

# **(Re-)Instating Decent Work through Mature Systems of Industrial Relations: the Case of River Rich Cambodia**

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**Abstract:** Mature Systems of Industrial Relations (MSIR) is seen by the International Textile, Garment and Leather Workers Federation (ITGLWF) as a means for mitigating the conflicts and exploitation arising from the globalisation of production; to move beyond ineffective mechanisms of social compliance (i.e. auditing, verification and reporting); and to empower local actors and local labour institutions in countries where existing systems of industrial relations are weak or absent. Central to this approach is an understanding that progress in the advancement of core labour standards in producing countries needs to surpass the limited impact (and businesses would argue costs) of self-regulatory mechanisms and be rooted in freedom of association, dialogue and collective bargaining. This approach has informed the interventions of the ITGLWF and the multinational Inditex SA with which it has concluded its first international framework agreement (IFA). This paper critically assesses the MSIR approach on the basis of a case study of a knitwear factory in Cambodia and concludes that whilst the intervention enabled the resolution of a recognition dispute, which resulted in significant membership gains and the removal of fixed duration contracts, such an approach raises questions about the applicability, effectiveness and sustainability for delivering a Decent Work Agenda throughout a multinational apparel supply chain.

## 1. Introduction: (In)Decent Work and Trade Union Rights in Outsourced Garment, Textile and Apparel Supply Chains

The Decent Work<sup>1</sup> Agenda has been formulated to reflect the ILO's aspirations of re-embedding values such as freedom, equity, security and human dignity within the global market. Calls for Decent Work, however, are symptomatic of (and unintentionally conceal) the continuation of indecent working conditions across the world. This is particularly evident in the context of outsourced garment, textile and apparel supply chains where multiple forms of exploitation and denial of fundamental rights at work continue to be widely documented and condemned by Global Union Federation (GUFs) and human rights NGOs. The perpetration of indecent work stems from processes of global restructuring which have accelerated the relocation of mass production and conferred global buyers – brands, retailers and export traders - the power of pitting against each other an increasingly larger numbers of Asian, African and Latin American suppliers competing to attract volumes and steady orders. As explained by Barrientos, by relying on outsourced production, buyers are able 'to exert pressure on suppliers to reduce costs, reduce lead times and increase just-in-time efficiency.'<sup>2</sup> Trickle down the supply chain is a downward pressure on labour conditions manifesting itself in the highest expressions of indecent work namely 'job insecurity, poverty wages, long hours, unhealthy working conditions, abusive management, child labour and the suppression of trade union rights.'<sup>3</sup>

The working conditions of garment workers in the global South mirror those experienced in Western sweatshops almost a century ago and perversely in the remnants of production facilities still to be found in the buying countries today. The fundamental difference is that while garment workers in the North managed to secure social compromises (a form of Decent Work) through unionisation, hard-fought collective action and collective bargaining, at present, the social re-organisation of work through subcontracting, flexibilisation and homeworking poses significant barriers for the garment workers of the global South to organise and advance their rights. Lipschutz summarises the hindrances to freedom of association in three key propositions: 'capital views unionisation as an obstacle to efficiency and profits; states worry that labour activism will drive capital away; and workers fear – with good reason – that attempts to organise will get them fired.'<sup>4</sup> Even in countries where freedom of association and collective bargaining are permitted, restrictions to unionisation and strikes are often sanctioned in labour law, and employers'

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<sup>1</sup> Decent Work is an umbrella term which comprises fundamental principles and rights at work and international labour standards; employment and income opportunities; social protection and social security; and social dialogue and tripartism.

<sup>2</sup> Stephanie Barrientos, 'Contract Labour: The 'Achilles Heel' of Corporate Codes in Commercial Value Chains,' *Development and Change* (2008), 39(6): p. 982.

<sup>3</sup> Doug Miller, 'Preparing for the Long Haul - Negotiating International Framework Agreements in the Global Textile, Garment and Footwear Sector,' *Global Social Policy* (2004), 4 (2): p. 219.

<sup>4</sup> Ronnie D. Lipschutz, 'Doing well by doing it? Social regulation and the transnational apparel industry,' in Ronnie D. Lipschutz and James K. Rowe (Ed.), *Globalization, Governmentality and Global Politics – Regulation for the rest of us?* (London: Routledge, 2005), p. 76.

trade union busting techniques are not infrequent.<sup>5</sup> The situation on the ground is further complicated by employer sponsored alternative forms of worker representation purporting to satisfy freedom of association code principles, and intransigence to engagement in collective bargaining. For the workers, on the other hand, ‘yellow unions’ are often the only ‘safe’ channels for representation in the workplace.<sup>6</sup>

The regulatory gap resulting from the lack of an ILO enforcement mechanism, the demise of the debate on the advancement of core labour rights through a social clause,<sup>7</sup> and the relaxation of national labour laws has been progressively supplanted by the emergence of soft regulatory mechanisms operating under the banner of ‘corporate social responsibility’ (CSR). Spurred by the emergence of the second ‘anti-sweatshop’ movement and consumer pressure, throughout the past two decades, reputation conscious multinational corporations (MNCs) have begun to adopt code of conducts and partake in non-governmental systems of labour standards monitoring and certification.<sup>8</sup> Codes, whether at the level of the firm or within sector specific or cross-sectoral initiatives, draw upon international standards and conventions that MNCs are expected to uphold across their supply chains, and specify how compliance with the provisions of the codes should be verified (or certified). A number of assessments on the efficacy of codes as tools for the advancement of core labour standards in the global South have just begun to emerge and the appraisals are far from optimistic. In a seminal review on the impact of codes and monitoring mechanisms Wells, for example, argues that ‘overall, and notwithstanding evidence of improved code compliance among some first-tier suppliers, especially in respect to child labour, forced labour and health and safety...there is considerable evidence that code compliance remains weak and monitoring largely ineffective.’<sup>9</sup>

Of importance is that within the emerging system of voluntary regulation, trade union rights continue to remain an area of contention and limited impact. O’Brien explains that for some corporations, trade union rights are not corporate responsibilities but political

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<sup>5</sup> For an illustration see any Annual Survey of Violations of Trade Union Rights compiled by the ITUC.

<sup>6</sup> ITUC, ‘Spotlight Interview with Ath Thorn,’ Brussels 27 September 2007. Available at: <http://www.ituc-csi.org/spip.php?article1435> (Accessed 8 May 2009). In the case of Cambodia a SOLIDAR report mentions that in 2004 only 15-20% of workers in the textile and industry were members of independent trade unions, many unions in fact are allied to either employers or the government. See, Sarah Perman, ‘Decent Work and the textile industry – Case study on Cambodia,’ Solidar and the Global Network, January 2007. Available at: [http://cms.horus.be/files/99931/MediaArchive/international\\_cooperation/JJJ/JJJ\\_briefing\\_CambodiaEN.pdf](http://cms.horus.be/files/99931/MediaArchive/international_cooperation/JJJ/JJJ_briefing_CambodiaEN.pdf) (Accessed 26 May 2009)

<sup>7</sup> Despite the failure to advance a social clause within the WTO, there is a growing number of bilateral trade agreements which make provisions for the advancement of labour standards and core labour standards. See, for example, Don Wells, ‘Best Practice in the regulation of international labour standards: lessons of the US-Cambodia Textile Agreement,’ *Comparative Labour Law and Policy Journal* (2006), 27 (3): pp. 357-376.

