleging that they incited violence (Nuon, 2021).

The COVID-19 pandemic, however, managed to drive the anti-union BGMEA in Dhaka to a temporary alliance with unions in a campaign for government support of the industry and workers, and in the global campaign to win repayment from brands that cancelled an estimated USD 3 billion in orders in 2020 (Fair Fashion Think Tank, 2020).

Foreign Business Associations Wield Significant Power

In Vietnam, foreign-owned companies are not able to be full members of industrial business associations such as the Vietnam Chamber of Commerce and Industry (VCCI); foreign suppliers instead are more closely associated with business associations of their nationalities and tend to subscribe to common policies. These include the Japanese Association of Ho Chi Minh City (JBAH), Korea Chamber of Business in Vietnam (KORCHAM), and the Council of Taiwanese Chambers of Commerce in Vietnam (CTC). Our Vietnam country report found that:

"[Members in these associations] agree upon certain common policies. For instance: all Korean firms use the same bank (Shinhan); the bigger Korean companies outsource to smaller Korean firms in the same industrial zone or district; both the Japanese and Korean groups agree upon the same wage package for rank-and-file workers and prevent labor poaching by not recruiting workers from other member companies." (Do, 2021)

In Indonesia, the Korean Garments Association (KOGA) is a very powerful group of South Korean-owned garments suppliers. They have close links to the Indonesian vice president and the powerful APINDO leadership. KOGA is behind various initiatives to lower the wages of garments workers. Specifically, KOGA negotiated special garment industry wages in Bogor and Subang in 2019 which were below the 8 percent increase mandated by the government. KOGA has threatened to move out from Subang if wage increases exceed the legal minimum (Tjandraningsih, 2021).

3.3 Current Practices and Initiatives

The external pressures and internal constraints described in the previous sections complement the anti-union behavior of many suppliers and their associations, which undermine current social dialogue initiatives.

We see employer take-overs and the co-opting of worker organizations in our target countries. The power and leverage of employers, often in alliance with the government figures, dwarfs the resources of worker organizations. "Yellow" unions—that is, company-controlled unions—remain an issue in many garment-producing countries. In Cambodia, yellow unions refer to both government and employer-controlled unions. Factory managers generally prefer the CPP-aligned confederations to independent unions. Managers conspire with friendly unions in order to keep independent unions out of representation or negotiations (Nuon, 2021). "Official" unions likewise corrupt Mexican industrial relations. These union leaders meet with management to "negotiate" an agreement, oftentimes before any workers are even hired. These unions do not exist in practice in the enterprise. In fact, scholars estimate that roughly 90 percent

of unions in Mexico are “paper” unions, and with support of provisions in the 2020 US-Mexico-Canada trade treaty, they are the subject of reformed Mexican labor laws to re-open organizing and bargaining among Mexican workers (Holman, 2017).

While Cambodia and Mexico provide clear examples of either yellow or government-supported unions at the confederation level, the majority of management-dominated unions are found at the enterprise level across virtually all of our target countries. Even in Vietnam, where there is a singular, state-run trade union, most enterprise unions are headed by human resource officers as described above in section 3.1.

In Myanmar and Bangladesh, Workers Coordination Committees (WCCs) and Participation Committees, respectively, are state-mandated non-union bodies intended to address concerns at the enterprise level. These committees are often criticized as non-union bodies that are often coopted by management and used to crowd out genuine union activity. Swedwatch interviewed Bangladeshi union leaders who revealed that “after the establishment of worker-manager participatory committees, the workers’ representatives, in most cases, are manipulated by the management and are unable to influence any decisions. If workers’ representatives raise ten problems during PC meetings, the management cherry picks the ones which are easy to solve” (Shamsher & Akerblom, 2018). Similar patterns are evident in Myanmar. It is very common for employers to nominate the worker representatives for the WCCs and select workers who are sympathetic to the management (Blau, 2021).

In Ethiopia, there is total fragmentation among unions at the enterprise, sectoral, and federal levels. Furthermore, the Ethiopian Textile and Garment Manufacturer’s Association (ETGAMA) “does not currently have the capacity and function of employers’ association on labor related issues” (Admasie, 2021). And in Bulgaria, there has been no industry-wide collective bargaining agreement in the garment sector for the past 8-10 years despite industry agreements in other sectors. This is largely due to the existence of many nationally representative employer associations, which compete among themselves and, unable to agree on common terms for signing a collective agreement with the trade union confederations, have effectively blocked bargaining (Iankova, 2021).

4.0 Government Institutions

Government capacity, in regards to social dialogue in garment supply chains, pertains to the ability of producing country governments to regulate industrial relations through consultations with employers, unions, and civil society organizations, promulgation of labor policy, resolution of disputes and enforcement of labor laws. This not only involves internal capacity constraints, such as the need for adequately trained inspectors, but also a legal framework in line with international labor standards. Political will for productive, as opposed to ritualistic social dialogue, is also determinative. This depends in part on the roles that unions and employers play in the political system and the role of the apparel industry in industrial and economic development policies.

4.1 Administrative & Enforcement Capacity

Administrative capacity limitations are attributable to underfunded, understaffed, and poorly managed bureaucratic systems. In Indonesia, administrative decentralization has made provincial governments quite powerful; they have the power to grant factory permits and set provincial minimum wages. However, provincial and local-level inspectors often do not have the political authority or technical expertise needed to enforce labor laws effectively nor is there a sufficient inspectorate to enforce compliance in a country of 250 million (US DOS, 2019b). Ethiopia likewise suffers from weak government administrative capacity. There, the Ministry of Labor and Social Affairs (MoLSA) operates a labor inspectorate, which is significantly understaffed. Rapid turnover among officials undermines efforts to train civil servants and diminishes their effectiveness (Admasie, 2021).

Lack of enforcement remains an issue across all target countries. The Indonesian government fails to enforce laws preventing anti-union discrimination. Cases filed by aggrieved workers move excessively slowly through the court system. Bribery and judicial corruption often result in dispositions unfavorable to workers despite cases where the Ministry of Labor advocated for workers (US DOS, 2019b). Even where rulings are in the workers' favor, court orders and judgments are not guaranteed to be followed. In Myanmar, enforcement generally takes place in the public sector but violations are frequent in private enterprises. Workers' organizations note that government inspections are rare and announced to factory owners beforehand.

Despite these weaknesses, there are currently efforts at reforming government enforcement and judicial capacity in Mexico. In 2018, Mexico ranked last in Latin America in terms of defending labor rights according to the World Economic Forum's

Global Competitiveness Report. A study of labor lawsuits found that only 24 percent of workers who go to a final judgment are eventually able to collect any severance (Sadka, 2019). The current labor law reform attempts to remedy these issues through creating labor courts outside of the executive branch of government, eliminating corrupt tripartite labor boards, and ensuring secret union election ballots. What brought upon this reform? “External commitments such as free trade agreements played an important role in convincing stakeholders with opposing views to come to an agreement” (Sadka, 2019).

4.2 Labor Politics

In this report, we characterize labor politics across our target countries as fluctuating, polarized, domineering, or cooperative. Fluctuating labor politics involves temporal and shifting labor politics contingent on external (international) pressures and internal power structures. Polarized labor politics involves sharp divisions and mistrust among stakeholders. Subsidiary countries are where governments, often with prompting or support from employers, seek to control the political narrative and labor practices through repression of civil liberties, particularly freedom of association. Lastly, cooperative labor politics refers to tripartite politics where negotiations and consultations take place.

Table 4: Political Typology				
	Fluctuating	Polarized	Subsidiary	Cooperative
Country	Ethiopia Myanmar India Mexico*	Cambodia Indonesia	Vietnam Bangladesh Cambodia	Bulgaria Honduras

**Mexico is undergoing in 2021 a period of significant labor reform*

Scholars characterize Ethiopian labor politics as fluctuating between government and trade unions, largely contingent on the relative strength of either party. Throughout Ethiopian labor history, various governments have banned the national confederation only to have successive regimes bring the confederation back into existence after wildcat strike pressure (Admasie, 2021). The current confederation has asserted its autonomy by wielding a general strike threat against the government in 2017. Myanmar likewise has a recent history of fluctuating labor politics. As described in section 3.1, Myanmar’s industrial relations system is newly re-organized and prior to 2012, trade unions were banned under the military’s rule. As a result, industrial relations and social dialogue is not yet ingrained in cultural practice and the trade union confederation is reticent to encourage strikes in order not to appear confrontational (Blau, 2021).

Polarized national politics are reflected in the divides among unions in Cambodia. The ‘first current’ is comprised of unions supportive (or supported by the CPP) of the CPP-led government. Most union members come from these unions, although reliable data on this is missing. These unions dominate in numbers in the tripartite Labor Advisory Committee. The ‘second current’ is comprised of unions linked and supportive of the opposition parties. These unions have distanced themselves since the dissolution of the opposition CNRP which prompted the EU’s withdrawal of EBA preferences. The Cambodian government has gone further, repressing labor NGOs and investigating, indicting and/or jailing union leaders. The ‘third current’ represents the sizeable independent unions that do not identify with the two political parties (Nuon, 2021). Cambodia’s labor politics are both polarized and subsidiary.

Political fragmentation is also evident in Indonesia where union fragmentation is the product of the Suharto era. The initial divide involves the new unions formed after Reformasi in 1998 before which the SPSI was the only sanctioned union in Indonesia. This legacy continues with several unions bearing the ‘SPSI’ suffix and maintaining management/government control.

Vietnam recently reformed its labor codes in 2020 to allow for the creation of small-scale worker organizations outside of the Vietnam General Confederation of Labor (VGCL), the nation’s single, state-run union. Despite these changes, however, Vietnam is a generally subsidiary system of labor politics. Although there are tripartite consultations, these stakeholders are effectively different arms of the state and worker representatives are not necessarily workers, nor representative. Similarly, Bangladesh has cracked down on union organizers and subjected them to arbitrary arrest (HRW, 2017).

Alternatively, Bulgaria, Honduras, and Mexico have demonstrated cooperative labor politics, though change in Mexico is very recent and observers are hopeful but withholding judgement. Mexico’s current labor reform aims to reverse the corrupt, corporatist system. The recent reform legislation involved an inclusive drafting process that involved members of the labor ministry, judiciary, and union movement which scholars state “provides hope of real commitment to the transition and enforcement process” (Sadka, 2019).

Bulgaria has strong tripartite institutions that have been in place since its post-communist transition in 1989. Bulgarian social dialogue in the garment industry takes place at the Branch Council for Tripartite Cooperation for ‘Light Industry.’ Currently the main issue the council faces is the proliferation of employer organizations that have not been able to come to an agreement (Iankova, 2021). Honduras has likewise developed cooperative labor politics through bipartite and tripartite forums. This is largely attributable to many labor rights campaigns and institutional pressure from US trade agreements (Minero, 2021).

4.3 Economic Politics

How is labor governance at the national level affected by the degree of economic dependence on the apparel industry, the importance of international investment and donor government priorities, and broader economic development strategy? We limit our analysis here to the centrality of the garment industry and its political implications.

Table 5: Apparel and Footwear Trade in 2019 Across Target Countries

Country	Export value in USD	Share of Total Exports	Number employed
Bangladesh	\$42.1 billion	89%	4 million
Bulgaria	\$995 million	3%	120,000
Cambodia	\$9.6 billion	64%	800,000
Ethiopia	\$346 million	12%	62,000
Honduras*	\$2.6 billion	32%	133,000
India	\$19.0 billion	6%	18.8 million
Indonesia	\$12.6 billion	8%	4.2 million
Mexico	\$4.6 billion	1%	280,000
Myanmar	\$5.5 billion	31%	1.1 million
Vietnam	\$49.0 billion	19%	2 million

Source: ITC Trade Data HS Codes 61,62, and 64 and aggregated employment figures from country reports. *Honduras data taken from <http://www.worldstopexports.com/honduras-top-10-exports/>

While the garment industry is central to all of the countries covered here, Bangladesh and Cambodia are the most reliant on the garment industry in terms of apparel's share of exports. The immediate political effect is the strong influence of garment manufacturers in the government. The Garment Manufacturers Association in Cambodia (GMAC) is closely intertwined with the Ministry of Commerce and Ministry of Labor & Vocational Training. GMAC sits on the Labor Advisory Committee (the highest tripartite policy making institution for all sectors) and the Chairman of GMAC is designated a permanent Vice-Chairman post in the LAC (Ear, 2013). In Bangladesh, the government has relinquished significant authority to the BGMEA and BKMEA -- such as the authority to issue trade customs certificates -- and have kept a fairly *lassiez faire* attitude towards the garment sector (See Ahmed & Nathan, 2016; Bair et al., 2020).

Shifts in international trade and investment, particularly growing Chinese investment and market influence, are affecting industry governance and development. Scholars note that in Cambodia:

“There is a concern that Chinese investment, supported by China’s foreign policy objectives in the region, may act as a disincentive for the Cambodian government to follow through on its commitment to democratic reform. Indeed, it may reinforce the power of Cambodia’s political-economic elite, who preside over a notoriously unaccountable, opaque, and inherently corrupt state system” (Ear, 2013).

In Myanmar, much of the government action geared toward regulating the garment industry results from external pressures to attract FDI rather than internal pressures from a grassroots labor or social movement. The government is particularly sensitive to western buyers and sanctions from western governments as it had suffered heavily under such sanctions in the past. Chinese investment is likewise increasing in Myanmar. Currently, Chinese investors control 60 percent of garment factories (Nitta, 2019). As most Chinese factories cater to the European market, the Chinese employers’ associations in Myanmar have been more open to CSR and social dialogue. The distinction here with Cambodia is the lack of embeddedness international investors have yet achieved within the government.

The apparel industry figures early in economic growth strategies, as the lowest-income countries court garment industry investments as a means of rapid industrialization and then graduate to higher value-added production in the automotive and consumer electronics sectors. The Ethiopian government seeks to develop a USD 30 billion a year garment industry and to open 30 industrial parks by 2025 (Admasie, 2021). The government seeks to capitalize on “the country’s wide availability of raw materials, cheap labor, and low energy costs” (Barrett & Baumann-Pauly, 2019). At the other end of the cycle, the Bulgarian industry employs roughly 100,000 people in the formal sector, and approximately 50,000 workers in the semi-formal or informal sector. Despite its high significance in the national economy, “the salaries in the garment industry are the second lowest compared to other sectors” (Iankova, 2021). Many workers move into the garment sector due to a lack of opportunities in other sectors.

What lessons have we learned on the barriers government institutions face in participating or implementing social dialogue in the garment industry? On the surface, there are practical impediments: limited administrative capacity, non-enforcement and weak judicial systems, and cultures of mistrust and lack of political will. Underlying these barriers are labor and economic political histories that define how officials interact and view relevant stakeholders as well as external, international politics that may pressure governments to act in a particular way.

4.4 Political will: the Enabling/Disabling Environment for Social Dialogue

Political will relates to the motivations of each stakeholder to participate in social dialogue. One of the inherent prerequisites to political will is accepting the legitimacy of the other stakeholder (typically this is seeing unions as legitimate) and then engaging in good faith dialogue. Visser and Hemerijck (1997) emphasize that “wider societal support for social dialogue is crucial for its success” (Ishikawa 2003). We find that political will is largely determined by the institutional and political context unique to a country. These contexts significantly impact the perceptions of trade unions and their organizing strategies, the degree that social dialogue is engrained in cultural practice, and the balance of free market strategies versus labor protections. In addition to this is an undercurrent of political shifts in places like Mexico and Vietnam, where significant reforms have the potential of changing the institutional landscape.

An international labor organizer in Mexico stated that the independent unions in Mexico were not interested in “organizing the unorganized” (author interview). Why is this the case? In Mexico, this is partly a resource allocation issue. Unionization is very difficult in the Mexican garment industry and there are plenty of cases of failure including a recent Rintex case where unionizing workers were laid off. This leads to unions focusing on less resistant industries such as the automobile or electronics industry.

Perceptions like those shared in Mexico and the habit (or lack thereof) of social dialogue are forged by the local political contexts and histories. In Myanmar, years of military rule prevented the emergence of cultural practices of social dialogue between management and workers. Parties are not experienced with practices of negotiation, compromise and respectful disagreement, meaning that attempts to negotiate in good faith quite regularly fail and result in acrimony. In general, the industrial relations landscape is characterized by mistrust and polarization. Unions have attempted social dialogue in good faith but the majority of employers have resisted unionization nor have engaged in good faith collective bargaining. As employers continue to violate labor law with impunity and ignore binding arbitration orders, wildcat strikes have taken hold of the industrial zones and workers generally view the official dispute resolution mechanisms as broken (Blau, 2021).

Developing country governments are responsible for maintaining a balance of industrial peace as well as ensuring economic development and securing foreign investment. International financial institutions such as the World Bank, International Monetary Fund, and International Finance Corporation created large structural adjustment programs in countries like Indonesia, Cambodia, Mexico, and Honduras, which included provisions for labor law reform and liberalization. These external logics underlie the political motivations and will of government actors to engage in social dialogue forums or to support bipartite forums in regional and enterprise levels. The recent labor law reforms in India and Indonesia demonstrate a political favor towards free market policies over labor protections.

Some of our target countries are undergoing significant labor reform that may change the institutional landscape. Mexico is currently implementing sweeping labor reform after the election of Andreas Manuel Lopez Obrador (AMLO) at the end of 2018. Since Obrador has been president, he increased the minimum wage by 16 percent, passed comprehensive labor law reform, and agreed to labor provisions in the new USMCA trade agreement. He also appointed 32-year-old Luisa Maria Alcade Lujan as Secretary of Labor. Not only is she a young activist recognized for her work on behalf of labor rights, but her appointment is also full of symbolism. As the daughter of Arturo Alcaldé J. (a recognized lawyer and defender of independent unionism and the rights of workers, as well as a distinguished FAT activist) and Bertha Lujan (leader of the Action Network against NAFTA), her nomination is a clear message from AMLO that his government will work to create a new system of industrial relations and social dialogue in Mexico (Covarrubias, 2021). The space for social dialogue and labor rights is opening in Mexico but replacing the old institutions is an immense task.