<sup>8</sup> Dara O’Rourke, ‘Outsourcing Regulation: Analyzing Nongovernmental Systems of Labor Standards and Monitoring,’ *The Policy Studies Journal* (2003), 31(1): pp. 1-29.

<sup>9</sup> Don Wells, ‘Too Weak for the Job: Corporate Codes of Conduct, Non-Governmental Organizations and the Regulation of International Labour Standards,’ *Global Social Policy* (2007), 7 (1): p. 65. See also Richard Locke, Qin Fei and Alberto Brause, ‘Does Monitoring Improve Labour Standards? Lessons for Nike,’ Corporate Social Responsibility Initiative, Working Paper No. 24, John F. Kennedy School of Government, Harvard University. And Duncan Pruett, ‘Looking for a quick fix: how weak social auditing is keeping workers in sweatshops,’ Clean Clothes Campaign, November 2005. Available at: [www.genombrott.se/maj/load\\_file.php?id=18](http://www.genombrott.se/maj/load_file.php?id=18) (Accessed 25 May 2009)

matters the jurisdiction of which rests within states; whereas some labour rights organisations involved in campaigns for better working conditions or in codes verification ‘do not recognise the significance of trade unions rights for furthering human rights in the workplace.’<sup>10</sup> Equally, in a survey of six high-profile initiatives addressing labour standards in transnational supply chains<sup>11</sup> the Clean Clothes Campaign (CCC) found that social audits were incapable of finding, reporting, or remediating violations of freedom of association.<sup>12</sup> In the aftermath of the CCC report, an empirical study conducted by Barrientos and Smith on the impact of the ETI Base Code also observed limited impact in relation to freedom of association, discrimination, regular employment and harsh treatment, where serious issues frequently remained.<sup>13</sup> Taken together these assertions appear to confirm the existence of a disjuncture between CSR interventions consisting of codes and monitoring and the furtherance of industrial relations and trade union rights.<sup>14</sup>

Against this background in this paper we analyse the emergence and application of a new approach to trade union rights recognition in outsourced apparel and garment supply chains - the ITGLWF’s Mature Systems of Industrial Relations approach. We situate the MSIR approach within an emerging framework of IFAs and the ITGLWF’s IFA with Inditex SA (henceforth Inditex) and evaluate its provisions. Using a case study approach, we appraise why and how MSIR have been introduced at River Rich, one of Inditex main Cambodian suppliers of knitwear. The choice of River Rich, is not casual, River Rich is in fact one of the first factories where the ITGLWF and Inditex have facilitated the negotiations of agreements which contain provisions for the management of labour relations and the respect of core labour conventions. In charting the labour disputes at River Rich and their subsequent resolution we unravel the tensions in employment relations in a country that has been rapidly enmeshed in the globalisation of garments production. We purport that transnational solidarity and the intervention of Inditex and the ITGLWF culminating in the introduction of MSIR did indeed bring about *some* positive changes in employment relations and trade union recognition at River Rich, nevertheless we question the overall effectiveness and long-term sustainability of such an approach with buying multinationals.

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<sup>10</sup> Robert O’Brien, ‘The varied paths to minimum global labour standards,’ in Jeffrey Harrod and Robert O’Brien (Ed.), *Global Unions? Theory and strategies of organised labour in the global political economy* (London: Routledge, 2002), p. 231.

<sup>11</sup> These are the Clean Clothes Campaign, the Ethical Trading Initiative, the Fair Labour Association, the Fair Wear Foundation, Social Accountability International and the Workers’ Rights Consortium.

<sup>12</sup> Clean Clothes Campaign, ‘Freedom of Association and the Right to Collective Bargaining – A Clean Clothes Campaign Premier Focussing on the Global Apparel Industry,’ September 2005, p. 41. Available at: [http://www.cleanclothes.org/codes/docs/CCC\\_FoA\\_Primer.pdf](http://www.cleanclothes.org/codes/docs/CCC_FoA_Primer.pdf) (Accessed 10 May 2009)

<sup>13</sup> Stephanie Barrientos and Sally Smith, *The ETI Code of Labour Practice: Do Workers Really Benefit?* (Brighton: Institute of Development Studies, University of Sussex, 2006).

<sup>14</sup> This has also been noted in Jennifer Clapp and Peter Utting, ‘Corporate Responsibility, Accountability and Law: An Introduction,’ in Jennifer Clapp and Peter Utting (Ed.), *Corporate Accountability and Sustainable Development – Ecological Economics and Human Well-Being* (Oxford: Oxford University Press, 2008), p. 13. And, Peter Utting, ‘The Struggle for Corporate Accountability,’ *Development and Change* (2008), 39 (6): p. 964.

## 2. New Instruments of Social Compliance and Trade Union Rights: IFAs and MSIR

The only instruments of global social compliance that position freedom of association and collective bargaining at the centre of relations between organised labour and MNCs are the IFAs. Setting the IFAs apart from codes of conduct and multistakeholder initiatives are four characteristics identified by Hammer:

‘...IFAs...establish a platform for international industrial relations in defining GUFs legitimate bargaining partners. They clearly move beyond codes of conduct in that they are not mere unilateral declarations, but contain obligations, although not legally enforceable ones. In addition, they deal with government failure by setting global minimum standards and by getting MNCs to accept some responsibility for the labour rights situation throughout the supply chain. Finally, labour is one of the main actors in the implementation as well as a regular monitoring process.’<sup>15</sup>

Although the ITGLWF has been a latecomer in the negotiation of international framework agreements,<sup>16</sup> it has consistently positioned trade union rights and industrial relations as a cornerstone in its understanding of the role of an IFA. Whereas IFAs in some quarters may be conceptually understood as ‘soft accountability mechanisms under the banner of corporate social responsibility’<sup>17</sup> most Global Unions understand their purpose as an enabling instrument for upholding fundamental principles and rights at work and specifically and, perhaps most crucially of all, as a tool which can assist in organising workers into trade unions.<sup>18</sup> A common denominator across the whole spectrum of existing IFAs (i.e. 72 as of October 2008) is that all unanimously refer to the rights of trade unions to freely associate (ILO Convention n. 87) and bargain collectively (ILO Convention n. 98). Whilst these core conventions can be found in almost every corporate code of conduct, the unilateral mode of implementation of such instruments has meant that until recently, trade unions have been generally excluded from the processes of social compliance much to the detriment of trade union rights in the apparel sector in particular. For a period, the ITGLWF was compelled to view codes of conduct as ‘a necessary evil’ and to use the trade union rights provisions in the same as levers in the resolution of urgent

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<sup>15</sup> Nikolaus Hammer, ‘International Framework Agreements: global industrial relations between rights and bargaining,’ *Transfer* (2005), 11 (4): 518.