Likewise, significant reform has taken place in Vietnam. In 2019, Vietnam's National Assembly ratified ILO's convention 98 on the Right to Organize and Collective bargaining and approved a new Labor Code. The new Labor Code recently took effect on January 1, 2021. Vietnam has also promised to ratify ILO Convention 87 on Freedom of Association and Protection of the Right to Organize in 2023. The new Labor Code includes substantial freedom of association reforms, allowing for the creation of independent Worker Representative Organizations (WROs) outside of the sole state-run Vietnamese General Confederation of Labor (VGCL). The law also forbids management from participating in WROs which had been a prevailing situation with enterprise trade unions (ILO, 2020f). Labor rights advocates are quick to note that WROs are not trade unions as they are limited to a single enterprise and cannot grow at the sectoral or regional level. Additionally, critics of the reform note that without far-reaching political reforms for freedom of speech and assembly, the activities of "independent" worker organizations could be heavily curtailed by the government (San Juan, 2020) the Vietnamese National Assembly took a long-awaited decision on a demand that came from both inside and outside the country: the authorisation – at an enterprise level – of worker representative organisations from 2021. The measure, included in a reform of the labour code, was accompanied by two others: the retirement age will gradually increase to 62 for men and 60 for women (currently 60 and 58 years, respectively). Furthermore, it remains to be seen how exactly WROs will function as the Vietnamese government has yet to release implementing regulations (VIU, 2021).

5.0 Trade Union Structure Ecosystem

We have developed the following typology to classify trade union structures across our target countries. Union multiplicity refers to the number of trade union confederations and their presence in the garment industry. Organizing opportunity refers to the ability of workers to organize under the current industrial relations system. Union activity refers to whether unions are actively engaged in organizing or more passive actors. Union cooperation refers to how unions interact with one another, such as if they are cooperative or fragmented.

First, we see union activity most restricted in Vietnam and Mexico. Vietnam operates with a single, state-run trade union – the Vietnamese General Confederation of Labor. Interestingly, while Mexican law does not explicitly prohibit union organizing, the 70 years of corporatist unionization has resulted in only one independent union in the entire garment industry ; although that factory has since fell into the hands of corporate unions in recent years (see section 10.1) Employers shut down independent unionization efforts, corrupt officials stifle dispute resolution proceedings, and organizing workers are terminated and blacklisted (Covarrubias, 2021).

		Table 6: Organizing Opportunity	
		<i>Open</i>	<i>Restricted</i>
Union Multiplicity	<i>Singular</i>	Ethiopia	Vietnam*
	<i>Plural</i>	Myanmar India Bulgaria Bangladesh Honduras Cambodia Indonesia	Mexico*

		Table 7: Union Cooperation	
		<i>Fragmented</i>	<i>Cohesive</i>
Union Activity	<i>Active</i>	Bangladesh Cambodia Indonesia Myanmar India	Honduras Ethiopia Bulgaria
	<i>Passive</i>		Mexico* Vietnam

In open organizing countries, we see differentiation among singular versus plural union confederations. Ethiopia is dominated by a singular union confederation. The CETU has historically been in flux with the government banning and re-opening its existence (Admasie, 2021). We attribute the singularity of unions here to the relative youth of the independent labor movement considering how Ethiopian unions' ability to operate freely was severely restricted until the past few years.

Among countries with a plurality of garment sector unions, we see variation in the behavior of unions – whether they are active or passive. Active refers to unions that engage in worker organizing, holding demonstrations, and engaging in collective bargaining. In Indonesia, there are a number of garment sector unions, which participate in active demonstrations and organizing drives. In Mexico, while there are independent unions outside of the garment industry, these unions have not made any significant effort in organizing garment sector workers. The precarity of labor discourages active organization for fear of likely failure (Covarrubias, 2021).

Among plural union systems, we see either cohesion or fragmentation. Fragmented union systems refer to union multiplicity and rivalry that undermines worker organizing. In Cambodia, union fragmentation takes place along political lines where there are pro-government, anti-government/pro-opposition, and 'independent' unions. Bangladeshi unions likewise reflect intense partisan fragmentation. In Indonesia, union fragmentation is in part a result of the mass wave of unionization that took place in reaction to Suharto-era corporatism and in part a product of the splintering that follows intra-union disputes. We see evidence of voluntary union cohesion in some plural union systems. The primary example is Honduras where the three union confederations have come together under the Network of Maquila Trade Unions in Honduras (RSM-H in Spanish). Bulgaria is also demonstrates cohesion albeit less effective than Honduras. CITUB and Podkrepa had been intense rivals but have come together since. There is however lingering evidence of their 'cold war' in the lack of coordination in the enterprise and industry level bargaining efforts (Iankova, 2021).

As we see cases of inter-union fragmentation, intra-union fragmentation also occurs. In Indonesia, we see conflict among union leaders causing fragmentation when old leaders decide to form separate organizations (Tjandraningsih, 2021).

These structural variations among union movements in our target countries reveal these trends:

- Target countries with restricted unions are currently undergoing reform. Vietnam recently passed its newest labor code, which allows for enterprise-level worker representative organizations. Mexico passed labor legislation, which removes the corrupt Conciliation and Arbitration Boards and requires worker consent for union representation and collective bargaining agreement ratification among other requirements. The both chambers of the US Congress recently passed a re-negotiated United States-Canada-Mexico trade agreement that includes stronger labor monitoring and enforcement mechanisms (See section 10.2.1 for more on the USMCA).

- Union plurality is connected to the relative age of the labor movement and degree of government control over unions.
- Union plurality begets issues of inter and intra union fragmentation, rivalry, and competition which can work against workers’ interests.
- Union fragmentation reveals fissures in union motivation in whether they are active or passive actors. There is a vicious cycle of precarious labor organizing conditions chilling organizing.

5.1 Trade Union Capacity

Our ten target countries reflect a variety of labor union systems and structures. For example, Vietnam currently has a single, state-run union whereas Indonesia has a proliferation of unions in the garment industry. Cambodia currently has high – albeit fragmented – unionization in the apparel industry, while in Mexico, there is only one genuine independent garment union in operation. These variations reveal a diverse landscape of obstacles to social dialogue. While our country reports analyze these challenges in-depth for each country, here, we compare the current state of garment industry trade unions across all our target countries. This comparison is useful for identifying common obstacles and developing strategies to overcome these barriers that can benefit trade unions across the industry.

The following chart shows the landscape of union structures and capacity-building obstacles across our target countries

Table 8: Trade Union Structure and Capacity Mapping			
Country	Union Structure Overview	Operating Capacity	Social Dialogue Capacity
Indonesia	Proliferation of unions. Fragmentation among garment sector unions based on political affiliation or rivalry	Strained capacity. Reliance on international donor funding.	High capacity at national level. Low enterprise level capacity.
Myanmar	Trade unions only recently legalized in 2012. Fragmentation between enterprise basic unions and confederation.	Very limited financial capacity. Trade union competition and low proportion of dues-paying membership	High capacity at national level. Low enterprise level capacity

Cambodia	60% of workers in garment sector unionized. Highly fragmented along political lines: pro-government, anti-gov/pro-opposition, independent	Independent union confederation reliant on international donor funding.	High independent union capacity at national level. Low capacity for independent unions at enterprise level.
Vietnam	Single, state-run trade union. New Labor Code allows for independent worker representative organizations	Well-funded at national level. Highly fragmented between national, regional, and enterprise levels.	High capacity at national level. Engages in national tripartite forums. Management domination at enterprise-level.
Bangladesh	Bifurcated union movement – politically affiliated national federations vs. small labor groups. Union multiplicity, rivalries and unhealthy competition in CBA elections	Very limited financial capacity due to trade union competition and low proportion of dues-paying members	Higher capacity at national level. Low capacity at enterprise level.
India	Major national federations do not wield sufficient influence and are not particularly active in the garment industry.	Limited capacity and presence in the enterprise level due to intense employer resistance	Limited capacity. “Traditional” unions focus on dispute resolution in individual cases rather than organizing workers.
Bulgaria	Two rival national confederations. Strong national-level dialogue mechanisms but limited presence in garment industry	High capacity at national level, little union presence in small enterprises and strong employer resistance at enterprise level.	High capacity to engage in social dialogue across levels.
Ethiopia	Confederation of Ethiopian Trade Unions (CETU) independence in flux historically. Current union has regained relative autonomy and has grown since 2010	Confederation revenue from real estate and international donor funding. Only 1/3 rd comes from union dues. Federation has significantly fewer resources.	High capacity at national level. Difficulty in accessing industrial parks. CETU branch offices much more strained than headquarters.

Mexico	70-year legacy of corporatist unions. Virtually no independent unions in the garment industry.	Independent unions exist outside of the garment industry but do not engage in organizing drives	No social dialogue currently in the garment industry.
Honduras	Three main confederations come together under the Maquila Trade union Network in Honduras (RSM-H)	Receives international donor funding in addition to revenue from union dues.	RSMH has high capacity and has been able to negotiate through a bipartite commission.

5.2 Trade Union Operations Capacity

We compare trade union financial and staff capacities across our target countries in order to determine operations-related obstacles to adequate worker representation in social dialogue. In terms of funding, we found that (1) unions are heavily dependent on international donors and have limited means of funding through dues-paying members, (2) funding is unequally distributed within unions with enterprise-level unions having far fewer financial resources, and (3) in some countries, unions rely on real estate, employer payouts, or state and party funds.

International donors – largely European and American labor unions – are a primary source of revenue for garment sector unions in our target countries with exception of Vietnam. These funds generally help cover union activities and overhead costs, including union staff salaries. Despite the good intentions of international donors, we find instances where funding has had unintended consequences. Firstly, because of their reliance on international donor funding, unions in Indonesia and Bangladesh, use “dues-free” membership as a method of attracting members. Secondly, international donor funding can spur fragmentation among rival unions when one union receives funds while others do not. Finally, over-reliance on international donor funding transforms unions into organizations more like NGOs in that they become “more project oriented” (Tjandraningsih, 2021).

Despite the unintended consequences of international donor funding, unions desperately need the money and cutting funds is not an option. Aside from nominal fees, if available, unions rely on other revenue streams. In Ethiopia, the CETU national level union receives very low revenues from membership dues but is rich in terms of real estate holdings (roughly the same amount of money collected in rents as received from international partners). “To overcome the financial shortages and to be able to cover more of its expenses from its regular budget, CETU plans, on the one hand, for increasing numbers of fee-paying members that will generate greater streams, but also for building more branch office buildings, so as to reduce rent costs and boost income”

(Admasie, 2021). This diversification however only applies to the national-level union. The sector-level Industrial Federation of Textile, Leather, and Garment Workers' Trade Union (IFTLGWTU) only depends on membership fees and external support. Little data is available on union finances, let alone finances at the enterprise or regional level.

We see disparities in intra-union levels in Vietnam as well. The VGCL stands in contrast with a war chest of funding. In principle, each union member pays one percent of their basic salary as union dues. However, in many companies, union dues are not collected or paid at the statutory rate in order to make union membership more 'attractive' to workers. Enterprise unions keep 60 percent of union dues and transfer 40 percent to upper-level unions. Every company (organized or not) pays 2 percent of their basic wage bill as union tax. The state budget also contributes funding. Additionally, the VGCL owns several enterprises: six hotels, two publishing houses, two newspapers, two universities, and one vocational training center (Do, 2021). The problem however is with the disbursement of these funds and the actual impact to workers.

It is clear from the Vietnamese and Ethiopian cases that money itself is not enough. Proper distribution of said funding – and the proper use designation by international donors – is necessary. Furthermore, socialization regarding the significance of union dues is necessary. Union dues are important, not just for the financial well-being of the union, but also to link the union to its membership and to dissuade worker apathy.

5.3 Trade Union Social Dialogue Capacity

In addition to financial and administrative capacity, we examine 'substantive' elements necessary for trade union social dialogue. These elements are representation, composition, and competency. Representation refers to the extent that unions are representative of worker interests – independent unions versus management or government unions. Composition refers to whether union officials reflect and/or are composed of workers from the enterprise or industry. Lastly, competency refers to the skills and training of union members relevant to social dialogue.

Representation issues vary across our target countries, albeit among varying degrees ranging from internal communication issues to outright cooptation. Despite their success in unifying and promoting a shared agenda, the unions in Honduras still struggle with their "communication strategy; the leadership does not feedback the members of the unions through assemblies, newsletters or any other means on the task and progress in the spaces of bipartite and tripartite dialogue. This weakness could influence the questions of the bases to the participation in the spaces of dialogue" (Minero, 2021). This issue is also present in Bangladesh, where many unions do not have an internal communication strategy to reach their own members. The lack of information sharing results in workers only knowing of a union's existence after an incident rather than workers being able to raise their voice and concern over issues (Hossain & Akter, 2021).

Inadequate trade union representation is most severe in Vietnam and Mexico. As stated previously, decades of corporatist industrializations have rendered garment sector trade unions as extensions of elite rule. Vietnam is a unique case where the state-run trade union is largely absent from worker representation except during wildcat strikes – only then does the union mediate between workers and management.

The primary composition issue present in all of our target country is the paucity of women in union leadership despite the majority of garment workers being women. While this is improving, many women-led civil society organizations have sprung up to complement the labor movement and fill in this necessary gap. In India, the Garment Labor Union (GLU) is a unique women-led initiative, organizing garment workers in Bengaluru and Karnataka to develop collective bargaining power. The key members and office bearers are women who have worked in the textile industry. Women-led CSOs are also key stakeholders in Honduras and Mexico. Further research is necessary on the extent of women participation in the garment sector labor unions, CSOs, and the efforts at fixing this representative gap.

The general pattern regarding negotiation capacity is that national level union officials have largely been subject to several capacity building and training programs. Hence, national level capacity for social dialogue is high. In Vietnam and Bulgaria, the trade union confederations are active in national tripartite processes. In Myanmar, Indonesia, Cambodia, and Ethiopia, although the national level tripartite bodies are not legitimate or functioning, the national level union officials are generally capable. The issue however is with industry or enterprise level bargaining. In Ethiopia, the branch offices are much more strained and officials have not received the same level of training.

Overall the identified obstacles relating to social dialogue are:

- Limited union communication systems
- Corporatist or state run unions
- Few women in union leadership
- Fragmentation of capacity from national to enterprise level

5.4 Various International Unions

Global union federations (GUFs) and international trade union solidarity and support organizations (TUSSOs) are present and have several overlapping programs and initiatives in our target countries.

Table 9: Global Union and International Union Programs

Countries	Global Union Programs	International Union Programs
Indonesia	IndustriALL - provides funding to affiliate unions; provides trainings on Global Framework Agreements;	BBTK Belgium – works with SPN, Gartex, GSBI, and TSK Mondiaal FNV - supports FBLP, Trade Union Rights Center CNV Internationaal - supports KSBSI in MCCBA project in Subang Solidarity Center - conducts training, provides legal support and puts pressure on brands to pay severance for factory closures.
Myanmar	IndustriALL - Affiliates Industrial Workers Federation of Myanmar (IWFM) and Mining Workers Federation of Myanmar (MWFM). Works to strengthen affiliates. Has a national monitoring committee (NMC) working to implement GFA with H&M. ITUC - supportive of CTUM	Fagligt Faelles Forbund (3F) - Works with Danish brand, Bestseller, to support social dialogue in supplier factories Solidarity Center - provide training, research, education, legal support, and capacity building Union Aid Abroad/APHEDA - working closely with IWFM to strengthen WCCs in factories
Cambodia	IndustriALL - Leading the ACT initiative	Solidarity Center - provides technical support, research, and training. CNV Internationaal - Supports the Cambodian Labor Confederation (CLC), provides funding and technical support to CLC. Swedish Trade Union Confederation Confederation of Christian Trade Unions of Belgium
Vietnam	VGCL is only affiliated to the World Federation of Trade Unions , an international union organization of socialist countries	APHEDA - technical assistance projects with the VGCL Solidarity Center - providing training on OSH, awaiting government certification [verify] CNV Internationaal - CNV-VGCL pilot project on multi-employer bargaining in Van Lam, Hung Yen

Bangladesh	<p>IndustriALL - signatory of the Accord, supported the Tazreen Claims Administration Trust (TCA), instituted IndustriALL Bangladesh Council (IBC) as a means of fostering sectoral collaboration.</p> <p>UNI Global - signatory of the Accord.</p>	<p>Solidarity Center - provides training for factory-level union leaders; assists unions with achieving gender parity and strengthening internal structures.</p> <p>3F - works with H&M and Best-seller to improve conditions in supplying factories</p>
India	<p>IndustriALL - provides affiliate training on GFAs</p>	<p>Mondiaal FNV – support for trade unions in improving labor rights.</p>
Bulgaria	<p>IndustriAll Global Union - CITUB and Podkrepa are affiliates; organized Initiative for Strengthening Sectoral Bargaining in the Bulgarian Garment Industry.</p>	<p>Lo Norway has had joint projects with CITUB in the past (OSH project in 2009) but unclear if there are any TUSSO programs currently operating</p>
Ethiopia	<p>ITUC - CETU is an affiliate, ITUC provides capacity building.</p> <p>IndustriALL - IFTLGWTU is an affiliate, IndustriALL provides funding for organizing, trainings, and capacity building</p>	<p>Solidarity Center - supports the CETU, particularly organizing in the construction, agriculture, and textile sectors</p> <p>LO Norway - has ran several projects with CETU on social dialogue, collective bargaining, and promoting decent work for women.</p> <p>Mondiaal FNV - has conducted research on linkages between the Ethiopian garment industry and the Dutch market.</p>
Mexico	<p>IndustriALL - organized coordination meetings with independent unions regarding labor law reform</p>	<p>Solidarity Center - has organized transnational campaigns but has also pulled out of the garment industry</p>
Honduras	<p>IndustriALL – CUTH is an affiliate</p>	<p>Solidarity Center - supporting the Network against Anti-Union Violence; a key player in uniting Honduran trade union confederations</p>

6.0 Civil Society Organizations

6.1 CSO Typology

The role of local, labor civil society organizations varies within our target countries. Most labor CSOs complement the work of activist unions and times take on representative roles or worker advocacy, particularly in areas where trade union rights are limited by state authorities or generally very weak.

We find complementary labor CSOs undertaking research, organizing, educational, and consultative roles. In Myanmar, there has been growth in activist labor CSOs. These CSOs connect with workers directly as well as enterprise level unions in order to conduct trainings and assist in dispute resolution, including during wildcat strikes. Interestingly, some factory managers report that CSOs are more adversarial than established union federations such as the IWFM, owing to their activist roots. Some speculate that factory managers are becoming more open to working with established union federations as a result, in preference to activist CSOs such as Action Labor Rights (Blau, 2021). In Honduras, CSOs such as the Women’s Rights Center (CDM in Spanish) and the Honduran Women’s Collective (CODEMH in Spanish), promote gender issues and provide training for women union leaders (Minero, 2021).