<sup>16</sup> See: Doug Miller, ‘Preparing for the Long Haul.’ And, Doug Miller, ‘The ITGLWF’s policy on crossborder dialogue in the textiles, clothing and footwear sector: Emerging strategies in a sector ruled by codes of conduct and resistant companies,’ in Kostantinos Papadakis (Ed.), *Cross-Border Social Dialogues and Agreements – An emerging global industrial relations framework?* (Geneva: ILO Publications, May 2008).

<sup>17</sup> Kostantinos Papadakis, ‘Introduction’ in Papadakis Konstantinos (Ed.), *Cross-Border Social Dialogue and Agreements: an emerging industrial relations framework?* (Geneva: ILO Publications, May 2008), p. 2. A similar conceptualisation transpires in Richard Croucher and Elizabeth Cotton, *Global Unions Global Business- Global Union federations and International Business*, (London: Middlesex University Press, 2009), p. 61.

<sup>18</sup> Jane Wills, ‘Bargaining for the space to organize in the global economy: a review of the Accor-IUF trade union rights agreement,’ *Review of International Political Economy* (2002), 4: pp. 675-700.

appeal cases particularly those involving victimisation, retrenchments of union officials and the use of compensation sums to fend off the return of reinstated union officials. During the last 5 years the ITGLWF has moved resolutely to develop relationships at a global level with some major retailers and brand-owners including NIKE, NEXT and GAP to involve its affiliates in these companies' compliance efforts.<sup>19</sup>

In 2005 following joint work on a relief scheme to support the victims of a factory collapse in Bangladesh<sup>20</sup> the ITGLWF and Inditex moved towards the signing of an IFA which was finally concluded in October 2007. Tangential to the pursuit of an IFA with a MNC the ITGLWF, primarily through its Secretary General Neil Kearney, has actively promoted an approach to resolving labour disputes and advancing core labour standards in garment and apparel transnational supply chains. In a speech entitled 'Life beyond Codes' the General Secretary made the following comment:

'Given the results to date we are convinced that the industrial relations route provides the key to sustainable labour standards compliance through supply chains. We see the traditional application of codes of conduct through auditing as being merely diagnostic with the enterprises involved requiring support to develop mature industrial relations systems and training for both management and workforce to make them function effectively. We believe that this will be a much more efficient use of resources than the current obsession with policing through inadequate social auditing.'<sup>21</sup>

The background to the emergence of this Mature System of Industrial Relations approach has been explored elsewhere<sup>22</sup> but its application can be traced back to the resolution of a number of trade union rights violations amongst Inditex suppliers which took place between 2005 and 2008. After a series of cases of trade union busting and unfair dismissals in Bangladeshi, Cambodian and Peruvian garment factories, Inditex and the ITGLWF have sought to introduce MSIR after negotiations with suppliers where workers had reported infringements to their rights. In resolving these disputes, management systems – primarily in the form of agreements specifying trade union recognition, grievance, disciplinary and disputes procedures, and training – have been installed at the factories in question in an attempt to lay the basis for more sustainable local compliance. Resorting to and invoking MSIR has now become such a recurrent feature in the

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<sup>19</sup> Doug Miller, 'Preparing for the Long Haul.'

<sup>20</sup> ITGLWF, 'One Year On, Groundwork on Spectrum Relief Fund Nears Completion,' 11 April 2006. Available at: <http://www.itglwf.org/DisplayDocument.aspx?idarticle=1535&langue=2> (Accessed 26 May 2009)

<sup>21</sup> ITGLWF, 'Time to Move to Life after Corporate Codes of Conduct,' 7 December 2007. Available at: <http://www.itglwf.org/DisplayDocument.aspx?idarticle=15453&langue=2> (Accessed 19 May 2009)

<sup>22</sup> Doug Miller, Simon Turner and Tom Grinter, 'Back to the Future: Mature systems of industrial relations approaches and social compliance in outsourced apparel supply chains,' Paper prepared for the conference *Capturing the Gains*, The University of Manchester, December 2008.

relationship between the ITGLWF and Inditex to the extent that MSIR can be understood as the most evident concretisation of the only IFA in the garment sector.<sup>23</sup>

### 3. MSIR at River Rich Cambodia

Little is known about the implementation mechanisms and outcomes of an IFA<sup>24</sup>, the MSIR approach or how MNCs respect ethical commitments to freedom of association and collective bargaining. The ITGLWF's MSIR is a pragmatic hands-on intervention which does not necessarily requires formalisation through an IFA and/or adopt IFA procedures. However, it requires absolute employer support of the principles of freedom of association and collective bargaining which, arguably, can only come from some form of 'higher' commitment cemented in a formal agreement. Thus, the viability and effects of the approach can be preliminarily apprehended only in relation to the processes that led to its introduction and its intended and unintended outcomes. In this paper we specifically utilise a case study approach to gain a richer understanding of what MSIR means in practice, particularly in the context of Cambodia. The case and the analysis are informed by semi-structured interviews with Cambodian trade unionists and union activists, ILO officers, arbitral awards, official press releases, NGOs campaign material and email correspondence with the ITGLWF and Inditex. We acknowledge the absence of interview material from River Rich management which refused to partake in the study. By tracing the history of the labour disputed at the Cambodian knitwear factory River Rich and appraising their resolution through MSIR, in the remainder of this paper we ask if the MSIR are approach is able to advance a Decent Work Agenda, and we seek to preliminarily determine the constitutive elements, scope and effects of this enhanced approach to social compliance.

#### ***River Rich***

Located in Khandal province, and established in 2005, River Rich is a garment factory primarily engaged in the production, linking and finishing of knitwear, caps, scarves, socks and gloves for the European market<sup>25</sup>. The factory was purchased by its main trading partner in July 2006 for the sum of US\$ 6.9 million, and is now one of the six wholly owned production facilities of the Hong Kong based Group Addchance Holdings Limited,

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<sup>23</sup> Cfr. FNV Mondial, 'An Introduction to International Framework Agreements,' February 2008, pp 17-19. Available at: [http://www.fnv.nl/binary/International%20Framework%20Agreements\\_tcm7-18663.pdf](http://www.fnv.nl/binary/International%20Framework%20Agreements_tcm7-18663.pdf) (Accessed 1 May 2009)

<sup>24</sup> To the authors' knowledge the only **academic** studies that provide an evaluation of two International Union Federation IFAs are: Jane Wills, 'Bargaining for the Space.' And, Lone Riisgard, 'International Framework Agreements: A New Model for Securing Workers Rights?' *Industrial Relations* (2005), 44 (4): pp. 707-737.