Worker-centered NGOs take on organizing activities in areas where independent unions are lacking. In Mexico, CSOs such as *Centro Apoyo al Trabajador* (CAT) have been active in labor activism and organizing in the garment industry. There is only one, enterprise-level independent union in the entire Mexican garment industry and independent unions in other sectors have not been willing to organize in this sector. For example, CAT attempted to organize Jeans Vaqueros Navarra, a GAP and American Eagle Outfitters supplier, although this factory ended up closing rather than allow for an independent union. Most recently, CAT was involved in the Rintex organizing drive, during which the organization had their office broken into. Overall, Mexican labor CSOs have been essential in developing transnational labor solidarity in the absence of independent unions in the garment industry; their most meaningful success has been the Kukdong maquiladora in Puebla (described in more detail in section 11.1).

As part of the European Union, Bulgaria was required to establish an Economic and Social Council as a consultative body. The Bulgarian Economic and Social Council functions as a “civil parliament” and includes representatives from three main groups of civil society: (1) employers, (2) employees, and (3) various interest groups (including women’s groups, consumer groups, environmentalists, and other special interest groups). The Council adopts non-binding opinions, resolutions, and recommendations on key policy issues (Iankova, 2021).

6.2 CSO activity is subject to state restrictions

CSOs are not able to function freely in some of our target countries. In Vietnam, CSOs are highly restricted. CSOs are allowed to implement technical assistance programs via the VGCL-affiliated trade unions but are not able to engage in organizing. CSOs have recently engaged with the Social Affairs Committee of the National Assembly in recent labor reform consultations. Acceptance of CSOs varies with government departments. The National Assembly's Social Affairs Committee is much more open than MOLISA or the VGCL (Do, 2021). Government approval is also required for official events and conferences.

International organizations in Indonesia have likewise been subject to pressure from the government. In 2013, Indonesia's parliament enacted the Law on Mass Organizations, which "requires all NGOs to apply through the Home Affairs Ministry for official approval to operate." "The law bans foreign NGOs from activities that may 'disrupt the stability and integrity' of Indonesia or 'engage in activities that disrupt diplomatic relations'" (Human Rights Watch July 17, 2013). This law has led to a chilling effect on foreign NGO activities. Organizations like Oxfam have significantly reduced their programming related to trade unions.

Civic space has narrowed in Cambodia considerably since the elimination of the opposition political party. In Cambodia, the Law on Associations and Non-Governmental Organizations (LANGO) has sought to prevent independent unions and NGOs from working together (Checa, 2018)'Made in Cambodia' (in three acts and an epilogue.

6.3 International Organizations

International Labor Organization (ILO)

Many of our target countries are part of Decent Work Country programs, which are the main vehicle for ILO support to member states. We note key social dialogue projects the ILO is leading in the garment industry.

- ILO New Industrial Relations Framework Project organizing dialogues between employers and regional federations of labor on a quarterly basis to discuss issues such as social insurance policy, collective bargaining, wages and work safety.
- ILO Decent Work in the Garment Sector Supply Chains in Asia Project is funded by the Government of Sweden and aims to improve social dialogue, productivity, gender equality and environmental sustainability in the garment sector in Asia.
- ILO-VGCL pilot project on multi-employer bargaining agreements in Vietnam. The ILO and VGCL have negotiated an agreement among four garment factories in Ho Chi Minh City. This agreement covers over 3,000 workers but observers note that the benefits gained for workers are not very significant. The provisions negotiated in the agreement were only marginally higher than the allowances already paid in the companies beforehand.

- ILO's Garment Industry Project in Myanmar is a collaboration with the Swedish International Development Cooperation Agency (SIDA) and H&M. At the factory level, the ILO has developed a training curriculum covering social dialogue, productivity, sexual health, sexual harassment, and OSH. At the sectorial level, the ILO has worked with unions and employer organizations to increase industrial relations capacity. The factory level program has shown positive results heavily dependent on the level of time and effort dedicated by management. The sectoral trainings have been less productive given resistance by the MGMA.

Better Work

Better Work is a program of the ILO and the International Finance Corporation (IFC) which conducts factory audits, advises factories, and collaborates with governments to improve labor laws and with brands to ensure progress is sustained (Better Work, 2021). Better Work operates in several of our target countries, particularly Vietnam, Cambodia, Indonesia, Bangladesh, and Ethiopia. Better Work's presence is most extensive in Cambodia where all exporting garment factories have to be part of the Better Work program. Better Work's scope is much more limited in Bangladesh where the program only covers 260 factories as well as in Indonesia where only 216 factories are covered.⁸

Better Work requires a social dialogue component in all their member factories. In Vietnam, these are through the enterprise-level Performance Improvement Consultative Committees (PICCs) – a committee with equal numbers of worker and manager representatives. In PICC meetings, worker representatives, union leaders, and management discuss non-compliance issues found in Better Work's audits. Researchers have found however, that PICCs have not effectively equipped workers with voice. Workers do not have enough leverage in PICCs to voice their interests fully as they fear management retaliation (Anner, 2017).

A Tufts University impact assessment of the Better Work program found that Better Work "is having a positive impact on working conditions, worker wellbeing, factory performance, buyer behavior and social and human development" (D. Brown et al., 2016). Aggregate non-compliance rates have decreased over time. Critics of Better Work however argue that despite decreasing aggregate non-compliance rates, non-compliance rates are still very high. They argue that membership in the program deliberately avoids any linkages to export access (except in Cambodia) or brand licensing so BW's leverage is limited (author interview).

International Labor NGOs

The **Friedrich Ebert Stiftung (FES)** is a non-profit organization from Germany, committed to the values of social democracy. It is the oldest political foundation in Germany, established in 1925 by the German government, and is headquartered in Bonn and

8. Taken from Better Work website at the time of writing, January 2021

Berlin. FES is active in the majority of our target countries. FES provides funding, technical assistance, and research assistance to unions, local civil society organizations, and governments.

Clean Clothes Campaign (CCC) is a grassroots network of 212 trade unions and NGOs in garment-producing and consuming markets “dedicated to improving working conditions and empowering workers.”⁹ CCC has operated since 1989 and has an international office in Amsterdam, the Netherlands. The CCC has developed a “Code of Labor Practices for the Apparel Industry including Sportswear” based on ILO conventions. Among its campaigns is the Transparency Pledge Coalition, which has pressured brands, retailers, and MSIs to disclose manufacturing locations.

CCC has been active in several of our target countries. CCC published reports on the Bulgarian garment industry in 1998 and 2014¹⁰ as well as a critical evaluation of the Better Factories Cambodia program in 2012.¹¹ CCC has also filed complaints against major brands such as Adidas for breaching OECD guidelines in Indonesia¹² and regularly publishes critical assessments of brand CSR programs.¹³ Overall, CCC is more active in countries producing for European consumers and less so in Central America, which predominantly produces for the US market.

Worker Rights Consortium (WRC) is based in Washington, DC and assists member universities with “enforcement of binding labor standards they have adopted to protect workers producing apparel and other goods bearing university logos.”¹⁴ WRC has field representatives in several of our target countries, namely Bangladesh, Cambodia, India, Indonesia, Myanmar, Vietnam, Mexico, and Honduras. WRC has led several successful campaigns, among them the Washington Agreement with Fruit of the Loom in Honduras.

Maquila Solidarity Network (MSN) is a Toronto-based labor and women’s rights organization supporting workers in the garment and footwear industries in Mexico and Central America. MSN co-chairs and acts as the secretariat for the Mexico Committee of the Americas Group, a multi-stakeholder forum made up of several international apparel brands, the FLA, and IndustriALL. MSN conducts research, develops employer and union guidance on freedom of association, and lobbies governments. MSN has been active in the recent Mexico labor law reform as well as the USMCA labor chapter. In Honduras, MSN has recently supported workers at Star factory in El Progreso (which produces for Gildan Activewear) in receiving compensation after the factory closed.

Asia Floor Wage Alliance (AFWA)

The AFWA is an Asian (India, Indonesia, Sri Lanka, Cambodia, and Bangladesh) labor-led alliance addressing poverty level wages, gender discrimination, and freedom of association in the global garment supply chain. AFWA has conducted needs-based

9. Mission, cleanclothes.org accessed Jan. 20

10. <https://cleanclothes.org/file-repository/livingwage-europe-country-profiles-bulgaria/view>

11. <https://archive.cleanclothes.org/resources/publications/ccc-clec-betterfactories-29-8.pdf>

12. <https://cleanclothes.org/news/2018/03/14/clean-clothes-campaign-files-complaint-against-adidas-for-breaching-oecd-guidelines-in-indonesia>

13. <https://cleanclothes.org/news/2018/12/10/why-we-are-staying-away-from-h-m2019s-living-wage-summit-in-cambodia>

14. About us, workersrights.org accessed. Jan 2020

surveys in garment-producing countries to determine workers' needs and has calculated living wages at the country level, the Asia Floor Wage. The AFWA has campaigns, engages in debates and dialogues with brands and multi-stakeholder initiatives and international organizations to advocate for delivery of the Asia Floor Wage.¹⁵

15. <https://ler.la.psu.edu/gwr/documents/BhattacharjeeandRoyBargainingintheGCCtheAsiaFloorWageAlliance.pdf>



7.0 Multi-Stakeholder Initiatives

There are varieties of multi-stakeholder initiatives in the garment industry active in our target countries. Scholars have developed a typology categorizing MSIs based on form, scope, and function (Baumann-Pauly et al., 2017). Form refers to the MSI's governance structure and members. Scope refers to the issues covered – for instance, there are niche MSIs such as the Bangladesh Accord and Alliance pertain with worker safety in the garment industry versus broader governance MSIs like the Fair Labor Association (FLA). Lastly, function pertains to the MSI's main purpose: filling in governance gaps, monitoring, certification, or a combination of functions. For the purposes of our report, we compare three key governance multi-stakeholder initiatives: US-based Fair Labor Association, EU-based Fair Wear Foundation, and UK-based Ethical Trading Initiative.

Table 10: Multi-Stakeholder Initiatives

	Form	Scope	Function
FLA	Members include large brands based in the US and Europe as well as major Asia-based suppliers. FLA board seats are equally divided among corporate NGO, and university participants	Garment manufacturing and agricultural supply chains – efforts at addressing whole supply chain. Issue-based guidance (e.g. providing employer guidance on hiring refugees).	Sustainable compliance methodology, audits and assessments
FWF	193 mostly Europe-based member brands. Broad array of partnerships with other MSIs, business associations, CSOs, Dutch trade unions, and the Dutch government.	Mainly focused on garment and footwear industry.	Brand performance checks, factory audits, factory training, complaints helplines.
ETI	Alliance of companies (mostly UK-based but global reach), trade unions, and NGOs.	Agriculture in addition to garment and footwear industry	Building alliances and fostering dialogue among stakeholders. Lobbying the UK government. Helps with resolving member company violations.

These three MSIs have overlapping scope and functions, but each have captured different stakeholder subsets and some have implemented programs aimed at enhancing worker-employer dialogue. For example, in Myanmar, ETI is involved in a project with Danish brand, Bestseller, and Danish union confederation, 3F, aiming to promote social dialogue in Bestseller's supplying factories. Despite brand pressure, supplying factory managers have prevented the project from undertaking workshops on site. This shows the little leverage brands, let alone MSIs, have on suppliers (Blau, 2021). Also in Myanmar, Fair Wear has been providing mediation support related to complaints in member factories. Among the lessons learned in this process was the rigid hierarchy present in factory managers. Many of the factory managers Fair Wear representatives interacted with did not have autonomy to make decisions (Fair Wear, 2020).

Both these examples show the limitations of MSI dialogue programs. While MSIs have excellent network and convening strengths, they face instant barriers in supplying factories, as their influence is only as strong as that of their member brands. Much like the ETI and Fair Wear Myanmar experiences, a study of MSI programs in Bangladesh found that factory managers beyond top-tier factories have limited ability to engage with MSIs (Tighe, 2016). "Factory managers' interactions with MSIs were strategically managed and coordinated within factories by top-level management... Front-line production and technical managers appeared to have the closest interaction with workers, but minimal direct interactions with the MSIs. This study also found that managers generally viewed MSIs the same way they did codes of conduct – as "a narrow range of parameters that enabled factories to appear socially compliant, rather than how factory managers could meaningfully address workers' well-being" (Tighe, 2016).

Another obstacle facing MSIs in engaging in social dialogue, as well as other CSR related activities is their commitment to confidentiality of their member brands' supplier data. Transparency Pledge Coalition¹⁶ pressured Fair Labor Association to require company affiliates to disclose publicly their supplier lists (laborrights.org). The Coalition will engage with the FLA's Factory List Transparency Working Group to monitor implementation.

16. Clean Clothes Campaign, Human Rights Watch, IndustriALL, International Corporate Accountability Roundtable, International Labor Rights Forum, International Trade Union Confederation, Maquila Solidarity Network, UNI Global Union, Workers Rights Consortium.

8.0 Freedom of Association and Collective Bargaining

Effective exercise of the freedom of association and labor organizing is built on fundamental rights and democratic habits: freedoms of speech, expression, and assembly. The civil liberties available to citizens of our target countries vary significantly. Vietnam and Cambodia rank worst considering the strict government control of the press, assembly, and suppression of democracy. Comparatively – although still far from perfect – India and Bulgaria rank highest in civil liberties among our target countries. Overall, labor activists can be subject to violence or intimidation in many of our target countries and demonstrating and striking carries risks. In understanding the potential of social dialogue, one must be cognizant of the varying socio-political landscape of these countries.

Table 11: Fundamental Rights and Democratic Habits

	Civil Liberties	Freedom from Arbitrary Arrest
Bangladesh	Mass demonstrations are subject police suppression and activists are subject to arrest.	Protesting workers are subject to violence and arrest.
Bulgaria	Multi-party democratic system. Bulgarians generally have full political rights and freedom of expression.	The authorities generally respect constitutional guarantees of freedom of assembly. A number of mass demonstrations have proceeded without incident.
Cambodia	Political system dominated by Prime Minister Hun Sen and Cambodia People’s Party (CPP).	Opposition figures subject to imprisonment and arrest. Civil society groups face intimidation.
Ethiopia	Very weak.	Arrests of journalists and activists. Arrest of air traffic control union activists.
Honduras	Civil liberties suffer from institutional weakness, corruption, violence, and rule-of-law deficits.	Labor activists subject to violence.
India	Robust electoral democracy but ethnic and religious inequality and marginalization present.	Peaceful protests take place regularly.

Indonesia	Significant democratic gains since end of Suharto regime in 1998. However, there are problems with corruption and politicized use of defamation and blasphemy laws. International NGO activity is restricted.	Arrests against of journalists in 2018, particularly on defamation charges.
Mexico¹⁷	Suffers from severe rule-of-law deficits that limit political rights and civil liberties. Labor history dominated by corporatist union system.	Labor activists subject to violence and intimidation.
Myanmar	Transition from military dictatorship in 2012 before which unions were prohibited. Ruling party, National League for Democracy (NLD), has failed to uphold human rights. Military remains influential in politics.	Recent arrests of activists and journalists. History of imprisonment of unionists.
Vietnam	One-party state, dominated by the Communist Party of Vietnam. Freedom of expression, religion, and activism are highly restricted.	Arrests of dissident bloggers and members of religious groups outside of CPV control.

8.1 Freedom of Association – Organizing Rights

We assess obstacles to freedom of association by focusing on organizing rights in practice in addition to what rights are enshrined in law. In particular, we compare the union formation process, union independence, and anti-union discrimination protection. We assess dispute resolution systems and enforcement of their dispositions in the proceeding institutional support section. These criteria correspond to the rights listed in ILO Convention 87 and 98.

Union Formation

Union formation is difficult or outright impossible in our target countries. Not surprisingly, there are the myriad examples of anti-union animus by employers.

Table 12: Union Formation Process

	Table 12: Union Formation Process
Bangladesh	Burdensome. Unions are restricted in EPZs. Workers must show 20% support to organize.
Bulgaria	Employer resistance most severe in small and mid-sized factories. Employers pressure workers to abandon trade union membership. No industry-wide collective bargaining agreement in the past 8-10 years.
Cambodia	Burdensome. Trade Union Law places administrative barriers on union formation.
Ethiopia	Unions are de-facto banned from industrial parks.
Honduras	Anti-union culture prevails, companies close operations in response to unionization.
India	Labor law easements in special economic zones. Largescale contractualization impedes organizing.
Indonesia	Burdensome. Workers subject to anti-union animus but noted improvements with FOA protocol.
Mexico ¹⁷	Virtually impossible. Workers organizing independent unions subject to harassment, imprisonment, or union cooptation.
Myanmar	Anti-union dismissals at factory level, particularly in registering Basic Labor Organizations.
Vietnam	Uncertain. New labor code requires unions to register with a “competent government authority”

Employers routinely dismiss workers for organizing. In Myanmar, trade union officials describe a growing trend of anti-union dismissals at the factory level, particularly during the union registration process. Employer union resistance is sometimes so severe that management would rather close factories rather than recognize unions. In Honduras, Nike has been denounced for having suppliers closing operations in response to worker organizing, leaving workers without jobs and without their owed salaries and severance (Minero, 2021).

Government officials also interfere in the union formation process, either through obstruction or through legislation. In Myanmar, trade union officials allege that local labor offices impose unnecessary and arbitrary bureaucratic requirements for union registration that are not included in the current law as a means of limiting union registrations (Blau, 2021). In Cambodia, the Trade Union Law allows employers to use administrative barriers to prevent unionization. In India, changes in the labor law allowing for greater contractualization have made union-eligible employees lower and thus unionization more difficult (Nuon, 2021). We see unions outright restricted from Export Processing Zones in Ethiopia (Admasie, 2021).

17. Mexico has recently implemented labor law reform seeking to improve freedom of association. The conclusions presented here represent what has been occurring up to the present. The reform process is ongoing.

Even in Bulgaria, where tripartism is institutionalized in national and industry levels, freedom of association remains difficult in the enterprise level in the garment sector (Lankova, 2021). It is not surprising then that underpinning all the legal framework variation and varying degrees of institutional legitimacy and strength of unions, employers in the garment industry are universally anti-union. Creating and strengthening tripartite bodies and increasing union organizing capacity are important but cases like Bulgaria and Honduras show that employer resistance is inevitable. Worker agitation and pressure is fundamental to any organizing drive.

Union Independence

Union independence is contested among our target countries.

Table 13: Union Independence	
Bangladesh	Contested. Many unions in the RMG sector are employer-sponsored or controlled.
Bulgaria	CITUB and Podkrepa are independent
Cambodia	Contested. Independent unions compete with politically oriented and government controlled unions.
Ethiopia	CETU seen as largely independent after threat of general strike in 2017.
Honduras	Unions seen as independent from government and management control. Labor movement has unified under RSM-H.
India	Majority of union confederations are aligned with political parties. NTUI and HMS are only "independent" unions.
Indonesia	Independent unions prevalent in the garment industry. Suharto era SPSI legacy unions are not seen as independent.
Mexico	There is only one genuine "independent" unionized factory in the entire garment industry.
Myanmar	CTUM and its affiliates seen as independent. Non-CTUM federations and groups of unions are also independent. Basic/enterprise-level unions vulnerable to management interference and cooptation.
Vietnam	Uncertain. New labor code allows for independent "worker representative organizations"

In union plural countries, we see independent unions at the national level in competition with politically motivated or management run unions. Independent unions in the Cambodian garment industry are not represented in national level tripartite forums and compete with corporatist unions at the enterprise level. While Indonesia has a

robust independent labor movement, SPSI, a legacy union from the Suharto era, is generally seen as non-independent and maintains significant influence in politics and organizing (Tjandraningsih, 2021). The Bulgarian trade union confederations are independent. In Ethiopia, trade union independence is dependent on government approval where the trade union has undergone cycles of opening and closing. However, after a general strike threat in 2017, the current trade union is seen as relatively independent (Admasie, 2021).

Countries where unions have not been independent are currently undergoing reform. Just recently, in November 2019, Vietnam’s National Assembly passed a new labor code, which allows for independent worker representative organizations. Likewise, Mexico is currently implementing labor reforms, which it passed in May 2018. These reforms eliminate the Conciliation and Arbitration Boards and require worker consent for CBA implementation through a secret ballot among other reforms. Both of these changes though are still ongoing and in a period of uncertainty regarding their final iteration in practice. Successes of union independence are present in Honduras and Bulgaria where the trade union has managed to set aside differences and unite for a common cause.

Anti-Union Discrimination Protection

Legal protections for unions exist in virtually all of our target countries. On paper, many of these laws exceed the protections available to workers in the United States. However, in practice, most of these legal provisions are not enforced or implemented.

Table 14: Anti-Union Discrimination Protection	
Bangladesh	Weak. Legal protections exist but are insufficiently enforced – several cases of mass layoffs in response to union action.
Bulgaria	Legal provisions exist.
Cambodia	Weak. Government agencies interfere in union registration.
Ethiopia	Government not willing to act in instances of anti-union animus.
Honduras	Despite paying fines for violating FOA, companies continue violating the law.
India	Legal provisions exist but ant-union discrimination is rampant.
Indonesia	Weak. Insufficient protections for union discrimination.
Mexico	Non-existent. Legal provisions exist but are not implemented in the garment industry.
Myanmar	Weak. Labor laws lack sufficient enforcement. Employers can discriminate with impunity.
Vietnam	Not applicable given singular union. Oftentimes, HR managers are union representatives.

We see legal protections of freedom of association as weak or non-existent across the board in our target countries. Companies routinely violate the law and do so with impunity. In Indonesia, factory owners ignore Supreme Court rulings and Ministerial directives regarding duties to bargain at will. In Mexico, a similar pattern is present. Recently, Rintex, a Gap supplying factory, closed rather than to reinstate workers fired for attempting to form an independent union (Covarrubias, 2021). Workers never received their entitled severance and the company was able to do so with legal impunity. In Ethiopia, nominal workers' rights protections are poorly implemented and routinely infringed. Foreign companies forbid workers from organizing and have closed union access to industrial parks. The FOA problems do not only result from employers' negative attitude towards unions, but also the governments' reluctance to enforce workers' rights – the Ethiopian Investment Commission (EIC) has refused to permit union access to industrial parks. There are currently no unions in Ethiopian industrial parks where the majority of garment production takes place (Admasie, 2021).

Comparatively, all our target countries are equal in the weak or non-existent enforcement of freedom of association protections. Certain countries however are undergoing FOA reform albeit with limited or unclear progress. Mexico's labor law reform includes worker approval of unions and collective agreements through secret ballot elections, among other reforms. This promising change intends to ease independent union organizing and challenge the dominance of corporatist unions. However, employer interference persists, with employers offering bonuses before union elections clearly designed to influence votes (Malkin, 2019). As described above, Vietnam recently ratified ILO Convention 98 on collective bargaining, passed a new labor code allowing for worker representative organizations, and intends to ratify ILO Convention 87 on Freedom of Association by 2023. Labor scholars find the labor code language too vague and are skeptical of the union registration process, how unions will function in practice, and the scope of collective bargaining and social dialogue.

8.2 Collective Bargaining

Union Recognition and Duty to Bargain

Table 15: Union Recognition and Duty to Bargain	
Bangladesh	Many factory owners have a negative perception of unions and CBAs
Bulgaria	Employers resist union organizing and are unwilling to sign CBAs at both company and industry levels. Employers pressure workers to abandon their trade union membership.
Cambodia	Most Representative Status (MRS) restricts independent unions' ability to negotiate CBAs.
Ethiopia	Unions avoided and resisted in industrial parks.
Honduras	Companies use "collective pacts" to avoid negotiations
India	A code of practice exists requiring 10% member support for union recognition.
Indonesia	Employers reluctant to negotiate with unions or pit multiple unions against each other.
Mexico	Employers do not recognize and actively work against independent unions.
Myanmar	No legal duty for employers to bargain in good faith. Lack provisions for CBA registration and enforcement.
Vietnam	Uncertain. Labor Code leaves union registration up to "relevant government authority"

While union formation is difficult across our target countries (as described above), employer recognition and good faith bargaining (at the enterprise or industry level) presents a likewise burdensome process rife with labor rights violations. These infringements are present both in law and in practice. In Myanmar, there is no legal duty for employers to bargain in good faith and there are no legal provisions for CBA registration or enforcement. India similarly has no federal legislation requiring employer recognition of unions – although the 2020 labor code reforms have introduced this provision for the first time (Pratap, 2021). Legal impediments to organizing in export processing zones are present in Bangladesh and there are extra-legal barriers in Ethiopia. Although the 2019 reforms to Bangladesh's EPZ Labor Act reduced the worker consent threshold to form "Workers Welfare Associations," the law still forbids workers from associating with workers' organizations outside the EPZ. In Ethiopia, there simply are no unions in industrial parks and the government allows employer interference and resistance to continue – although some government officials have recently discussed potentially allowing unions to enter.

Government registration processes are overly burdensome or biased against unions. In Bangladesh, the government has rejected the majority of union registration applications in the garment industry – the government only accepted 36 percent of registration applications in 2018 (ITUC, 2018). In Cambodia, independent unions, in particular, find it very difficult to obtain the Most Representative Status from the Ministry of Labor and Vocational Training (MoLVT) (Xhafa & Nuon, 2018). This status defines the number of members required for a union to be recognized and whether or not a union is able to negotiate with employers. Employers and the government frequently take advantage of the MRS in order to avoid interacting with independent unions. Overall, labor rights activists characterize the Cambodian situation as “collusion between the government and employers who share the common goal of avoiding independent unionization” (Salmivaara, 2018).

In addition to legal obstacles, employer resistance is an obstacle to union recognition. In Bulgaria, employers actively resist enterprise union organizing and pressure workers to leave their unions. In Indonesia, employers routinely refuse to bargain in good faith. Honduran employers have “used collective pacts, which are collective contracts with nonunionized workers, to prevent unionization and collective bargaining because only one collective contract can exist in each workplace” (US DOS, 2019a).

As described in other sections, Vietnam and Mexico are currently undergoing reforms intending (1) recognize independent unions in Vietnam’s case or (2) facilitate independent union recognition in Mexico’s case. While the ILO applauds Vietnam’s ratification of ILO Convention 98 and new labor code allowing for workers organizations outside of the state-run VGCL, the law is ambiguous about collective bargaining rights and strike organization. Similarly, in Mexico, while the new law requires a voting process for acceptance/rejection of negotiated CBAs, the union must majority support from covered employees unlike in the United States where the law only requires a majority of votes from employees who actually vote (Straulino-Rodriguez & Agraz, 2019)2019, Mexico’s Ministry of Labor and Social Welfare or Secretaría del Trabajo y Previsión Social (STPS).

Overall key obstacles to union recognition and bargaining across our target countries are:

- Lack of legislation on compulsory recognition or duty to bargain among some target countries
- Exclusionary provisions in export processing zones
- Biased and burdensome registration requirements
- Government and Employer collusion in not recognizing independent unions
- Employer refusal to recognize unions or bargain in good faith
- Employer-dictated agreements not borne out of genuine negotiation with independent unions
- Uncertain reform outcomes

Scope and Subject of Collective Bargaining

Table 16: Scope and Subject of Collective Bargaining	
Bangladesh	Very limited CBA coverage. Few CBAs provide higher benefits than law.
Bulgaria	Employers do not provide necessary information to draft collective agreements or delay the CBA negotiations for months. Even with signed CBAs, some employers chose not to comply.
Cambodia	Use of MoUs instead of CBAs limit scope. Most CBAs do not exceed legal minimums.
Ethiopia	Variation. Some CBAs present that provide marginal benefits above minimum standards (higher leave days or bonuses)
Honduras	53% of workers in garment industry covered by CBAs that provide 2-3 percent wage premiums.
India	Virtually no bargaining.
Indonesia	Very limited CBA coverage. Few CBAs provide higher benefits than law.
Mexico	"Protection contracts" abound. These are CBA's written by management and "official" unions without workers' knowledge.
Myanmar	Most CBAs happen in response to a specific conflict and is limited to said issue in scope.
Vietnam	56% of CBAs are copies of labor law and only 15% show any worker participation. MCCBAs are a good start but in practice provide minimal benefits to workers.

In Myanmar there was an estimated 70 Collective Bargaining agreements (CBAs) as of 2015, many of which pertain to the garment industry. Most of the CBAs in Myanmar concern wages. CBAs in Myanmar are rarely up to international best practice standards, and where CBAs have been arranged in certain factories, they are not considered to be very strong. It is not common practice for employers and employees to negotiate on labor issues in Myanmar, and rather occurs in response to a specific conflict, as stipulated by the labor law (Blau, 2021). In Cambodia, despite a fairly high unionization rate of 62 percent for garment workers, out of 620 factories operating in Cambodia in 2014, the MoLVT had registered only 378 collective agreements, most of which focus only on single or *ad hoc* issues (Nuon, 2021).

Multi-company collective bargaining experiments have taken place in Indonesia and Vietnam with generally limited benefits. We analyze these agreements in more detail in section 11.3 but find that the agreements largely provide only minimal benefits and the negotiation process involved very little worker input. Proponents of the MCCBAs argue that they are an important first step in bringing together divergent stakeholders. Critics argue that these agreements undermine worker interests by excessively supplicating to management interests while providing limited benefits.

Right to Strike

Table 17: Right to Strike	
Bangladesh	Reforms in 2018 have eased the administrative barriers to strikes.
Bulgaria	Workers have the right to strike as stated in labor law.
Cambodia	Trade Union law imposes administrative burdens on right to strike.
Ethiopia	Wildcat strike action widespread, particularly at industrial parks because of lack of unions. Bureaucratic barriers deem strikes illegal hence, all strikes are wildcat strikes.
Honduras	Workers have the right to strike as stated in the constitution and labor law.
India	Legal strike requirements burdensome
Indonesia	Bureaucratic barriers used to deem strikes illegal.
Mexico	Striking workers are routinely dismissed and blacklisted.
Myanmar	CTUM does not encourage members to strike to avoid confrontation. Outside of CTUM, other federations and/or unions networked with labor NGOs are less resistant to striking. Wildcat strikes are common.
Vietnam	Workers frequently engage in wildcat strikes

We see strike activity present across our target countries. In Indonesia, there are reports of employer interference with workers' right to strike. Workers are legally required to provide seven days' notice after the breakdown of negotiations before striking. Employers often draw out the process by refusing to sign the legally required written statement that negotiations have failed thus exposing unions to the legal sanctions associated with an "illegal" strike.

Workers in Cambodia and Bangladesh have engaged in massive strike waves and experienced repressive government and employer retaliation. From December 2018 to January 2019, over 50,000 garment workers went on strike in Bangladesh protesting insufficient wage changes. After the strikes subsided, over 7,500 garment workers were dismissed from their jobs. Likewise, in Cambodia, garment factories dismissed over 1,000 workers after mass strikes at W&D and Seduno Investment Cambo Fashion factories in December 2018 (BHRRC, 2019). This is after the largest garment strike in 2014 involving over tens of thousands of workers, which ended in a violent government shutdown.

In Mexico, the constitution guarantees workers' right to strike and provides generous protections such as a ban on no-strike clauses and permitting sympathy strikes and

secondary boycotts. Despite these guarantees on paper, the corrupt Conciliation and Arbitration Boards have historically declared strikes illegal on the flimsiest of pretexts. However, a recent shift in the labor environment under the Andreas Manuel Lopez Obrador administration was seen in a January 2019 strike of 25,000 maquiladora workers in Matamoros. These workers prevailed and won enforcement of a minimum wage increase. The government neither intervened nor tried to quash the movement; nor was any union leader or activist imprisoned (Covarrubias, 2021).

In Vietnam, wage-related issues were the demands of workers in 40 percent of strikes so far. These issues include late payment of wages, lack of transparency in wage scale and wage adjustment, and especially the adjustment of wages in accordance with the minimum wage changes. Vietnam labor scholars note that wildcat strikes have become an effective weapon for workers to protect their own rights and bargain for better interests (Anner & Liu, 2016).

In Myanmar, the CTUM does not encourage strikes for several reasons. Firstly, the union does not want to appear confrontational in order to establish credibility within the emerging industrial relations system. Secondly, international organizations and donors pressure union federations to solve disputes through dialogue and alternative dispute resolution. Finally, some union officials believe that arbitration offers better worker outcomes than strikes, which are hard to manage and maintain. Despite this, wildcat strike activity is increasing in Myanmar, particularly at foreign-owned factories servicing large brands. Recent reports attribute this to either harsh working conditions and cultural misalignments or frustration at the outcomes of current dispute resolution systems (Blau, 2021).

Overall, we see in our target countries the frequent use of strikes by garment workers and a responsive government suppression. We do see divergences in Mexico and Vietnam in how the government responds to such unrest. In the absence of social dialogue and effective conflict resolution mechanisms, workers across our target countries resort to strike action in order to voice their frustration and demands.

9.0 Institutional Support

Institutional support mechanisms refer to forums where social dialogue take place and institutions that enforce agreements. These institutional support mechanisms are present domestically through enterprise level dialogue systems, national level tripartite forums, and dispute resolution mechanisms. Additionally, there are examples of institutional support at the international level through labor provisions in trade agreements and global framework agreements. The notion of institutional support presented here are not just bipartite and tripartite dialogue bodies but tools that establish dialogue processes, implement dialogue's outcomes, and address disputes.

9.1 Internal Institutions

Enterprise Level Dialogue Schemes

	Table 18: Legally Mandated Enterprise-Level Dialogue Schemes
Indonesia	Mandatory factory-level bipartite committees (Lembaga Kerja Sama Bipartit – LKB)
Myanmar	Workplace Coordinating Committees (WCCs) - composed of four members, equally representing employers and workers/ trade union.
Cambodia	None at enterprise level aside from collective bargaining.
Vietnam	2012 Labor Code reform includes compulsory labor-management dialogue.
Bangladesh	Workers Participation Committees (WPCs) are required in factories with more than 50 employees. The WPCs do not negotiate over wages, overtime, working hours, or working conditions.
India	Multiplicity of “legally mandated” committees (work committees, safety committee, grievance redressal committee, canteen management committee, internal committee) which largely do not exist or are not functional.
Bulgaria	Provisions for works councils exist but none currently operate in the garment industry.
Ethiopia	None at enterprise level aside from collective bargaining.
Mexico	None at enterprise level aside from collective bargaining.
Honduras	None at enterprise level aside from collective bargaining.

Vietnam's labor code reforms in 2012 instituted compulsory labor-management dialogue. The law specifically requires employers to hold workplace dialogues with employees at least once per quarter. However, the quality of these workplace dialogues have not met expectations. Many enterprises conduct dialogue only as a formality and do not engage workers in a substantive manner according to a report by the Ministry of Labor, Invalids, and Social Affairs. The enterprises found the provisions on workplace social dialogue rigid and difficult to implement as social dialogue may take different forms and frequency depending on the needs of each company. According to some recent empirical studies on social dialogue in the manufacturing sector, genuine labor-management dialogue and effective grievance handling are rare (Do 2017). One of the main reasons is the weakness of the enterprise unions, which are rarely engaged into dialogues with the management on workers' behalf nor addressing worker grievances. Another reason is the shortage of effective channels for labor-management dialogues and grievance handling in these companies. The management usually leave it for the team supervisors to communicate with the workers and handle their grievances without providing a proper dialogue system (Do, 2021).

Indonesia also has a form of legally mandated factory-level bipartite committees (Lembaga Kerja Sama Bipartit). Better Work Indonesia reported that in 2018, 45 percent of member factories did not have a functioning bipartite committee. BWI attributes noncompliance to committee turnover and the difficulty in ensuring that the committee includes all unions in a multi-union factory (Better Work, 2018). Regardless, "the presence of a bipartite committee is nothing more than a formalistic response to legal requirements to establish one." Where present, these committees tend to focus on resolving individual grievances rather than substantive negotiations over wages, working conditions, or other strategic and operational matters (Ford & Sirait, 2019).

Bangladesh's form of legally mandated elected participation committees likewise fail to function as effective social dialogue mechanisms at the enterprise level. Better Work Bangladesh found that 75 percent of member factories were noncompliant with the participation committee statute (Better Work, 2019). The report further found instances of supervisors using harsh and abusive language toward PC worker representatives. Furthermore, we found that negotiated topics are limited and do not include wages overtime, working hours, and working conditions. Committee recommendations are also non-binding. Moreover, most of the participation committees exist on paper only; according to the labor department in March 2014, there were 110 participation committees (Hossain & Akter, 2021).