<sup>25</sup> Sales made to H&M and Inditex, accounted for approximately HK\$384.8 million, which represented approximately 85.4% of the Group's sales of knitted sweaters for the year 2006. See: Addchance, *Annual Report 2006*, (Hong Kong: Addchance Holdings Limited, 2006), p. 11. Available at: [http://www.addchance.com.hk/download/annual/0000000011/2006\\_Annual\\_Report.pdf](http://www.addchance.com.hk/download/annual/0000000011/2006_Annual_Report.pdf) (Accessed 16 April, 2009).

a group incorporated in the Cayman Islands and with limited liability<sup>26</sup>. Addchance's acquisition was primarily motivated by a desire to reduce dependency on subcontractors, the need to enhance the capacity to cater for increased demand of finished knitted goods and the strategic requirement of reducing the risks arising from EU and US quota restrictions placed on knitted goods originating from its four Chinese operations.<sup>27</sup> Shortly after purchasing River Rich, Addchance proposed and finalised the acquisition of another Cambodian knitwear factory, and in October 2006 it became the proprietor of Winner Knitting Factory facility.

The ownership of River Rich reflects the historical pattern of foreign direct investment (FDI) within the Cambodian garment industry which accelerated from the mid-1990s. At the time, with a more stable economy, substantial incentives offered for greenfield investment and acquisitions of state owned enterprises, and quota free access to US and EU markets Asian investors from Hong-Kong, Taiwan, Malaysia and Singapore began to open factories producing textile and garments.<sup>28</sup> Even with the imposition of export quotas as part of the TATA signed in January 1999, the growth and investment in the industry continued apace. By 2005, the ILO estimated that over 200 garment factories were present in Cambodia accounting for 12% of its GDP and 80% of exported goods<sup>29</sup>. Significantly, when statistical data were first recorded, only 10% of the factories were in Cambodian ownership. As indicated by Frost and Ho 'Hong Kong and Taiwan account for the ownership of nearly half of the factories in the sector.'<sup>30</sup> The pattern of ownership is also mirrored in the membership composition of the largest employers group in Cambodia, the Garment Manufacturing Association of Cambodia (GMAC), which is dominated by manufacturers from Hong Kong and Taiwan (i.e. 51.02%) and of which River Rich is a member<sup>31</sup>.

### ***Social Compliance at River Rich***

Formally registered as an export processing garment enterprise, River Rich is subject to social compliance inspections under the ILO Better Factories Cambodia (BFC)<sup>32</sup>. The ILO labour monitoring programme – a programme unique to Cambodia – originated from the

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<sup>26</sup> See: Addchance Holdings Limited, <http://www.addchance.com.hk/content/index.html> (Accessed 16 April, 2009).

<sup>27</sup> Addchance, 'Circular – Proposed Acquisition of River Rich Textiles Ltd.,' August 1<sup>st</sup> 2006. Available at: [http://www.addchance.com.hk/download/announcements/000000018/2006\\_Jul\\_11\\_Acquisition\\_of\\_the\\_entire\\_share\\_capital\\_of\\_River\\_Rich.pdf](http://www.addchance.com.hk/download/announcements/000000018/2006_Jul_11_Acquisition_of_the_entire_share_capital_of_River_Rich.pdf) (Accessed 3 March, 2009)

<sup>28</sup> Arnold Dennis, 'The Cambodian Experiment in Ethical Production: Dynamics of a GMO Approach to Promoting Labour Rights and Investment,' Paper presented at the workshop on *Multinational Production and Labour Rights*, University Center for International Studies, UNC Chapel Hill, September 22-24, 2006, p. 7.

<sup>29</sup> Better Factories Cambodia, 'Facts and Figures.' Available at: <http://www.betterfactories.org/content/documents/Facts%20and%20Figures.pdf> (Accessed 20 April 2009)

<sup>30</sup> Frost Stephen and Mary Ho, 'The End of the MFA and Apparel Exports: Has Good CSR Allowed Cambodia to Hold Steady Against China in a Quota Free Environment,' *Corporate Social Responsibility and Environmental Management* (2006), 13: p.41

<sup>31</sup> Once a factory is registered it also must become a member of GMAC.

<sup>32</sup> For an excellent historical overview of the BFC see: Kevin Kolbent, 'Trade, Monitoring, and the ILO: Working to Improve Conditions in Cambodia's Garment Factories,' *Yale Human Rights and Development Law Journal* (2004), 7: pp. 79-107.

TATA which made provisions on export quota allocation dependent upon compliance with Cambodian labour law (10 January 1997) and ILO core labour standards. Prior to the expiry of the Multi Fibre Agreement (MFA) social compliance through the BFC monitoring and reporting mechanisms was voluntary, however it was also ‘encouraged’ by a *Prakas* (implementing decree) issued by the Ministry of Commerce which linked access to the US market to BFC inspections.<sup>33</sup> When the MFA ended in January 2005 the ministerial decree became redundant and participation in the programme became a condition for the concession of an export license.<sup>34</sup>

Given its relatively young age, the River Rich factory appears only in two out the twenty-one bi-annual synthesis reports published by the BFC, namely Report n. 17 released in October 2006 and Report n. 19 published exactly a year later. From 2001 up to March 2006 (Report n. 16) the publicly available BFC synthesis reports provided an aggregate summary of the audits’ findings against core labour standards and gave details on the uptake of the recommendations made to each factory. River Rich however joined the ILO programme when the BFC introduced new computerised auditing systems (i.e. Information Management Systems) and new reporting policies. In accordance with the new reporting procedures the reports issued after March 2006 only provide aggregate auditing scores which means that the names of labour rights violators (and persistent violators) are no longer accessible. This change effectively makes the new BFC significantly less transparent. A more substantial critique was articulated by C.CAWDU (Coalition of Cambodian Apparel Worker’s Democratic Union) President who suggested with the introduction of the new reporting mechanisms all the employers partaking in the ILO monitoring exercise, even those that discriminate against unions, come across as ‘good’.<sup>35</sup> Monitoring alone, from the perspective of a local trade union, does neither ensure that the trade union rights are respected nor does it promote social dialogue.<sup>36</sup>

Full access to the 500 items checked by the BFC factory advisers, a detailed synthesis of the audits’ findings and a summary of audits and the findings is only available to the members of the BFC<sup>37</sup> (i.e. the 280 Cambodian garment factories partaking in the programme and the 32 international buyers who subscribe to the IMS). River Rich main buyers, H&M and Inditex, joined the BFC respectively in 2005 and 2008. The BFC is expected to avoid audit duplication, reduce the cost of monitoring and enhance the quality and effectiveness of social compliance; both companies nonetheless continue to rely on

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<sup>33</sup> FIAS, ‘AIDE MEMOIRE - Labor standards monitoring, reporting and remediation in the Cambodian garment sector: Current status, desired end state, and recommendations,’ 12 January 2005, p. 3. Available at: [http://www.ifc.org/ifcext/economics.nsf/AttachmentsByTitle/Cambodia+FIAS+Aide+Memoire/\\$FILE/Cambodia+FIAS+Aide+Memoire.pdf](http://www.ifc.org/ifcext/economics.nsf/AttachmentsByTitle/Cambodia+FIAS+Aide+Memoire/$FILE/Cambodia+FIAS+Aide+Memoire.pdf) (Accessed 16 April, 2009)

<sup>34</sup> See: Better Factories Cambodia, ‘Why it works.’ Available at: <http://www.betterfactories.org/ILO/aboutBFC.aspx?z=2&c=1> (Accessed 16 April, 2009)

<sup>35</sup> Interview with C.CAWDU President, Phnom Penh, 24 March 2009.