In Myanmar, factories with over 30 employees are mandated to have a Workplace Coordinating Committee (WCC) (a bipartite committee) which is supposed to resolve disputes. We find that WCCs are not functioning for several reasons: lack of management support, undemocratic worker representative elections, and ill-defined decision-making accountability. Furthermore, not every factory has a WCC given government non-enforcement and little consequence for non-compliance. According to research by Action Labor Rights into working conditions at 39 Korean-owned garment factories, WCCs existed in only 14 percent of the factories (Blau, 2021).

Overall, mandatory enterprise-level worker committees or dialogue schemes do not exist, function properly, or are vehicles for employer cooptation. This is largely due to the absence of enterprise level unions, which renders these committees subject to management domination and leaves workers disempowered or often unaware of these committees.

Alternative Dispute Resolution Schemes

Table 19: Access to Dispute Resolution	
Bangladesh	2006 Labor Act has dispute resolution provisions but these are not followed. Labor courts lengthy and administratively burdensome process.
Bulgaria	National Institute for Conciliation and Arbitration plays a key role in settlement of industrial conflicts through mediation and arbitration.
Cambodia	Arbitration Council widely respected but proceedings are time consuming and losing parties do not always follow non-binding awards.
Ethiopia	Formal systems, such as the workplace trade dispute commission or conciliation bodies, are arduous and time-consuming. All ad hoc. Wildcat strikes common.
Honduras	Bipartite Commission has been successful at addressing disputes at the industry level.
India	Judicial system is time consuming and ineffective. Complex and overlapping array of tripartite committees that do not exist in practice.
Indonesia	Arbitration or mediation available but not pursued as unions generally do not trust the process. Litigation through industrial relations court seen as lengthy, expensive, and complex. Court orders often not enforced.
Mexico	Government officials and “official” union representatives dominate Conciliation and Arbitration boards routinely ruling against independent unions. Labor law reform will replace CABs with new Labor Courts and a Federal Center of Conciliation and Labor Registry.
Myanmar	Anti-union cases treated as individual rather than collective disputes. Dispute resolution lacks sufficient enforcement, workers resort to wildcat strikes.
Vietnam	2012 Labor Code mandates mediation and then arbitration but formal processes are not followed. Workers resort to wildcat strikes.

In Mexico, at the local level, the protection contracts are registered with the full knowledge of the local conciliation and arbitration boards. The Mexican system of conciliation and arbitration boards have been widely criticized for a lack of effectiveness, political partiality and corruption. Although they are nominally tripartite, in practice, these boards are controlled by the executive authorities. The violations of basic labor rights in Mexico and the existence of protection contracts have been denounced in both national and international forums (Covarrubias, 2021).

The Cambodian Arbitration Council (AC) is an independent tripartite dispute resolution body whose purpose is to resolve labor rights and interests disputes through mediation and arbitration. The AC is widely respected by trade unions and employers; the Garment Manufacturers’ Association of Cambodia and major trade union federations have signed memorandum of understandings committing the parties to work with the AC and abide by its decisions (Ponak & Taras, 2016). Eighty-eight percent of the AC’s cases are in the garment and footwear industries (Ponak & Taras, 2016). Despite its reputation, the AC’s decisions are non-binding (unless the parties agree to make the award binding) and employers appeal the councils findings in provincial courts (Jeron Merk, 2012). Furthermore, there are difficulties in even bringing cases to the arbitration council as cases deemed to be collective are ineligible for arbitration.

In Vietnam, the 2012 Labor Code requires a labor dispute to first go through mediation and if that fails arbitration (in case of an interest dispute) or referral to the People’s Committee (in a rights-based dispute). Despite these provisions, labor disputes do not pass through the formal channels. Among the 3,000 strikes between 1995 and 2015, none followed dispute resolution procedures – they were all wildcat strikes (Do, 2016).

National Tripartite Processes

Table 20: Social Dialogue and Tripartite Processes	
Bangladesh	A variety of tripartite forums exist responding to specific issues (e.g. Minimum Wage Board, Crisis Management Committee, Social Compliance Forum for RMG to name a few). The Tripartite Consultative Council (TCC) intends to advise the government on RMG industrial relations but it is unclear if the TCC has accomplished any substantive agreements
Bulgaria	History of national tripartism and established tripartite institutions. Recently, employer representatives have had difficulty coming to agreement amongst themselves in negotiations. Historically, the legitimacy of tripartite institutions has been in flux with the government choosing to ignore their suggestions.
Cambodia	Labor Advisory Committee skewed by dominant role of government-aligned unions, negotiations are limited to garment sector minimum wages, and unions lack complete information in negotiations.

Ethiopia	Nationally, the tripartite Labor Advisory Board issues recommendations to the Ministry of Labor and Social Affairs, rather than the government as a whole – there is no social dialogue regarding broader social and economic agendas. Influential in current labor law.
Honduras	National social dialogue through the Bipartite commission has led to negotiated wage increases and other benefits.
India	Government has set up about 44 tripartite committees at the national level such as the Indian Labor Conference, Standing Labor Committee, and Special Tripartite Committee to name a few – not many meet at all or function properly.
Indonesia	The government has not involved or ignored tripartite bodies (National Tripartite Body, National Wage Council, National Occupational Safety and Health Council) in determining labor policies. Government interaction with social partners is largely conducted on an ad hoc basis despite formal channels.
Mexico	History of corporatist national tripartite boards were controlled by executive authority. Labor law reform calls for a new system of labor courts and a federal agency responsible for certifying CBAs. It is unclear if the reform process includes provisions for national tripartite social dialogue.
Myanmar	The government has supported tripartite institutions with the purpose of pacifying international investors and organizations. These institutions are the National Tripartite Dialogue Forum (NTDF) and tripartite national minimum wage committee. The Government however has bypassed tripartite bodies. Trade unions withdrew from the NTDF in February 2019 but returned in June 2019.
Vietnam	National Minimum Wage Council meets to set new regional minimum wages.

National tripartite processes are very fragile in all of our target countries. This is largely because tripartism is heavily dependent on the attitude of the government in power.

Government bypassing of tripartite bodies is prevalent in Myanmar, Indonesia, and Bulgaria. In Myanmar, frustration at the lack of government consultation prompted the CTUM and MICS to withdraw from the NTDF in February 2019. The unions eventually rejoined but the forum lost legitimacy and is laden with mistrust. In Indonesia, the government has implemented several labor policies without involving or consulting tripartite institutions. The latest example is the issuance of PP 78 of 2015 concerning Wages. The regulation arbitrarily revokes the role of unions in negotiating minimum wage fixing (Tjandraningsih 2021). Finally, in 2008, Bulgaria’s two main trade union confederations withdrew from the National Council for Tripartite Cooperation because the government was acting unilaterally. CITUB and Podkrepa eventually returned to the

NCTC. Overall, these examples show a constant pattern of governments bypassing tripartite institutions and frustrating social partners.

We further see heavily biased tripartite institutions, particularly in Cambodia. There, tripartism is largely biased in favor of government and employers. The Garment Manufacturers Association has amassed significant influence on the Cambodian Government. Moreover, the Labor Advisory Council is dominated by government-aligned unions (Nuon, 2021).

In Vietnam and Honduras, we see more effective tripartite processes. Vietnam's National Wage Council has met annually to negotiate minimum wage increases. Negotiations in 2014 reflected a genuine bargaining process with the VCCI and VGCL coming to an agreement and MOLISA implementing the recommended changes (Do, 2021). In Honduras, a bipartite commission of Honduras' three main union confederations and the Maquila Employers' Association have come to agreements providing affordable food baskets for workers, having regular dialogues, providing training on FOA and Collective Bargaining, childcare centers, providing medical care, as well as an affordable housing program (Minero, 2021). In Ethiopia, the Labor Advisory Board was instrumental in recent negotiations over labor law reform. Despite tripartite engagement in this particular reform, observers remain skeptical about the role of tripartite institutions moving forward. While the government is still weak, it needs tripartite legitimacy, if the government were to become stronger, these processes may not be followed.

9.2 External Institutional Support

Trade Agreements and Labor Provisions

NAFTA/USMCA, DR-CAFTA, TPP, EVFTA

In Mexico, Honduras, and Vietnam we see the impact of free trade agreements on reforming domestic legal frameworks and creating transnational advocacy networks.

The 1994 North American Free Trade Agreement (NAFTA) was the first trade agreement to link labor standards to trade (albeit with limitations) through the North American Agreement on Labor Cooperation (NAALC). NAALC sought to improve working conditions through cooperation – information exchange, technical assistance, and consultation – and limited oversight. Issues of freedom of association, collective bargaining, and the right to strike were not eligible for arbitration enforcement. In 2004, a 10-year review of NAALC by the Maquila Solidarity Network stated, “none of the 28 NAO submissions have gone beyond the Ministerial Consultations phase” (G. Brown, 2004). While scholars agree that NAALC failed to resolve labor disputes or improve Mexican labor law enforcement, some scholars argue that NAALC's cooperative instruments created new transnational networks that engaged labor leaders and activists through cross-border solidarity (Compa, 2001).

U.S. President Donald Trump promised to update NAFTA during his 2016 campaign and renegotiations began in August 2017. With pressure from US House Democrats and US labor unions, the updated United States-Mexico-Canada Agreement (USMCA) includes much stronger protection for independent Mexican unions. The USMCA Chapter 23's Annex on Worker Representation in Collective Bargaining in Mexico sets forth specific legislative actions "necessary for the effective recognition of the right to collective bargaining" (Ch.23-A, ¶1). These changes include:

- Establishing independent bodies to register union elections and independent Labor Courts to adjudicate disputes related to collective bargaining agreements and union recognition
- Ensuring a secret ballot process for union elections
- Ensuring that labor adjudication is not subject to unduly delays or procedural challenges
- Verification of CBA legality and majority worker support
- All existing CBAs be revised during the four years after the legislation goes into effect
- All CBAs are made available to workers and available for public access online. (Ch. 23-A, ¶2)

In order to enforce these provisions, the agreement establishes an Interagency Labor Committee for Monitoring and Enforcement, which will monitor the implementation and maintenance of Mexico's labor reform. These activities involved funding labor monitoring and enforcement programs, biannual congressional reporting, and establishing Mexico-based labor attaches to monitor reforms among others.¹⁸

Much like NAFTA, the Dominican Republic – Central American Free Trade Agreement's (DR-CAFTA) Chapter 16 links labor standards with free trade. In the case of Honduras, scholars argue that the DR-CAFTA labor rights provisions "have not served as a tool to counter anti-union violence" and that many complaints remain unresolved. In 2012, Honduran workers with assistance from the AFL-CIO filed a complaint to hold the Honduran government liable. The US Department of Labor issued a report in 2015 raising "serious concerns regarding the effective enforcement of labor laws in Honduras." The DOL and Honduran Labor Ministry developed a Labor Rights Monitoring and Action Plan. Under this plan, the US DOL allocated USD 7 million towards projects strengthening labor rights in Honduras (WOLA, 2009). From this, social dialogue spaces formed to follow up on commitments made by the Honduran governments to comply with the OTLA recommendations. "[The CAFTA complaint] influenced the improvement of openness to social dialogue in the maquila and the discussion of new laws favorable to working people."

The genesis of Vietnam's recent labor code reforms was the labor side agreement under the Trans-Pacific Partnership to which Vietnam had committed in 2015. The labor side agreement included provisions for independent unions outside of the VGCL.

18. See H.R. 5430

MOLISA had already produced two drafts of the new Labor Code for public debate. However, after President Trump withdrew from TPP, the second draft of the Labor Code was taken down from the Government website without explanation. The law revision was halted for more than a year. The revision process was resumed in 2017 when the EU parliament increased their pressure on the government for a concrete commitment to legal labor reform before the EU would approve the EU-Vietnam Free Trade Agreement (Do, 2021).

EU EBA

On February 12, 2020, after a yearlong investigation, the European Commission decided to withdraw part of Cambodia's tariff preferences under the European Union's 'Everything But Arms' (EBA) trade program due to "serious and systemic violations of the human rights principles enshrined in the International Covenant on Civil and Political Rights" (European Commission, 2020). The tariff preference withdrawal will affect part of Cambodia's garment and footwear industry, as well as the entire travel goods and sugar industry. Approximately €1 billion worth of Cambodia's yearly exports to the EU are affected. On August 12, 2020, the EU Commission decided to partially list Cambodia's EBA preferential treatment (European Commission, 2020).

GMAC quickly responded by expressing its disappointment in the EU decision and stated that Cambodian workers would be negatively impacted. Prime Minister Hun Sen "shrugged off" the EU's move, promising new tax cuts for affected garment producers and calling on China to invest in Cambodia (RFA, 2020). Cambodia political analysts argue it is unlikely that the EU EBA withdrawal will result in improvements in human rights and expansions of civil liberties (Parikh, 2020). The current regime has used EU threats as a means of reinforcing a strongman narrative and is reinforced by China's financial and diplomatic support.

In light of the COVID-19 pandemic, GMAC as well as several European clothing brands have called on the EU Commission to delay the withdrawal of the EBA trade benefits. Despite these pleas, the EU went ahead with withdrawing the trade preference benefits. In addition to Cambodia, the EU is continuing "active engagement" with the government of Myanmar over concerns over the human rights violations, particularly in Rakhine, Kachin, and Shan states (Ko Ko, 2020). In February 2019, an EU mission concluded a second monitoring trip to gauge progress on human and labor rights indicators. So far, the EU has not suspended EBA benefits for Myanmar.

Broadly speaking, trade provisions, particularly US-led agreements like USMCA and TPP, have led to legislative changes in production countries in the cases of Mexico and Vietnam. Despite this however, workers have continued to face labor rights violations (particularly in Mexico and Honduras). So far, the application of dispute resolution schemes in trade provisions has not been able to respond to workers' needs quickly or remedy their situations at all.¹⁹ Furthermore, sanctions such as those under the EBA scheme have yet to impact human rights practices in Cambodia. In practice, trade

19. See Minero 2021 regarding Honduras' case under CAFTA

policy has yet to lead to gains in bargaining for workers or has catalyzed dialogue in the same way as tragic events, such as Rana Plaza or the Cambodian minimum wage killings in 2013 have.

Global Framework Agreements

Global Framework Agreements (GFAs) are an alternative mechanism for improving workers' rights and creating spaces for impactful social dialogue in garment supply chains. Unlike private regulation, which compliance monitoring through third party auditing, GFAs aim to strengthen enabling rights such as freedom of association and collective bargaining. The mechanism is straightforward: Lead firms and Global Union Federations (GUFs) negotiate agreements on a global level, which the lead firms promise to implement in all their supplying factories. In the garment industry, IndustriALL has negotiated several GFAs with global brands such as ASOS, H&M, and Inditex among others.

The IndustriALL H&M GFA negotiated in 2015 includes provisions promoting collective bargaining, worker health and safety, industrial relations training, and lead firm respect for human and trade union rights. The agreement works through national monitoring committees – for the H&M GFA, these committees are in Cambodia, Bangladesh, Myanmar, and Turkey. At the time of writing, we are not aware of any empirical assessment of IndustriALL's garment GFAs but found anecdotal support in our country research. In Myanmar, IWFM have learned to leverage the GFA and how it can be a negotiation tool to approach brands directly and has prompted them to come up with some strategies at the sectoral level (Blau, 2021).

While on their face, GFAs are a promising non-state alternative to private regulation, scholars find that these agreements face steep implementation and practice obstacles (See Fichter & Mccallum, 2015; M. P. Thomas, 2011). A key challenge is socialization of the GFA. GFAs apply to all supplying factories and most garment supplying factories are not currently unionized. Not only are suppliers likely unaware of GFAs, but most non-unionized workers will not be as well. A second challenge is the top-down dynamic. GFAs do not avoid the same pricing and sourcing squeeze in the buyer-supplier relationship. Supplier compliance with GFAs likewise are dependent on the supplier-buyer relationship and the strength of the relevant union, if applicable. Another challenge is the limitation to one buyer. Suppliers are still subject to the practice multiplicity dilemma as most produce for brands not part of the GFA.

10.0 Success Cases and First Steps

In addition to analyzing the barriers to impactful social dialogue, we wish to draw lessons from cases of success found in some of our target countries. There are many different versions of success; we accordingly focus on five types: organizing and mobilization, sectoral approaches, collaborative institutions, and consensus building.

Table 21: Success Types and Cases

Success Type	Case(s)
Organizing and Mobilization	<i>Mexico</i> – Kukdong/Mexmode <i>Honduras</i> – Fruit of the Loom Washington Agreement <i>Bangladesh</i> – Donglian Fashion & Natural Denim
Sectoral Approaches	<i>Vietnam</i> – various multi-employer CBAs <i>Indonesia</i> – multi-employer CBAs IndustriALL Action, Collaboration, Transformation (ACT)
Collaborative Institutions	<i>Indonesia</i> – FOA Protocol <i>Bangladesh</i> – Accord on Fire and Building Safety; Alliance for Bangladesh Worker Safety
Consensus Building	<i>Honduras</i> – Maquila union forum

10.1 Organizing and Mobilization

Organizing and mobilization refers to successful cases of union organizing, recognition, and bargaining in a factory, sectoral, or national levels. As described in preceding sections, across our target countries, union organizing is extraordinarily difficult and success is rare. Where unions have organized, their collective agreements are limited in scope. There are also many cases of unions successfully organizing only to have the factory close after a short period. These four cases show unique circumstances where unions were able to organize and negotiate good and lasting collective bargaining agreements.

Kukdong/MexMode in Mexico

Kukdong, a Korean firm, manufactured apparel for Nike and Reebok, who in turn supplied garments to universities affiliated to the Worker Rights Consortium (WRC). In

2001, workers began a series of protests regarding labor violations. The company reacted by firing and intimidating dozens of workers. The WRC's investigation found that workers' demands were valid, documented repression, child labor, and confirmed that the company had a (protective) collective bargaining agreement with an illegitimate union (affiliated with the FROC-CROC).

The WRC put pressure on Nike and Reebok to act. Nike eventually terminated their relationship with Kukdong, who subsequently changed its name to Mexmode. On the local level, Centro de Apoyo al Trabajador (CAT- Workers Support Center) and representatives of the Union Nacional de Trabajadores (UNT- National Union of Workers, an independent union) played important roles. The CAT (a labor and human rights NGO) initiated intense activism, diffusion and local education while the UNT reinforced national solidarity. In addition, the Solidarity Center, Maquila Solidarity Network, United Students Against Sweatshops, Canadian Labor Council, Campaign for Labor Rights, International Labor Rights Fund, and UNITE's Behind the Label took the struggle to international forums. The Korea House of International Solidarity (KHIS) played a unique role as well. KHIS is a South Korean labor NGO that monitors Korean companies overseas. KHIS helped bridge the "culture gap" between Korean management and Mexican workers. KHIS's representatives were Korean lawyers and academics, and they were able to build credibility with management. They explained to management how the reinstating union leaders was required by Mexican law and by the brands' codes of conduct (Hermanson, 2004).

Workers eventually formed an independent union, SITEMEX (Independent Union of Workers of MexMode) and negotiated a contract with wages comparatively higher than other manufacturers. Kukdong/Mexmode remains the only independently unionized garment factory in all of Mexico. Scholars attribute the success of the Kukdong campaign to the creation of transnational advocacy networks (TANs) – linkages between varying stakeholders in producing and sourcing countries – and the intense international pressure that forced management to overcome entrenched union resistance (Rodríguez-Garavito, 2005). "International solidarity has proven to be a decisive factor in many cases, raising the conflict to a new level and bringing new forces into play" (Hermanson, 2004).

In 2011, SITEMEX progress was reversed when it passed into the hands of an *Antorcha Campesina* union, a PRI organization known for its violent and extreme forms of working. Since then, SITEMEX has remained under the same leadership—constantly reelected—with unsuccessful efforts by independents to recover its leadership (Covarrubias, 2021).

Fruit of the Loom Washington Agreement in Honduras

Fruit of the Loom owned a maquiladora in Honduras called Jerzees. In 2007, workers, together with the CGT, decided to organize a trade union in the factory. The company in turn dismissed 72 of the 80 organizing workers. The organizing workers contacted

the Workers Rights Consortium (WRC). The WRC conducted an investigation and found that the dismissals were based on anti-union animus. The company reinstated workers in January 2008 and the workers formed the Jerzees Company Workers Trade Union (SITRAJERZEES) and began negotiations. During negotiations, the company announced that it would close operations citing market difficulties. In response, the WRC conducted another investigation as well as the FLA. Both investigations found that the company closure was because of the union. In response, the USAS began a pressure campaign across US universities to cut contracts and licensing agreements with Jerzees (Minero, 2021).

Negotiations continued in August 2009. On November 14, 2009, SITRAJERZEES CGT signed a historic agreement also known as the Washington Agreement. This agreement included the reopening, a social fund to help compensate for the almost nine months without working, the negotiation of a collective agreement, allowing trade union organization in all its factories to the CGT, creation of a figure called ombudsman for the resolution of disputes, and a Supervisory Committee to ensure compliance with the agreement. The most important point of the Agreement was a legal protection clause stating that if the parties breached any clause they could be sued before a U.S. court. This Agreement, the campaign and the experience gained by CGT, has led to more unions negotiating CBAs, greater government influence, and respect for human rights. This success has likewise led to a coordinating group of unions throughout Central America aiming to persuade more firms to respect their organizing rights (Minero, 2021).

Much like the Kukdong struggle, underpinning the FOL case were transnational advocacy networks and international pressure. Unlike Kukdong, there have been several other successful union organizing campaigns and collective bargaining agreements in Honduras. The critical difference lies in the domestic industrial relations ecosystem. Mexico's garment industry had been plagued with protectionist unions whereas the main union confederations in Honduras were independent for the most part. The FOL agreement in Honduras became a galvanizing force for union cooperation. Conversely, efforts to unionize other factories in Mexico have all failed largely due to state resistance and the lack of any independent union confederation in the garment industry.

IFA success in Bangladesh: Natural Denim and Donglian Fashion

As described in preceding sections, union organizing in Bangladesh is difficult and very few workers are under collective agreements. Suppliers often dismiss organizing workers and union activists have been subject to arrest (HRW, 2017). Despite this, unions were recently able to organize two garment factories. IndustriALL affiliate Somnilito Garments Sramik Federation (SGSF) signed agreements with Donglian Fashion in January 2017 and with Natural Denims Ltd. in February 2017. The Donglian Fashion case is especially significant since in 2014, SGSF workers were forced to resign and management obtained a court order barring union activities on company premises (IndustriALL, 2016). Eventually, an international campaign involving Japanese affiliate

UA Zensen was able to pressure the Japanese parent company to negotiate with the union (IndustriALL, 2016). In the Natural Denims case, the SGSC used IndustriALL's global framework agreement with H&M and Inditex in their negotiations (IndustriALL, 2017).

Again, these two cases show the importance of international networks and pressure. For Donglian Fashion, this involved international solidarity with Japanese unions. For Natural Denims, international agreements provided a foundation for negotiations.

10.2 Sectoral Approaches

Outside of organizing and mobilization, several international unions and NGOs have undertaken multi-employer and industrial bargaining projects. So far, these projects have led to multi-employer agreements in Indonesia and Vietnam albeit with diverging opinions from activists and observers on the degree of success. Proponents argue these agreements are an important "first step" in bringing together opposing stakeholders. Critics argue that the agreements provide marginal benefits and involved minimal worker voice.

Indonesia MCCBA

In August 2017, the first multi-company collective bargaining agreement (MCCBA) in Indonesia was signed in Subang. The agreement involved ten garment factories, six trade unions, and covers approximately 17,000 workers (CNV, 2017). This agreement came out of the long standing partnership of Garteks KSBSI with CNV Internationaal. The agreement included provisions for pregnant workers and longer maternity leave (Fair Wear, 2018) although some labor activists note that many of the provisions do not go above the law (author interviews).

Overall, trade union representatives involved in the MCCBA project note that the core of the project was creating trust among tripartite partners, particularly through the trainings and discussions in the West Java Social Dialogue Forum. Additionally, a trade union leader in Subang notes that the project has helped introduce workers to CBAs generally, as previously there had only been one CBA among the 700 factories in the region. Employers note how the agreement has helped standardize wage and working conditions among participating factories and has prevented factories from hijacking workers from other factories.

Vietnam MCCBA

In 2014, the ILO and the VGCL began piloting multi-company collective bargaining agreements (MCCBAs) which aimed to have upper-level unions (provincial, district, or industrial zone) negotiate with agreements multiple employers. By 2016, one of the successful pilots was an agreement in District 12 of Ho Chi Minh City which covered

two Korean and two Vietnamese-owned garment factories. The pilot agreement covered 3,352 workers and had the term of one year. However, the benefits gained for the workers from this MECBA were not significant. The key provisions of the agreement included an attendance allowance of VND500,000/person/month (or USD 22/person/month) and a meal allowance of at least VND 13,000/person/day (or USD 0.60). These provisions were the same as, or slightly higher than, the allowances already paid in these four companies. There was no agreement on wages, bonuses and other working conditions (Do, 2021).

Additional pilot MCCBA projects have taken place. Between 2016 and 2020, CNV Internationaal undertook a project to promote multi-company bargaining in the garment companies in Van Lam district of Hung Yen, a province neighboring Hanoi. The project used a bottom-up approach in which each participating company nominated a core group of a total three representatives from management, enterprise union leadership, and rank-and-file workers. The core groups received trainings from CNV and VGCL on how to conduct dialogue. Van Lam district unionists also visited the garment companies to encourage effective dialogue. The project managed to persuade five companies to join the multi-employer bargaining agreement, covering 4,000 workers. In 2020, CNV Internationaal supported the VGCL in signing two more MCCBAs for garment companies in Thu Duc and Tan Binh district of Ho Chi Minh City (Do, 2021).

Action Collaboration Transformation on Living Wages (ACT)

The ACT program was set up in 2015 by global brands and retailers in the garment sector in collaboration with IndustriALL. ACT currently has 20 member brands, among which are H&M, Inditex, and PVH. ACT aims to improve wages in the industry by establishing industry collective bargaining in key garment and textile sourcing countries, supported by responsible purchasing practices. As a long-term project, all members commit to support higher wages and facilitate the payment of a living wage in the garment industry. The key innovation of the project is to link purchasing practices to wage payment, such that the negotiated wage is supported and enabled by the terms of contracts with global brands and retailers. The ACT initiative is premised on the assumption that the cost of higher wages and better working conditions resulting from negotiations between unions and the employer association will in some way be covered by buyers. This opens up space for collective bargaining on the national level. ACT is thus a framework for all stakeholders to work together to achieve living wages, linking purchasing practices to collective bargaining at industry level between national unions and employer associations.

Within our target countries, ACT is active in Cambodia, Bangladesh, and Myanmar although it is looking to move to Ethiopia. In Cambodia, ACT has made progress in consultations between trade unions and GMAC; however, at the time of writing, the bargaining process has stalled as GMAC withdrew from the bargaining table citing the COVID-19 pandemic and the loss of EU EBA status (Nuon, 2021). In Bangladesh, ACT sees potential in new BGMEA leadership, which recently approved extension of

the Accord (interview with ACT). In Myanmar, factories producing for ACT brands have agreed on a Myanmar Freedom of Association Guideline with the Industrial Workers' Federation of Myanmar (IndustriALL, 2019).

ACT's greatest barrier is signing on more major brands, particularly US-based brands who are hostile to unions. Despite having some major brand members, ACT members source from approximately 30-50 percent of Cambodian factories hence GMAC has been hesitant to commit when only a limited set of factories actually produce for ACT members.

10.3 Collaborative Institutions

Collaborative institutions refer to narrow, regional initiatives that target specific issues such as worker safety or freedom of association by bringing together multiple stakeholder from global and local levels.

FOA Protocol

The Freedom of Association Protocol in Indonesia is a non-judicial mechanism that establishes standards for freedom of association in the garment and footwear industry. The protocol is a multi-party agreement signed by Indonesian labor unions, factory owners, and global brands including Nike, Adidas, and Puma among others with Oxfam acting as a facilitator. The Protocol establishes specific standards for freedom of association in supplying factories and a grievance process. The freedom of association protocol is intended to be one out of three total protocols – the others on living wages and job security.

A 2016 evaluation of the FOA protocol found that it had a positive effect in creating lines of communication between unions and brands, enhancing the ability of some unions to organize and recruit members, and helping unions resist employer efforts to gain minimum wage exemptions from the government (Connor et al., 2016). The same evaluation, however, also found that the protocol largely facilitated informal conflict resolution, as implementation of formal workplace committees were slow or nonexistent. Furthermore, the protocol is limited in scope in that it only covers first tier suppliers.

The Protocol is currently in the midst of an existential crisis. Oxfam had been facilitating negotiations among unions, suppliers, and lead firms. However, the Indonesian government ordered Oxfam to cease working with unions in any capacity if they wanted to continue working in Indonesia (author interview). With Oxfam gone, there has been a significant decrease in the intensity of dialogue among protocol parties and protocol "offshoot" projects have increased fragmentation among participants. Mondiaal FNV and CNV Internationaal have supported the Decent Work Working Group (DWWG) with the protocol unions as a way of expanding the FOA protocol network and conducting further research on living wages and contractual workers in Indonesia. Meanwhile, the Belgium Trade Union for Workers in Eight Different Indus-

trial Sectors (BBTK) have provided funding to three of the FOA protocol union signatories to draft protocols on living wages and jobs security. Brands such as Pentland have cancelled involvement in future protocols citing its involvement with IndustriALL's ACT project. This has intensified union rivalry and protocol fragmentation. Unions have also become frustrated with brands. Brands do not want to move forward with additional protocols on wages and job security until FOA protocol is strengthened; unions have the opposite point of view. Overall, the FOA protocol shows the complex array of political interference, overlapping projects, and inter-party rivalries.

Bangladesh Accord and Alliance

The Accord on Fire and Building Safety in Bangladesh and the Alliance for Bangladesh Worker Safety were formed after the 2013 Rana Plaza factory collapse. The Accord and Alliance together gathered more than 250 brands and retailers.

The Accord on Fire and Building Safety in Bangladesh is a unique example of a legally binding and enforceable agreement between brands & retailers and trade unions. The Accord includes six key components to improve safety at country's RMG sector – (1) a five year legally binding agreement between companies and trade unions; (2) an independent inspection program involving workers and trade unions; (3) public disclosure of all factories, inspection reports and corrective action plans (CAPs); (4) commitment by signatory companies to ensure sufficient funds are available for remediation and to maintain sourcing relationships; (5) democratically elected safety and health committees in all factories; and (6) worker empowerment through an extensive training program, complaints mechanism and right to refuse unsafe work. At the center of Accord, there is the commitment by companies to work with their suppliers to secure financing, maintain orders, and ensure renovations and repairs to make factory buildings safe (Hossain & Akter, 2021). The Accord was signed by more than 200 international brands from 20 mainly European countries (sourcing from over 1600 factories covering more than 2 million workers), two global union (UNI Global and IndustriALL Global Union), eight trade federations of Bangladesh, and four international NGOs as witness signatories. The initial tenure of the Accord ended in May 2018 but has been extended for another three years until May 31, 2021.

Scholars and observers have generally viewed the Accord as a positive force in improving working conditions in Bangladesh. "By the time the first Accord ended in 2018, 85 percent of the safety hazards identified in initial inspections had been fixed, 150 factories had completed the safety remediation, while another 857 had completed above 90 percent of the remediations required" (Kuruville, 2021).

The Alliance for Bangladesh Worker Safety is an agreement of North American buyers. Twenty-nine companies are currently in the group who are committed to improve safety situation in RMG factories. The agreement is built upon the principles of commitment, collaboration, transparency, and accountability, and contains specific and measurable actions across areas essential to improving fire and building safety. Initial inspection is now over for 759 factories out of 765 (Alliance 2016). The Alliance

ceased operations on December 31, 2018. Despite criticisms from worker-centered NGOs on the Alliance's lack of a legally binding arbitration provision, the Alliance has also been successful at improving worker safety. "ALLIANCE (comprising 29 companies) reports similar successes by the time it ceased operations in December 2018. 93 percent of the 714 Alliance factories covering 1.3 million workers had completed remediation and 428 factories achieved completion of their correction action plans. 1.6 million workers were trained on fire safety, a confidential 24 hour hotline was established and continues to operate, and worker safety committees are operating in 181 factories" (Kuruville, 2021).

As of June 2020, the RMG Sustainability Council (RSC) officially took over the work of the Bangladesh Accord. Despite guarantees by the BGMEA that RSC will more than adequately take over the Accord's functions and be an equitable institution representative of worker interest, many media and worker representatives remain uncertain about the Accord's future (MSN, 2019). Some labor scholars argue that despite the Accord's substantial achievements in OSH, the Accord has had limited success in empowering workers given the lack of freedom of association provisions and the state's opposition to pro-labor reforms (Bair et al., 2020).

Currently, the signatory brands of the Accord remain united under the RSC until June 2021 when the three-year extension ends. The RSC has already begun conducting inspections and schedules to do approximately 250 per month (Saini, 2020). In October 2020, the CCC published a brief outlining their concerns over the RSC's activities so far. The CCC asserts that the RSC has failed to start a boiler safety inspection program, recruit an independent Chief Safety Officer (CSO), and publish remediation data on their website. Furthermore, the CCC notes that the RSC's governing board has brands and suppliers occupying 12 of the 18 positions and that board fails to include CSOs (The Daily Star, 2020).

10.4 Consensus Building

Honduran Trade Unions

Honduras is a success case where the three main union confederations were able to set aside their differences and work together. The three main confederations: (1) the Confederation of Honduran Workers (CTH), (2) Central General of Social-Christian Workers (CGT), and (3) the Unitary Confederation of Workers of Honduras (CUTH) came together in 2010 under the Network of Trade Unions of the Honduran Maquila (RSM-H by its acronym in Spanish) (Minero, 2021). This network arose from a regional meeting: "Exchange of experiences and regional strategic design for the strengthening of the maquila sector in Honduras, Nicaragua and El Salvador" organized by the Trade Union Institute for Central America and the Caribbean (ISACC) with the support of CSI, CSA, FOS of Belgium, 3F of Denmark and the Solidarity Center. In order to boost their agenda and achieve the results, they have deposed their ideological differences.

Historically, the CTH has been linked to Honduras's National Party, the CGT with the Christian Democratic Party, and CUTH-FITH the opposition, currently expressed in the Free Party and in the National Front of Popular Resistance (FNRP). Despite that, they have managed to have unitary positions, despite the challenges.

Together, the RSM-H has engaged in bipartite negotiations with the Honduran Maquiladora Association (AHM in Spanish) and come to minimum wage agreements, starting in 2011, again in 2014, and most recently in 2018. These agreements have delineated specific minimum wage increases for the maquila sector. For example, the 2018 agreement provides for a minimum wage increase of 38% over five years. The RSM-H has also engaged in tripartite dialogue with AHM and the Honduran government to improve access to an affordable food basket at three stores in three EPZs. RSM-H and AHM have also promoted a training module on freedom of association and collective bargaining with around 121 training sessions, covering over 3,000 workers. The unions and employer association have also implemented pilot programs for community childcare, worker health programs, and affordable housing. Currently RSM-H covers 30 trade unions and its agreements with AHM benefit over 55,000 workers.



11.0 Social Dialogue and COVID-19

This report has examined barriers to social dialogue by mapping stakeholders, analyzing their capacities and interactions, and assessing current initiatives. The COVID-19 pandemic has been an unprecedented test for industrial relations systems in garment-producing countries and an existential threat to many factories and their workers. At the onset of the pandemic, global brands cancelled billions of dollars' worth of orders, suppliers furloughed or dismissed millions of workers, and unions and CSOs fought for the wages and severance payments that workers were owed. After the initial wave of the pandemic, many re-opened factories have smaller workforces and many of those still employed are living in greater precarity: lower incomes, less job security, even widespread hunger (Kyritsis et al., 2020). Workers continue to face economic vulnerability. A May 2020 industry forecast predicted that COVID-19 would wipe USD 297 billion from the global apparel market in 2020 – a 15.2 percent decline from 2019 (GlobalData Retail, 2020). Governments, buyers, employers and unions have struggled to respond.