<sup>36</sup> Interview with Ath Thorn, C.CAWDU President, Phnom Penh, 24 March 2009. It is important to add that some trade union activists recognised the value of training in negotiation, collective bargaining, most representative status and CSR imparted by the BFC and two complementary ILO initiatives operating in Cambodia – the ILO Dispute Resolution Project (Phase III) and the ILO Workers’ Education Project.

<sup>37</sup> Interview with BFC Chief Technical Advisor, Phnom Penh, 23 March 2009.

their own verification systems. H&M, for example is adamant to keep its own auditing mechanisms to ensure compliance with the H&M Code of Conduct: ‘The controls carried out by BFC do not replace H&M’s own monitoring, but BFC’s assessments do provide verification of the results of our audits. Moreover, the information provided by BFC facilitates H&M’s initial selection when looking to cooperate with new producers in Cambodia.’<sup>38</sup> Equally, the Inditex 2007 Financial Report indicates that Tested to Wear social audits have been carried amongst its Cambodian suppliers’ base and more audits were planned for 2008.<sup>39</sup>

### ***River Rich Workers: Organising against Insecurity***

Despite the existence of these overlapping systems of compliance, a number of labour disputes and strikes broke out at River Rich immediately after the formation of an independent union at the factory. At the time, according to figures collected by the ATNC (Asian Transnational Corporation Monitoring Network), River Rich workforce comprised 1,748 workers, and as is the case with the majority of the labour force within the Cambodian garment sector over 90% of River Rich workers were women<sup>40</sup>. Furthermore, 70 to 80% of the workforce was employed on fixed duration contracts (FDCs) despite having worked for the factory for a period ranging from 6 months to 2 years.<sup>41</sup> Whilst FDCs are permissible under the Cambodian labour law (and are the contract of choice for garment factories’ employers) their usage has dramatically increased since the conclusion of MFA.<sup>42</sup> In interviews conducted by the Clean Clothes Campaign with Athit Kong, Vice President of C.CAWDU and Phereak Ly of the women’s rights NGO, Womyn’s Agenda for Change (WAC) the two Cambodian labour activists identified a number of problems with the use of flexible contracts, namely a trade-off between freedom of association (FOA) and flexible contractual agreements and the leverage FDCs concede to employers:

Athit Kong: ‘...Before, workers would be on permanent contracts but now lots are employed on one to three month contracts, even if they have worked at the same factory for over two years. If workers

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<sup>38</sup> H&M, *CSR Reporting 2006* (Stockholm: H&M, 2006), p. 8. Available at: [http://www.hm.com/filearea/corporate/fileobjects/pdf/en/CSR\\_REPORT\\_2006\\_PDF\\_1211354995094.pdf](http://www.hm.com/filearea/corporate/fileobjects/pdf/en/CSR_REPORT_2006_PDF_1211354995094.pdf) (Accessed 16 April, 2009).

<sup>39</sup> Inditex, *Annual Report 2007* (A Coruña: Inditex Group, 2007), pp. 77-78.

<sup>40</sup> See, for example, Better Factories Cambodia, *Cambodia – Women and Work in the Garment Industry* (Phnom Penh: Better Factories Cambodia, December 2006). Available at: [http://www.betterfactories.org/content/documents/1/Women%20and%20Work%20in%20the%20Garment%20Industry%20\(en\).pdf](http://www.betterfactories.org/content/documents/1/Women%20and%20Work%20in%20the%20Garment%20Industry%20(en).pdf) (Accessed 16, April 2009).

<sup>41</sup> ATNC, ‘Fact Sheet of River Rich Textile Ltd. Factory,’ May 21, 2007. Available at: <http://atnc.org/html/campaign/river-rich-garment/river-rich-textile-ltd.-factory> (Accessed 3 March, 2009)

<sup>42</sup> Dennis Arnold, ‘Creating Precarity: Labour Law in Cambodia 1,’ Asia Monitor Resource Centre. Available at: [http://www.amrc.org.hk/alu\\_article/informalization\\_of\\_labour\\_in\\_asia/creating\\_precarity\\_labour\\_law\\_in\\_cambodia1](http://www.amrc.org.hk/alu_article/informalization_of_labour_in_asia/creating_precarity_labour_law_in_cambodia1) (Accessed 17 April, 2009). Also in Doris Lee, Apo Leong, Rene Ofreneo, Anoop Sukumaran (eds.) *Asian Labour Law Review 2008: Rights for Two-Thirds of Asia* (Hong Kong: Asia Monitor Resource Centre, 2008).

are on temporary contracts, it's really hard to form a union. They will be immediately fired or just not get their contracts renewed.’<sup>43</sup>

Phereak Ly: ‘...It also means workers are under a lot of pressure. If you refuse overtime or take sick leave, if you don't meet your targets all the time, or try to speak out about your problems, they say you are not a good worker and won't renew your contract.’<sup>44</sup>

Workers at River Rich were eager to unionise primarily to put a halt to the overwhelming usage of FDCs and the insecurities and pressures ensuing from them. On October 24, 2006 a request to hold elections was sent by C.CAWDU to the management of River Rich. Despite threats of dismissal to labour activists in the ironing section the election took place on October 29, 2006. The ATNC documents that 345 workers participated in the elections, 10 male workers and 5 female workers were competing for the union’s leadership posts (i.e. President, Vice President and Secretary General), such posts were officially won by 3 male candidates.<sup>45</sup> The gender bias in trade union leadership is not isolated to this single case, only 15% of trade union local leaders in the Cambodian garment sector are women while female membership accounts to a staggering 90%.<sup>46</sup>

### *Dismissals and Disputes*

On October 31, 2006, only three days after the election took place, River Rich dismissed 19 union members and leaders (including the President of the newly formed C.CAWDU affiliate); shortly afterwards another 98 short-term workers, including 11 union activists, were dismissed (See: Table 1) because their contracts had allegedly expired and production was low. In response to what was perceived as anti-union activity and unfair dismissal C.CAWDU sent a formal complaint to the Provincial Labour Inspector in Khandal.

**Table 1: Terminations at River Rich**

Date	No. Workers Dismissed
31 October 2006	19
2 to 3 November 2006	97
3 to 21 November 2006	1
<b>Total</b>	<b>117</b>

Source: Compiled by the authors from Cambodia Arbitration Council, ‘Arbitral Award 112/06-River Rich.’

Early in November River Rich offered monetary compensations to settle the unrest caused by the terminations. The company offered a ‘privately negotiated’ lump sum of USD \$ 1500 to 6 out the 19 union members dismissed in October so that they would drop their demands for re-instatement – the amount was 5 times higher than the severance payment

<sup>43</sup> Clean Clothes Campaign, ‘We are not machines; but they want us to be’, Newsletter N. 24, October 2007. Available at: <http://olympicflame.org/about-us/416> (Accessed 17 April, 2009)

<sup>44</sup> Clean Clothes Campaign, ‘We are not machines.’ (Accessed 17 April, 2009)

<sup>45</sup> ATNC, ‘Fact Sheet of River Rich.’