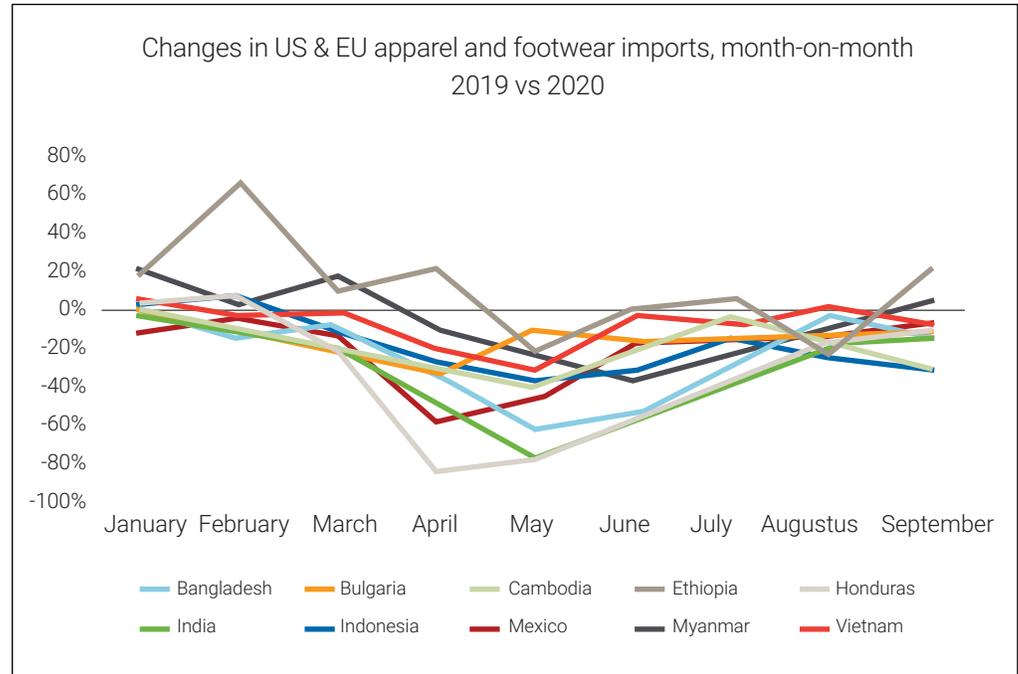
This synthesis of industry impacts, policy actions, and social dialogue initiatives related to COVID-19 comes as infection rates are increasing in Europe and the United States—the two largest apparel export markets—and industry and government responses are in flux. A comprehensive analysis of the quality and scope of implementation of these actions is not yet possible and meaningful measures of impacts are still further away. Still, initial responses to the pandemic offer important lessons on the importance and limitations of social dialogue.

11.1 Garment Industry Impacts

In general, available data and media reporting show sharp declines in global trade in apparel and footwear at the onset of the pandemic. Imports by major markets including the United States and European Union declined dramatically, particularly in April and May 2020. Across our target countries, most industries rebounded after June 2020. However, apparel exports to the United States and European Union are still below 2019 levels. As of September 2020, US and EU imports are down 23 percent from 2019.²⁰ Among our target countries, the largest percentage decreases in exports were observed in Honduras and India where by September 2020, total year-to-date U.S. and E.U. apparel imports by 34 and 33 percent respectively.

²⁰ Data from Comtrade for HS codes 61,62, and 64

Figure 1: Percent change in year-on-year imports for US and EU from target countries



Note: 2019 import levels are the baseline

Source: UN Comtrade for HS Codes 61, 62, 63, and 64

The drop in consumer demand resulted in many global buyers cancelling orders, holding shipments, or requesting discounts from suppliers – often by invoking force majeure clauses in supplier contracts. Comprehensive data on cancelled apparel orders by country is not available, but a Better Buying survey of 179 suppliers from 30 countries (including Bangladesh and India) conducted in May 2020 found that 64 percent of apparel factories had brands cancel orders. Among those surveyed, 18 percent of suppliers reported a complete loss of accounts receivable due to order cancellations (Better Buying Institute, 2020). The Penn State Center for Global Workers’ Rights (CGWR) calculated in October 2020 that a total of USD 16.2 billion in import value was lost from order cancellations, combined from April through June 2020 in the US and from April through May 2020 in the EU. The authors argue that if wages made up 10 percent of the value of import price, this suggests a loss of close to USD 2 billion in workers’ wages lost (Anner et al., 2020). These unilateral contract cancellations and delays serve as prima facie evidence of the lack of serious dialogue habits among the world’s most powerful fashion brands and their suppliers and workers.

11.2 Worker Impacts

The COVID-19 pandemic began to spread through the target countries in January and February 2020 with lockdowns and factory closures taking place during March and April 2020. Lockdowns and restrictions varied across our target countries. In Indone-

sia and Cambodia, there were no official lockdowns. Meanwhile Honduras, Bangladesh, Myanmar, Mexico, India, Bulgaria, and Ethiopia all had lockdowns that ranged from one to two months. Media and labor rights organizations report workers being called back to work despite government lockdowns or quarantines. In Mexico, field informants describe a “deliberate effort by [textile, footwear and apparel] sector maquiladoras to continue operating, arguing the need to meet corporate order deliveries (even when they decreased), while at the same time, instituting measures to reduce personnel, wages and working hours” (Covarrubias, 2021).

The combination of lockdowns and drops in apparel demand resulted in factory closures and worker layoffs or dismissals of varying degree across our target countries. As of October 2020, factories in Bangladesh report that approximately 71,000 workers had been laid off (Choudhury, 2020). According to Indonesia’s Ministry of Industry, approximately 800,000 apparel and footwear workers (making up approximately 30 percent of the apparel and footwear workforce) were laid off by July 2020 because of the pandemic (ILO, 2020d). Meanwhile, union leaders in Honduras estimate that there were few jobs lost and minimal factory closures given the levels of aid negotiated for workers, conversion of production to personal protective equipment (PPE), and industry reactivation beginning in June 2020 (Minero, 2021).

Overall, the pandemic’s economic effect has been profound for garment workers. A November 2020, a Workers Rights Consortium (WRC) survey of 396 garment workers across nine countries²¹ (including six of this report’s target countries) found that “garment workers’ declining incomes are leading to widespread hunger among workers and their families, as they are increasingly unable to obtain adequate food and nutrition” (Kyritsis et al., 2020). Of the workers surveyed, 38 percent reported that they no longer had jobs and 60 percent reported a 21 percent drop in income: pre-pandemic take-home pay averaged USD 187 per month while their income fell to an average USD 147 per month. Finally, 77 percent of workers surveyed reported that they or a family member had gone hungry since the beginning of the pandemic (Kyritsis et al., 2020).

Across our target countries, governments and industry associations have issued guidance and taken steps to minimize the spread of COVID-19. However, labor rights organizations assert that many social distancing and public health provisions are not adequately implemented or enforced in factories leaving workers vulnerable to the virus. In Bangladesh, union leaders describe the difficulties in implementing social distancing provisions given the close nature of garment production: “The BGMEA guidelines have some misconceptions over maintaining six-foot social distancing among workers on floors. It is only possible for textile and spinning mills, not for garment factories. Our workers work in queues on floors, quite like a chain” (Hossain & Akter, 2021). Workers are also subject to cramped dormitories where the virus is capable of rapid spread. In Ethiopia, an outbreak in Bole Lemi Industrial Park in July and August 2020 resulted in 278 workers becoming ill. The outbreak originated in a Korean-owned garment factory whose workers lived in cramped dormitories (Admasie, 2021).

21. Bangladesh, Cambodia, El Salvador, Ethiopia, Haiti, India, Indonesia, Lesotho, and Myanmar

There are no industry-specific figures, only national data on infections or deaths. As of December 2020, Mexico and Bulgaria have the highest number of deaths per 100,000 population at 89 and 77 respectively. Among the least affected are Vietnam and Ethiopia with 0.04 and 1.3 deaths per 100,000 population respectively.

Table 22: COVID-19 Statistics

	Confirmed Cases	Deaths	Case-Fatality Ratio	Deaths/100K pop.
Bangladesh	485,965	6,967	1.40%	4.32
Bulgaria	174,568	5,405	3.10%	76.95
Cambodia	426	0	0	0
Ethiopia	115,360	1,779	1.50%	1.63
Honduras	113,207	2,968	2.60%	30.96
India	9,796,744	142,185	1.50%	10.51
Indonesia	598,933	18,336	3.10%	6.85
Mexico	1,217,126	112,326	9.20%	89.01
Myanmar	104,487	2,201	2.10%	4.1
Vietnam	1,385	35	2.50%	0.04

Source: Johns Hopkins Coronavirus Resource Center Mortality Analysis December 2020
 *Cambodia data taken from <https://www.worldometers.info/coronavirus/country/cambodia/>

11.3 Government Policy Responses

Government policy responses to the COVID-19 crisis have involved worker income support, employment protections, and industry subsidies. Table 2 is not comprehensive but shows actions taken by governments across our target countries to support garment sector workers and suppliers.

The lack of reliable data and reporting on recent policy actions has made it hard to gauge their short-term impacts. This problem is familiar to industry actors and observers involved in the responses to the 2008 – 09 financial crisis. From a 2009 ILO Working Paper “Implications of the global financial and economic crisis on the textile and clothing sector”:

As the crisis has unfolded at different speeds, and different interest groups seek support for their own preferred public policy responses, there has been a mass of conflicting reports and predictions surrounding the impacts of the financial crisis

on the sector. While anecdotal reports of factory closures are widespread, robust data on employment, including factory closures and new factories expanding, remains difficult to find.

In line with these opacity on impacts, trade unions and labor rights organizations describe problems with the scope and implementation of these policies, much like the workplace health and safety provisions described above. For example, while furloughed workers in Cambodia are eligible for government subsidized support, unions criticize postponements of severance and indemnity payments to workers (Nuon, 2021). Union leaders in Bangladesh likewise share that many workers did not receive their wages and bonuses on time (Hossain & Akter, 2021).

Table 23: Government Policy Responses

Country	Industry/Economic Assistance	Worker Assistance
Bangladesh	<ul style="list-style-type: none"> Government and private lending at subsidized interest rates for factories to provide wage payments until March 2021²² 	<ul style="list-style-type: none"> EU cash assistance for retrenched workers of USD 35 for three months starting September 2020 60 percent of wages paid to furloughed workers in April-July 2020.²³
Bulgaria	<ul style="list-style-type: none"> Corporate tax deferral through June 2020; reallocation of BGN 173 and 200 million from the EU fund to support SMES and larger companies²⁴ 	<ul style="list-style-type: none"> Government subsidy of 60% of wages for "most affected businesses" (businesses with a decline in sales of more than 20% compared to 2019) until end of 2020; employer would cover the remaining 40%
Cambodia	<ul style="list-style-type: none"> Reduction (30 percent) of corporate income tax payments up to 12 months (February 2021)²⁵ 	<ul style="list-style-type: none"> Support measures extended until end of 2020. Laid off workers receive USD 40 per month from the government and USD 30 from employer for a total of USD 70 per month up to 3 months.²⁶
Ethiopia	<ul style="list-style-type: none"> Emergency job protection facility fund Waiver of fees and duties 	<ul style="list-style-type: none"> Approximately 14,000 workers in Hawassa Industrial Park asked not to work during state of emergency but will receive full salaries²⁷

22. Uddin, 2020

23. ILO, 2020

24. IMF, 2020

25. Medina, 2020

26. Chan, 2020

27. Better Work, 2020

Honduras	<ul style="list-style-type: none"> • Reduced taxes for companies, interest rate cuts²⁸ 	<ul style="list-style-type: none"> • Maquila sector (which includes apparel industry) workers received USD 250 for three months. Gov subsidized USD 150 and company provided USD 100.
India	<ul style="list-style-type: none"> • Reduction in interest rates and increased credit availability for businesses²⁹ 	<ul style="list-style-type: none"> • Government repealed an order directing employers to pay wages to workers during lockdown³⁰ • Social security system guarantees 70% of salary paid during sick leave³¹ • Food distribution to the poor³²
Indonesia	<ul style="list-style-type: none"> • Tax relief, reduction of corporate income taxes, increased credit availability to businesses³³ 	<ul style="list-style-type: none"> • Laid off workers receive cash compensation of 1 million IDR (USD 70) per month up to three months³⁴
Mexico	<ul style="list-style-type: none"> • Very limited economic stimulus, adoption of government austerity measures • loans for SMEs to maintain employees on payroll³⁵ 	<ul style="list-style-type: none"> • Employers are obligated to pay employees' salary for 1 month (from March 30 to April) based on workers' contracted monthly salary (not minimum wage)³⁶
Myanmar	<ul style="list-style-type: none"> • Government subsidized low-interest lending for businesses 	<ul style="list-style-type: none"> • EU Myan Ku assistance funds • Emergency cash transfer of USD 23-31 per household • Furloughed workers receive 40% of wages as social security benefit
Vietnam	<ul style="list-style-type: none"> • Employers receive tax breaks including delayed tax and land-use fee payments for five months; suspended social benefit contributions. 	<ul style="list-style-type: none"> • VGCL plan to transfer VND 500,000 per person (USD 21) to affected union members who have lost jobs or income because of COVID-19³⁷

28. Reuters, 2020

29. MF 2020

30. Jha, 2020

31. <https://www.fairlabor.org/blog/entry/country-specific-updates-provisions-workers-response-covid-19-pandemic>

32. <https://www.ilo.org/global/topics/coronavirus/regional-country/country-responses/lang-en/index.htm#IN>

33. <https://www.imf.org/en/Topics/imf-and-covid19/Policy-Responses-to-COVID-19#I>

34. <https://www.ilo.org/global/topics/coronavirus/regional-country/country-responses/lang-en/index.htm#ID>

35. <https://www.imf.org/en/Topics/imf-and-covid19/Policy-Responses-to-COVID-19#M>

36. <https://www.fairlabor.org/blog/entry/country-specific-updates-provisions-workers-response-covid-19-pandemic>

37. Tuoi Tre, 2020

11.4 Social Dialogue

The national- and industry level policymaking outlined above have tested social dialogue mechanisms in all our target countries and revealed in each the extent to which dialogue frameworks were operative and productive in a crisis. The overall picture is mixed; across our target countries, there is variation in the quality, composition, and outcomes of social dialogue at different levels. In some instances, industry or government actors have disregarded dialogue structures while in other instances there has been a strengthening of dialogue habits and structures. And in a few of the target countries—Cambodia, Myanmar, and Bangladesh—COVID-19 policy responses undermined dialogue with limits on meetings which curtailed organizing and campaign efforts by unions and labor rights organizations (e.g.). **Overall, we find that social dialogue was productive where habitual dialogue structures were already in place and, in particular, where participants were linked with active international pressure campaigns.**

National Level Dialogue

Across our target countries, national-level social dialogue has generally been functional, ritualistic, or opportunistic. Functional refers to dialogue that was for the most part legitimate in that it involved and incorporated input from social partners, and led to an agreement. Ritualistic dialogue refers to dialogue coopted by either the state or employers without regard for worker interests or demands. Opportunistic describes government or industry actions using the pandemic as cover for a derogation of worker rights and protections.

Table 24: Dialogue Typology

	Functional	Ritualistic	Opportunistic
National-Level Dialogue	Honduras Ethiopia Myanmar Bulgaria Vietnam	Bangladesh Mexico Vietnam	India Cambodia Indonesia

Functional Dialogue

Functional national-level dialogue took place in Honduras, Bulgaria, Myanmar, Ethiopia, and Vietnam. Underpinning this dialogue are different institutional factors unique to each country.

In Honduras, the Network of Honduran Maquila (RSM-H) (a network of the country's three main trade union confederations), through tripartite dialogue with the Honduran Maquila Association (AHM) and Government of Honduras, was able to negotiate payments to workers of two weeks of full wages during the country's initial lockdown in March 2020. Additionally, in April 2020, the network was able to negotiate a solidarity contribution where workers would receive USD 250 monthly – USD 100 from employers and USD 150 from the government. Union leaders attribute this success to a culture of social dialogue developed by decades of transnational campaigns and activism (Minero, 2021).

Likewise, the crisis re-invigorated national-level social dialogue in Bulgaria. In 2019, employers had decided not to participate in the National Council for Tripartite Cooperation (NCTC) because of disagreements with minimum social insurance thresholds. However, with the COVID-19 crisis, employers returned to the negotiation table without any further complaints (Iankova, 2021). According to Ivan Neykov, President of the Balkan Institute for Labor and Social Policy, the impact of the social partners on the proposed state anti-crisis measures has been significant. Both employer and union organizations publicly declared their satisfaction with the results of the negotiations.

In Myanmar and Ethiopia, functional dialogue at the national level was due to governments engaging both employers and unions, seeing the advantage of presenting a united response to industry concerns. In Myanmar, the government utilized the National Tripartite Dialogue Forum (NTDF) and organized a COVID-19 tripartite committee. Unions were able to negotiate a temporary industry shutdown and secure support for worker safety measures. In Ethiopia, at the national level, the COVID-19 National Response Task Force was formed as a tripartite institution including representatives from MoLSA, EIEC, EEC, and CETU. Trade unionists confirm that the government has been responsive and willing to accommodate the interests of both employers and labor, describing the discussion as “very good and very genuine.” Outcomes included removal of several clauses from draft versions of the protocol agreement in response to CETU's opposition.

Union leaders in Honduras, Bulgaria, and Myanmar cite positive spillover effects from functional national-level tripartite dialogue. Honduran union leaders argue that the crisis served to strengthen unity in the RSM-H and even allowed the network opportunities to conduct trainings with led to them attracting more members (Minero, 2021). In Bulgaria, the dialogue contributed to more effective social partner negotiations over the social economy in Bulgaria (social pensions) which had previously been a point of contention. In Myanmar, the ongoing NTDF mechanism increased the capacity and collaboration among the union federations through the unions' use of the Labor Consultative Forum (LCF) to debate and agree on common goals.

Ritualistic Dialogue

In certain countries, although tripartite and bipartite dialogue was held, the nature of the dialogue was ritualistic. In Bangladesh, despite the signing of a Memorandum of Understanding (MoU) between the IndustriALL Bangladesh Council (IBC) and the BGMEA, union representatives allege that their opinions were largely neglected. For example, union members of the “Tripartite Crisis Management Committee” – a tripartite forum entrusted to address labor issues related to COVID-19 – report that their participation was constrained by short notice of meetings, lack of information sharing, and domineering by employers’ associations and government actors (Hossain & Akter, 2021).

Ritual dialogue through unilateral action by government and industry actors is likewise evident in Vietnam. There, annual negotiations regarding minimum wage rates for 2021 resulted in the Ministry of Labor, Invalids, and Social Affairs (MOLISA) and the employers’ associations insisting on not raising the minimum wages for 2021 due to the economic impacts of COVID-19. Delegates of the Vietnam General Confederation of Labor (VGCL) – the sole national trade union – left the negotiation room and the remaining members of the National Wage Council unanimously voted not to raise the minimum wage (Do, 2021).