<sup>46</sup> Interview with Senior Programme Officer American Center for International Labour Solidarity (ACILS) Cambodia, Phnom Penh, 26 April 2009.

for all the other workers which was calculated at USD \$ 300. In mid-November 40 of the terminated worker were re-offered short-term employment<sup>47</sup>, whilst 57 workers (19 male and 38 female) refused to accept the severance package and maintained their demand for reinstatement.<sup>48</sup>

An attempt to solve the dispute was facilitate by the Ministry of Labour and Vocation Training (MOLVT) but the collective labour dispute dated 24 November failed to resolve a number of issues tabled by C.CAWDU. In accordance with Cambodian labour law the outstanding issues were referred by MOLVT to the Arbitration Council.<sup>49</sup> An offshoot of the TATA and a brainchild of the ILO the Council is the only tripartite tribunal in Cambodia that deals specifically with labour disputes and issues awards.<sup>50</sup> In dealing with the River Rich and C.CAWDU dispute, the Council hosted hearings in December and issued a non-binding award in January 2005. The award ruled in favour of River Rich and recommended **against** the re-instatement of the union leaders and members and C.CAWDU demand that workers employed for more than two months be given a contract of undeterminate duration.<sup>51</sup> Despite the non-binding nature of the arbitral award, the workers' arbitrator, Mr. An Nan, publicly disagreed with the ruling and stated that the workers dismissed conformed to a case of union discrimination: the workers were members of CAWDU, the contracts of the workers had not officially expired and the union leaders were offered an unusually high compensation sum.<sup>52</sup>

### *The First Agreement*

The result of award did not satisfy C.CAWDU and, as a measure of last resort called upon the ITGLWF for help. Whilst Arnold suggests that in Cambodia 'it is typical for workers to appeal directly to international buyers when they experience problems in their factory',<sup>53</sup> the President of C.CAWDU clarified that when workers are unionised and all the local remedies have been unsuccessfully exhausted, unions call for solidarity actions.<sup>54</sup> In attempting to resolve the dispute at River Rich, C.CAWDU followed the same procedures it used earlier on in the year to draw attention (and seek remedy) to ongoing union discrimination at Goldfame Enterprises International Knitters.<sup>55</sup>

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<sup>47</sup> Cambodia Arbitration Council, 'Arbitral Award 112/06-River Rich,' 5 January 2007, p.6. and p.11. Available at: [http://www.arbitrationcouncil.org/pdf\\_files/awards/112-06-River%20Rich.pdf](http://www.arbitrationcouncil.org/pdf_files/awards/112-06-River%20Rich.pdf) (Accessed 10 April 2009)

<sup>48</sup> ATNC, 'Fact Sheet of River Rich'.

<sup>49</sup> Not all the unresolved disputes conciliated by MOLVT are referred to the Arbitration Council.

<sup>50</sup> See: Daniel Adler, Caroline Sage and Michael Woolcock, 'Interim Institutions and the Development Process: Opening Spaces for Reform in Cambodia and Indonesia,' The University of Manchester, Brooks World Poverty Institute, Working Paper No. 86, March 2009, pp. 4-9.

<sup>51</sup> Cambodia Arbitration Council, 'Arbitral Award 112/06-River Rich,' p. 14.

<sup>52</sup> Cambodia Arbitration Council, 'Arbitral Award 112/06-River Rich,' pp. 15-16.

<sup>53</sup> Dennis Arnold, 'The Cambodian Experiment,' p. 17.

<sup>54</sup> Interview with Ath Thorn, C.CAWDU President, Phnom Penh, 24 March 2009.

<sup>55</sup> For a brief outline of the case see: ITUC, CSI and IGB, 'Annual Survey of violation of trade union rights 2007.' Available at: <http://survey07.ituc-csi.org/getcountry.php?IDCountry=KHM&IDL=EN> (Accessed 21 April 2009)

In December 2006 the ITGLWF was alerted of the situation and in January 2007 made contacts with River Rich main buyers.<sup>56</sup> Both H&M and Inditex, owner of the Zara brand, were made aware of the union's demands which included the reinstatement of thirty dismissed union members, permanent employment status for workers with more than two months seniority, the provision of written and comprehensible employment contracts and the payment of maternity allowance for the whole period of confinement. Failure to investigate the disputes and consider the workers' demands would have ushered allegations of breaches of the companies' respective codes of conduct and potentially damage the reputation of the Zara and H&M brands. However, the types of interventions adopted by the buyers differed significantly. The ITGLWF Secretariat briefed the companies that the Arbitration Council's ruling has not always protected the rights to freedom of association, however H&M agreed with the jurisdiction of the Council and preferred not to get involved.<sup>57</sup> Inditex, on the other hand, was persuaded by the ITGLWF General Secretary General to bypass the Arbitral award and hold talks with C.CAWDU and the management of River Rich.

On the 3<sup>rd</sup> of February 2007, the ITGLWF and representatives of Inditex met with the supplier, the union and Cambodian arbitrators. The meetings resulted in agreement which contained a series of short-term and longer-term commitments. River Rich agreed to immediately re-instate the 30 workers as of March 2007, and to drop all legal charges mounted against them. They furthermore undertook to re-train the 30 workers, and upon reinstatement, begin dialogue, consultation and negotiation with C.CAWDU in accordance with industrial relations practice. Second, the agreement reached by the parties provided for trade union recognition and the development of dialogue, consultation and training on industrial relations. In the longer term the ITGLWF promised to offer the union assistance in mentoring and training activities with the view on establishing a joint trade unions council in the factory, whilst Inditex, as a principal buyer, pledged to undertake periodic reviews and finance training activities for the management and workers. Furthermore, River Rich in conjunction with Inditex committed to undertake an analysis of the use of workers on short-term contracts with a view to eliminate such practice.<sup>58</sup>

The fourth clause in the agreement's addendum deserves some attention because it introduces the concept of 'Mature Systems of Industrial Relations' and specifies its constitutive elements. These included trade union recognition; daily briefings on production and other problems and objectives; fortnightly meetings on general industrial relations matters including working conditions, productivity and training; a procedure for handling grievances and complaints and a procedure for the handling of disciplinary action. With these elements in place, the spirit of the agreement was to render River Rich a viable, profitable and internationally competitive enterprise based on good working practices in accordance with Cambodian labour law and international labour standards.

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<sup>56</sup> ITGLWF, Solidarity Action Presidium Report 2007, Unpublished Manuscript, March 2007.

<sup>57</sup> ITGLWF, 'Solidarity Action Presidium Report 2007.'