Similarly, in Mexico, the absence of independent unions in the garment industry resulted in companies instating unilateral wage decreases for suspended workers without any consultation. Furthermore, local government officials opposed these changes from the national government and unilaterally imposed decisions backed by corporatist unions. This included the imprisonment of labor activist and lawyer Susana Prieto T by local authorities in Tamaulipas while the federal government called for her rights to be respected and due process to follow (Covarrubias, 2021).

Opportunism/Anti-Dialogue

While dialogue may have failed to deliver for workers in Bangladesh and Vietnam or was completely absent in Mexico, in India, Indonesia, and Cambodia, deliberate efforts were made by state and industry authorities to undermine workers’ rights.

In India, state governments in Uttar Pradesh and Madhya Pradesh issued ordinances to suspend all labor laws for almost three years. Ten states increased the number of permissible working hours to 12 hours daily. The Federal Government also took the crisis as an opportunity to pass remaining labor law reform which Central Trade Union Confederations had vehemently opposed going as far as organizing a general strike (Pratap, 2021). Trade unions appealed to the central government for social dialogue, referencing the government’s ratification of ILO Convention 144 on Tripartite Consultation. Yet, meetings with government officials were ineffective and the government introduced policies and changed laws unilaterally (Sundar, 2020).

In Cambodia, COVID-19 served as cover for the Government to suspend civil liberties. Emergency measures curtailed fundamental rights such as rights to assembly, speech, and privacy. Furthermore, the Government used the COVID-19 as cover to propose amendments to reduce overtime pay, remove time in lieu for public holidays that fall on weekends, and limit access to collective labor disputes. Additionally, the MoLVT issued an advisory to employers asserting that they are not compelled to provide separation pay to workers if a business closes due to the economic impact of COVID-19 (Nuon, 2021).

In Indonesia, Omnibus Law on Job Creation passed in November 2020 instituted a series of labor employment reforms that removes worker protections and increases their vulnerability. The Law expands hiring on temporary contracts, allows for more types of work to be outsourced, increases maximum weekly overtime, eliminates the right to two days off per five workdays, decouples minimum wage calculations from cost of living indicators, expanding business reasons for termination, and restricting certain leave policies for women workers (Jumisih, 2020).

Table 25: Summary of Social Dialogue related to COVID-19 in Target Countries

Country	National Level	Garment sector specific
Functional		
Bulgaria	<ul style="list-style-type: none"> • Extensive national level social dialogue with Union and Employer Association engagement 	<ul style="list-style-type: none"> • No information on sectoral social dialogue
Ethiopia	<ul style="list-style-type: none"> • Tripartite National Response Taskforce • With CETU insistence, MOLSA issued COVID-19 responses Protocol 	<ul style="list-style-type: none"> • Enterprise-level bipartite task forces • Suspension of collective bargaining
Honduras	<ul style="list-style-type: none"> • National level spaces for dialogue functioned because of pressure from trade unions. Negotiations were tense. 	<ul style="list-style-type: none"> • Companies tried to ignore the existence of some enterprise-level unions.
Myanmar	<ul style="list-style-type: none"> • National tripartite forum and COVID-19 tripartite committee negotiated April factory shutdowns, worker safety and entitlements 	<ul style="list-style-type: none"> • Union input into design and implementation of EU <i>Myan Ku</i> assistance funds. • Union and CSO pressure for implementation of Myanmar FOA guidelines • CTUM negotiated with MGMA to conduct mass training for workers and employers on COVID-19.

Vietnam	<ul style="list-style-type: none"> Disagreement between VGCL and MOLISA and VCCI about not increasing the minimum wage. 	<ul style="list-style-type: none"> The majority of firms made unilateral decisions without consulting workers and their representatives³⁸ Exceptions in Hai Phong and Dong Nai where provincial unions negotiated agreements with employers regarding layoffs³⁹
Ritualistic		
Bangladesh	<ul style="list-style-type: none"> Bipartite negotiations but with industry domination 	<ul style="list-style-type: none"> IndustriALL Bangladesh Council negotiations with BGMEA resulted in MOU on retrenchment and wage payments. Unionized factories engaged in social dialogue to stop retrenchments
Mexico	<ul style="list-style-type: none"> No independent unions in Mexico hence no social dialogue at the national level 	<ul style="list-style-type: none"> No social dialogue in the garment sector given absence of independent unions Maquila labor activist faced imprisonment
Opportunistic		
Cambodia	<ul style="list-style-type: none"> Virtually no labor input in national COVID-19 policy response 	<ul style="list-style-type: none"> Garment sector unions active in negotiating with Ministry of Health to disseminate COVID-19 information
India	<ul style="list-style-type: none"> Unilateral actions by federal and state governments to relax legal worker protections using pandemic as cover. 	<ul style="list-style-type: none"> Tripartite taskforces in Tiruppur and Bangalore resulted in supplying necessities during lockdown
Indonesia	<ul style="list-style-type: none"> Unions excluded from national level policy response 	<ul style="list-style-type: none"> Unions active at provincial level but likewise ignored as in the national level

38. Do, 2021

39. Ibid.

Sectoral and Enterprise Dialogue Challenges

Even where national-level social dialogue has been functional, we find that it has failed to ensure adequate oversight of how individual factories would manage the impacts of COVID-19, particularly with regard to worker dismissals, worker furloughs, and temporary shutdowns. Across our target countries, violations of agreements and health provisions at the sectoral and factory levels are found. This impunity for employers has been aggravated where governments have placed restrictions on freedom of assembly, severely restricting workers' ability to mobilize, protest, and strike.

For instance, Industrial Workers' Federation of Myanmar (IWF) President Khaing Zar Aung stated in August 2020 that factory unions were experiencing greater problems with social dialogue during the pandemic than beforehand. She referenced cases where factories which had previously regularly engaged in dialogue made decisions without consulting unions (ILO, 2020b). Also in Myanmar's apparel industry, there are widely reported cases of union-busting, discriminatory laying-off of union members, and disregard by employers of legally-mandated social dialogue in the factories. Furthermore, local authorities and internal dispute mechanisms were ineffective and distrusted by trade unions. In these cases, IWF resorted to contacting overseas buyers to compel their suppliers to engage in social dialogue (Blau, 2021).

A similar pattern is evident in Honduras where RSM-H leaders describe enterprises ignoring their unions and established dialogue mechanisms in making unilateral decisions related to COVID-19 (Minero, 2021).

Enforcement of agreements has been problematic in Bangladesh where, despite the agreement between the IBC and BGMEA to pay workers 65% of their wages, trade union leaders report that 261 garment factories did not pay workers' wages for April 2020 and their Eid bonus. The *Daily Prothom Alo* reported that about 1,175 (25% of factories) did not pay wages for June through July 21, 2020. Additionally, Bangladesh trade union leaders reported that health and safety measures have not been followed in the majority of factories (Hossain & Akter, 2021).

With the combination of low union density, lack of effective dialogue and conflict resolution at the enterprise level, many workers have turned to protests for recourse. Workers in India engaged in country-wide protests in May and July 2020 (Sundar, 2020). Worker protests have also taken place in Bangladesh, Cambodia, and Myanmar. In response, governments have cracked down on public assembly. In Myanmar, the government introduced the "Prevention and Control of Communicable Diseases Law" which banned gatherings of five people or greater. This restricted workers' ability to undertake legal protest (Blau, 2021). Likewise, a state of emergency law implemented in April 2020 in Cambodia allows the government to curtail freedom of assembly in the name of a "more civilized society" (Nuon, 2021).

Despite these challenges union leaders and labor rights organizations note—in the aggregate—positive differences between unionized and non-unionized enterprises

regarding protection of workers in the midst of the pandemic. In Bangladesh, IBC General Secretary Chaina Rahman shared that workers were more likely to be terminated in non-union versus unionized factories. Furthermore, health and safety guidelines were less likely to be followed in non-unionized factories (Hossain & Akter, 2021). Likewise, the existence of CBAs in Honduran factories did provide some benefits – existing CBAs had clauses, which protected union members’ jobs. However, union officials note that in the face of a health crisis CBAs were not enough; future contracts need new clauses such as unemployment insurance for future pandemics as there are certain structural deficits that individual factories and CBAs cannot overcome (Minero, 2021).

Calling on International Actors

For implementation of agreements and remedy for violations at the sectoral or enterprise level, trade unions drew on transnational advocacy networks for help. The power to compel action by reputation-sensitive brands—for example, winning payment for cancelled orders or reinstatement of fired union leaders—is unevenly distributed and requires huge efforts by unions and their allies, but remains integral to workers’ campaigns.

Myanmar Freedom of Association Guideline

Existing relationships and dialogue channels established between unions and buyers in earlier social dialogue projects proved valuable to unions in pressuring brands to address cases of union member dismissals in Myanmar. IndustriALL affiliate IWFM had negotiated a Freedom of Association Guideline with ACT member brands in November 2019, before the pandemic. Trade unions had called for an FoA Guideline based on their experience with factory managers who had little knowledge of industrial relations and unionization. Brand interaction through IndustriALL’s ACT project served as the catalyst for this FoA Guideline (IndustriALL, 2019).

The FoA Guideline was useful in responding to reports of anti-union dismissals in Myanmar. IndustriALL was able to reach out to brands sourcing from these factories and compel a response. In the case of Kamcaine Manufacturing, invoking the FoA guideline eventually led to the rehiring of 57 dismissed workers and five local union leaders with back wages, benefits, and seniority (IndustriALL, 2020). This strategy proved effective, with brands proving responsive to public pressure and factory managers, in turn, proving sensitive to brand pressure. But invocation of the Guideline by itself was not sufficient: Myanmar unions had to have international connections and support, brands had to be compelled to intervene, and remedies were limited to official suppliers of major brands. Nonetheless, repeat use of existing frameworks appear to be building capacity and norms among unions and brands, particularly in pressuring buyers to drive union recognition on the factory floor (Blau, 2021).

Myanmar: EU *Myan Ku* Funds

Despite the Myanmar government agreeing to pay 40 percent of wages for workers while factories were shut down, many civil society and labor stakeholders knew that many workers would not be eligible to receive this support. Myanmar does not have an unemployment social protection system and social security is limited to medical benefits.

Given that the EU market represents 70 percent of Myanmar's garment exports, the EU had been active in promoting industrial relations capacity through its partner, SMART Garment & Textile, which has been working on improving production standards and social dialogue in Myanmar. Together with SMART, the EU consulted with Myanmar's Social Security Board, Unions and the MGMA to devise ***Myan Ku***, a USD 5.9 million (7.9 billion MMK) emergency cash fund.

The design and implementation of the ***Myan Ku*** program is unique in a number of ways. Firstly, ***Myan Ku*** is financed through the EU's Humanitarian Development Peace Nexus Response Mechanism (NRM). Humanitarian funding allowed the program to be set up much more quickly than many labor rights programs. Second, ***Myan Ku*** the eligibility criteria was broad and allowed for flexibility in deployment. SMART consulted with trade unions, local CSOs and manufacturers to select recipients who otherwise may have "fallen through the cracks." Lastly, funds are paid through electronically through the WAVE mobile platform.

In August 2020, the ***Myan Ku*** program was extended to November 30, 2020. As of October 2020, approximately 70,546 transactions have been carried out with workers receiving an average MMK 78,700 (USD 58).

Updates on the ***Myan Ku*** program are accessible at the SMART Myanmar website: <https://smartmyanmar.org/en>

Box 1 Myan Ku Program

Source: Blau 2021, Just Style 2020

Call to Action

In response to the crisis, the ILO helped broker the ***COVID-19: Action in the Global Garment Industry***⁴⁰ (Call to Action) in order to provide economic support and develop social protection capabilities in garment-producing countries affected by the pandemic. The Call to Action was negotiated in April 2020 between the International Organization of Employers (IOE), International Trade Union Confederation (ITUC), and IndustriALL Global Union. A tripartite International Working Group leads the Call to Action.

40. See https://www.ilo.org/global/topics/coronavirus/sectoral/WCMS_742343/lang-en/index.htm

In May 2020, the Working Group determined a list of priority countries: Bangladesh, Cambodia, Ethiopia, Haiti, India, Indonesia, Myanmar, and Pakistan (ILO, 2020a). Considerations included the level of dependency of the country on the garment industry for jobs and exports, the financial ability of the country to support the garment industry during the health and economic crisis, the liquidity needs for business continuity and payment of worker wages, and the level of social protection provision in the country.

In October 2020, the ILO reported that the Working Group had engaged with international financial institutions (IFIs) and bilateral donors. These include IMF, World Bank, European Union, Islamic Development Bank, and the inter-American Development Bank. In these meetings with IFIs, the Call to Action has encountered some obstacles. IFIs (especially the banks) make their funds in the form of loans to governments for general budget support. Decisions on disbursements of funds is done by national governments and mainly ministries of finance – not the ILO’s direct counterparts in the ministries of labor. Governments are reluctant to use funds for sectoral approaches such as the garment industry. Furthermore, in many of the Call to Action countries, systems for disbursements to workers did not exist or function well so the Call to Action would have to identify or build a new mechanism.

So far, the Call to Action has been able to secure German Government (BMZ) funding through the “Income protection for workers in the RMG sector” program. This EUR 9.5 million fund is apportioned for Bangladesh, Cambodia, Indonesia, and Ethiopia. Currently, National Working Groups are involved in advising on the design of emergency cash transfers and the organization of emergency systems (ILO, 2020e). The Call to Action has also conducted a mapping of the various funding initiatives in its target countries, of which the majority of funding commitments come from governments such as the EU and United States.

It is important to emphasize that beyond emergency cash transfers, the Call to Action is looking to establish and strengthen social protection systems for the garment industry. The Call to Action itself has signatories “commit, consistent with their respective roles, to support the development of social protection floors and to extending social protection for workers and employers in the garment industry consistent with ILO Recommendation No. 202 with a view to establishing over time the responsibilities of all parties to contribute for sustainable systems.”

In line with this call to social protection, labor rights organizations such as Asia Floor Wage and the Clean Clothes Campaign have called for creation of a Severance Guarantee Fund through which brands contribute, as part of their payments to suppliers, to social protection programs for garment workers. This fund could mitigate the consequences of future pandemics, financial crises, and cases of supplier bankruptcy (CCC, 2020).

12.0 Conclusions

The barriers to social dialogue identified in this report are abundant, immense, and constantly fluctuating. Social dialogue initiatives—whether focused worker organizing and mobilization, sectoral bargaining, or consensus building—have had limited success in apparel’s complex and crowded ecosystem.

Lead firm efforts at social dialogue have largely been taken at a distance through social dialogue programs in brands’ private regulation portfolios. These programs largely seek to develop legally-mandated social dialogue forums at the enterprise level but do not support freedom of association and collective bargaining.

Suppliers are subject to contradictory pressures of lower prices and shorter lead times, and participation in compliance and training programs. Furthermore, supplier capacity for social dialogue is constrained by limited by management experience, familiarity, and understanding of industrial relations. Efforts at IR training led by the ILO or Better Work have had success but are generally piecemeal and do not address the root causes of anti-union culture, lack of qualified managers, and unaligned management incentives.

Emerging forms of supplier organization are likewise contesting traditional, tripartite industrial relations structures. In particular, foreign business associations have amassed considerable power and have exerted political influence in changing policies and laws (for instance, KOGA in Indonesia). These cartels are far more cohesive than their complementary employer associations and are vertically and horizontally integrated to include other industries as well as essential business services.

Across our target countries, we found that workers’ rights to freedom of association and collective bargaining are routinely violated. In Vietnam and Mexico there are currently no independent unions (although recent reforms intend to remedy this), while in our other target countries, unions are often fragmented, coopted, have limited financial and staff capacities, and are largely male-dominated. Employers routinely use flexible contracting, factory closures, and dismissals as means to avoid unionization. Where unions are able to negotiate CBAs, the provisions are rarely above minimum standards. Agreements promising respect for FOA rights such as various international unions’ global framework agreements with global brands or the FOA protocol have had anecdotal successes but remain either piecemeal or vulnerable due to implementation issues and maintaining legitimacy.

Supplying country governments show considerable variation in political orientation across our target countries. The current Cambodian regime has repressed basic civil liberties and has targeted unions. International scrutiny has had little effect as recent

amendments to the labor law have imposed further constraints on workers. Conversely, Mexico and Vietnam are both undergoing transition. The AMLO administration marks a radical transition in the role of the Mexican state in labor relations. The state is reforming its laws and bringing independent union voices into the decision-making process. In 2019, Vietnam ratified ILO Convention 98 and has revised its labor code to allow for unions outside of the VGCL. Myanmar, India, and Indonesia's governments are carefully balancing economic growth with worker protections but have recently leaned more towards business-friendly regulations. The relative weakness of Ethiopia's current government has limited its control over labor unions there but the historical relationship between unions and the government has been one of fluctuating government dominance.

Non-enforcement of legal frameworks remains a universal issue. Efforts to litigate labor cases in Indonesia have been met with employer bias in the courts or unenforced dispositions. Alternative dispute resolution schemes have likewise led to unenforced awards and are often not pursued by unions or employers as seen in the prevalence of wildcat strikes.

The COVID-19 pandemic has shown that responsiveness of the state and global brands to the social partners is critical. This has not been the case during the COVID-19 crisis in India, Cambodia and Bangladesh where social dialogue—and engagement with workers and bona fide workers' organizations, in particular—has been opportunistic or merely ritualistic. In contrast, the state in Myanmar and Ethiopia has engaged not just employers but workers and their organizations.

Where the definition of social dialogue extends to brands, union access to brands has grown, but trust among partners and the habits of productive discussion are built over time, and not in the throes of an economic crisis. Where these relationships already existed—as in Myanmar, for example—public pressure (or a credible threat of public pressure) on brands has confirmed that publicity concerns and buying power of major brands continues to be the most effective leverage available to workers attempting to use social dialogue to win remedies. On the other hand, we have seen in this crisis that trust has been destroyed where brands have unilaterally cancelled orders.

Effective social dialogue cannot be conjured. It cannot happen in Mexico's apparel industry, for example, which does not have a single independent union. It is not an end, but a means. It cannot substitute for the near absence, in Myanmar and Bangladesh, of social insurance schemes. And it cannot deliver where there are vast power imbalances that—coupled with the pandemic's urgency—have foreclosed on meaningful negotiation. It is still early to say if new modes of social dialogue are emerging out of the COVID-19 pandemic but the profound impacts of the crisis and the concomitant uncertainty for global apparel producers means that new forms are needed.

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