<sup>58</sup> The full agreement is contained in ITGLWF, 'Agreement between River Rich Textile Limited and C.CAWDU together with ITGLWF and Inditex, S.A,' 7 June 2007, Appendix 1. Available at: <http://www.itglwf.org/DisplayDocument.aspx?idarticle=15317&langue=2> (Accessed 21 April 2009)

### *‘Compensations’, Strikes and International Outcries: Towards a Final Agreement*

In March, the 30 workers returned to the factory and commenced the training activities stipulated in the agreement. However, once the training was concluded and the workers were expected to resume work, River Rich offered them a monthly compensation of US\$ 50 per month for a year to find another job and drop their demands. Following an illegal strike organised in support of the 30 trade unionist River Rich increased the compensation offer to US\$ 100 per month and added a lump sum of US\$4000 for the 3 union leaders and US\$500 to the other union activists.<sup>59</sup> Whilst the workers were forced to accept the money out of economic necessity, throughout May four<sup>60</sup> strikes were organised outside the factory gates demanding the immediate reinstatement of the workers and for River Rich to uphold the terms of the agreement signed in February. The last strike staged on May 21 was by far the largest, with approximately 1000 workers involved, and was met by 150 riot police equipped with tear gas, guns, electric batons and shields.<sup>61</sup> Pacification of collective action and a halt to the altercation between the workers and the police required the intervention of two representatives of the UN Commission for Human Rights.<sup>62</sup>

The commotion caused by the successive strikes and the zenith reached on May 21 prompted an alliance of Hong-Kong based NGOs, international NGOs (i.e. Clean Clothes Campaign) local and international union to join forces in an effort to put an end to the trade unions’ rights violations (and numerous other breaches) at River Rich. The ATNC Monitoring Network – an alliance comprising 20 labour and human right organisations and trade unions in 12 Asian countries, including 2 labour organisations in Cambodia – coordinated the campaign in close co-operation with C.CAWDU. The ATNC website was employed as a vehicle to monitor and later condemn the violations; furthermore in the aftermath of the May strikes, letters of urgent appeal co-signed by 24 organisations were sent to Addchance and the Prime Minister of Cambodia, Samdech Hun Sen.

The urgency of the appeal and the direct allegations made to the ZARA brand and H&M by the ATNC called for a second intervention. Two weeks after the May 21 strike, the ITGLWF went back to Cambodia and, unlike the previous visit, it arranged a meeting with the management of the Addchance group, the management of River Rich, Inditex SA, a representative of H&M, C.CAWDU and GMAC. The 3 days long meeting resulted in the re-affirmation of the February agreement, furthermore it stipulated a number of additional provisions, namely the immediate permanent reinstatement of the 30 workers with payments of average earnings since the day of dismissal, the cessation of legal action against the dismissed workers, gradual phasing out of short-duration contracts across the whole workforce, and promotion of ‘good industrial relations’ through training and

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<sup>59</sup> ATNC, ‘Fact Sheet of River Rich.’

<sup>60</sup> According to Cambodian labour law employees can go on strike to defend their rights and interests but only after all other methods of dispute resolution have failed. The legality of the May strikes was an issue of contention.

<sup>61</sup> LIDACHO, ‘Riot Police Clash with Cambodian River Rich Garment Factory Workers on Strike in Phnom Penh,’ 22 May 2007. Available at: <http://www.licadho-cambodia.org/articles/20070522/54/index.html> (Accessed 22 April 2009)

<sup>62</sup> ATNC, ‘Fact Sheet of River Rich.’

dialogue.<sup>63</sup> Whilst the first agreement had no legal validity the second agreement was registered with MOLVT to allow any further dispute to be resolved through Cambodian conciliation and arbitration mechanisms.<sup>64</sup>

#### 4. MSIR at River Rich: a Victory for Decent Work?

Almost two years since the second agreement was signed during our empirical research we set to explore the robustness (and limits) of this approach and whether it has enabled the advancement of core labour standards at River Rich. In the immediate aftermath of the agreement there have been some recognisable developments and victories for the workers and unions members at River Rich. Indeed, parts of the agreement have been respected and out of the 30 union members that were offered **re-instatement**, 25 accepted the offer, whilst the other 5 found employment elsewhere. Furthermore, in line with the stipulations, all the workers who returned to work for River Rich received back payments in the region of US\$ 1,100.<sup>65</sup> Of importance is also the fact that in the aftermath of the agreement *all* the 2500 workers at the plant (See: Table 2) have been given **undeterminate contracts** making River Rich one of the few garment factories in Cambodia where short-term contracts have been eliminated.<sup>66</sup>

The agreement has also been decisive in enabling the recognition of the right to unionise and the initiation of **dialogue** between the union and management.<sup>67</sup> As illustrated in a recent remark made by Neil Kearney at the World Retail Congress:

‘In the River Rich enterprise not a single day’s work has been lost in the two years since these systems were adopted. There trade unions consult and recommend how work be allocated between lines, a continual source of dispute in the past. Mature industrial relations don’t eliminate problems but it provides a mechanism where these can be anticipated, identified and dealt with before they escalate into disputes.’<sup>68</sup>

This was amplified in our interviews with trade unionists at River Rich who confirmed that dialogue now took place between trade union and management although on two occasions the parties had resorted to the Arbitration Council over maternity payments, health checks

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<sup>63</sup> ITGLWF, ‘Agreement between River Rich Textile Limited and C.CAWDU.’

<sup>64</sup> ITGLWF, Solidarity Action Presidium Report 2007, Unpublished Manuscript, March 2007.

<sup>65</sup> ITUC, ‘25 trade unionists get their jobs back thanks to international solidarity,’ ITUC Union View No. 5, September 2007, p. 7. Available at: <http://www.ituc-csi.org/IMG/pdf/CambodgeEN.pdf> (Accessed 29 April 2009)

<sup>66</sup> Interview with An Nan, Arbitrator Cambodian Arbitrator Council and Workers Rights Consortium, Phnom Penh, 23 March 2009.

<sup>67</sup> ITUC, ‘25 trade unionists get their jobs back,’ p. 7.

<sup>68</sup> ITGLWF, ‘From Decent Work comes the Four Wins,’ Speech by Neil Kearney delivered at the World Retail Congress 2009, Barcelona, 7 May 2009. Available at: <http://www.itglwf.org/DisplayDocument.aspx?idarticle=15739&langue=2> (Accessed 11 May 2009)

and redundancies since the agreement was signed confirming that conflicts of interest have not been reduced by the approach.

Since June 2007, the membership of CAWDU increased by fivefold thus allowing the union to numerically gain most representative status at the plant (See: Table 3). The unions learned how to mobilise (national and transnational) support and to organise industrial actions, furthermore the C.CAWDU affiliates earned a favourable **reputation** amongst garment workers in Khandal. As the President of C.CAWDU recalls: ‘...it was a very organised campaign which involved local union leaders, industrial action, media and the intervention of Inditex. It was important to win at River Rich, C.CAWDU became known in other factories as well.’<sup>69</sup> An additional unintended outcome of the process is that CAWDU and C.CAWDU acquired invaluable **skills** in negotiating with the management and the buyers.<sup>70</sup> Such skills might certainly become fruitful when it will be deemed timely to engage in collective bargaining. So far, however, attempts to initiate discussions on collective bargaining have been ‘delayed’ by management due to the uncertainties ensuing from the financial crisis.

**Table 2: River Rich Today**

<b>Workers</b>	<b>Workers’ Gender</b>	<b>Unions</b>	<b>CAWDU members</b>	<b>CAWDU members’ gender</b>
2500	95% workforce is female.	3	1553	90% of union members at River Rich are women.

Source: Interviews with CAWDU leadership and activists at River Rich, Khandal, 24 March 2009.

Whilst we noted some positive direct and indirect effects ensuing from the labour disputes and their subsequent resolution there are a number of issues called for in the agreement by reference to the ETI base code and the Inditex code of conduct that remain unresolved, namely health and safety within the workplace, the payment of a ‘living wage’ and non-wage benefits. Union leaders and activists interviewed as part of this research were asked about the working conditions at the factory and they identified ‘excessive heat’ and ‘dust’ as being persistent health and safety problems which the management was made aware of but had not acted upon. They also indicated that ‘wages’, maternity leave payments and health checks expenses were issues of concern. All the union activists unanimously agreed that the minimum wage rate should be increased to US \$ 82 per month from the current national minimum rate of US \$ 50 (this was negotiated nationally in 2006)<sup>71</sup>. The average pay of US \$ 72 (inclusive of overtime, housing allowance and seniority bonus) was below what the workers perceived as an adequate ‘living wage’ to satisfy their needs and those of their dependants and families. Even though we were unable to determine whether the piece rate had been lowered or the workload increased, average wages have

<sup>69</sup> Interview with Ath Thorn, C.CAWDU President, Phnom Penh, 24 March 2009.

<sup>70</sup> Interview with John Richotte, Chief Technical Advisor ILO Dispute Resolution Project, Phnom Penh, 23 March 2009.

<sup>71</sup> Doug Miller and Peter Williams, ‘What Price a Living Wage?’ *Global Social Policy* (2009), 9 (1): p. 107.

remained the same since the MSIR agreement was concluded in 2007.<sup>72</sup> Obviously minimum wages are negotiated nationally but the preoccupation with incomes raises questions regarding the ability of the union to bargain at plant level for higher piece rates and more favourable entitlements.

Some interviewees asserted that the agreements signed at River Rich are ‘far too complex for Cambodia.’<sup>73</sup> According to ILO officials unions might be compelled to sign an agreement which seeks to resolve immediate concerns (e.g. unfair dismissal and reinstatement) but might not have the capacity to use it effectively after the immediate resolution of industrial disputes. This is a particularly important point which reinforces, as stipulated in the agreement, the need to provide unions and management with training in industrial relations and social compliance. However, two years after the agreement was signed training has not been provided and questions are being raised as to who should conduct it and finance it.<sup>74</sup> In Cambodia, both the trade union movement and management are still ‘young’ and the experience of day to day dispute resolution assisted by training can only advance the process of industrial relations’ maturity.

The financial crisis has brought into sharp focus the fickle nature of apparel sourcing and the limited authority which CSR departments have in commercial decision making. At the time of our interviews the global crisis had impacted upon order placements threatening employment security and the victories secured since the introduction of MSIR. Since the financial crisis began orders have been low,<sup>75</sup> and sourcing policy and purchasing practices<sup>76</sup> are variables over which the MSIR approach, at present, has very little say. The impact of buying practices on staffing decisions are difficult to isolate during a period of economic downturn, however we were informed by the River Rich trade union committee that a number of workers with undeterminate contracts had been laid off<sup>77</sup> and been replaced by agency workers when the volume of orders is particularly high. At the time of our interviews it was reported that 50 casual workers had been offered intermittent work across various departments at River Rich.<sup>78</sup> In such circumstances, putting a halt to flexibilisation and casualisation through trade union pressure, as envisaged by the proponents of the MSIR approach, becomes problematic. Union leaders admitted to having

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<sup>72</sup> Cfr. Ama Martson, ‘Labour Monitoring in Cambodia’s Garment Industry: Lessons for Africa’, The Ethical Globalization Initiative Special Report, 1 May 2007, p 5. Available at: [http://www.realizingrights.org/pdf/Labor\\_Monitoring\\_in\\_the\\_Garment\\_Industry\\_May2007\\_A\\_Marston.pdf](http://www.realizingrights.org/pdf/Labor_Monitoring_in_the_Garment_Industry_May2007_A_Marston.pdf) (Accessed 29 April 2009)

<sup>73</sup> Interview with Interview with John Richotte, Chief Technical Advisor ILO Dispute Resolution Project, Phnom Penh, 23 March 2009. And, Interview with Tuomo Poutiainen, Chief Technical Advisor ILO Better Factories Cambodia, Phnom Penh, 23 March 2009.

<sup>74</sup> Interview with Senior Programme Officer ACILS Cambodia, Phnom Penh, 26 April 2009.

<sup>75</sup> Across the whole Cambodian garment industry there has been a 45% drop in production since the financial crisis began. Interview with Mr. Som Chamnan, Executive Manager CAMFEBA, Phnom Penh, 27 March 2009.

<sup>76</sup> Inditex is a company which has pioneered the ‘fast fashion’ retail model which calls for reduced lead times and constant modifications to product design. This is an approach which can have a short-term impact on production and factory management and is an area which is badly in need of empirical research.

<sup>77</sup> Interview with Ath Thorn, C.CAWDU President, Phnom Penh, 24 March 2009.

<sup>78</sup> Interviews with CAWDU activists and leadership at River Rich, Khandal, 24 March 2009.

avoided confrontation with management out of fear that production would be shifted to River Rich sister plant (i.e. Winner), with more jobs lost as a result.<sup>79</sup>

Last, it is important to note that the sustainability of the MSIR approach is heavily dependent on the existing commercial relationship flourishing between the supplier in question and the signatory of the IFA, and that such a relationship is one where the buyer has a significant percentage of the production at the supplier's facility. In a volatile sourcing environment such as apparel, MSIR can become a transient mode of compliance since there is no guarantee that Inditex will continue sourcing from River Rich, and River Rich to comply with the conditions negotiated with Inditex and C.CAWDU. From the perspective of the trade unions, should CAWDU lose its most representative status within the plant – a 51 % union membership – the agreement does not stipulate whether the same 'entitlements' and conditions would be re-negotiated with or extended to a different union or a union not affiliated to either C.CAWDU or the ITGLWF. Such observations appear to suggest that MSIR, in its current formulation and practical application, might not be a sustainable strategy for social compliance and the furtherance of a Decent Work Agenda.

## 5. Conclusions

In this paper we have attempted to further the debate on alternative approaches to global social compliance by critically assessing the application of the Mature Systems of Industrial Relations approach. By charting the labour dispute at River Rich the paper has sought to determine what the MSIR approach means in practice (i.e. when it is introduced and by whom) and what effects it has produced. We found that the introduction of MSIR at River Rich has not been proactive, and could not have been anticipated by any existing instrument of social compliance; rather it followed as series of labour disputes, industrial action and international campaigns that caused significant disruptions to production and threatened to tarnish the reputation of two global brands. Importantly, although a system for managing industrial relations was negotiated in the first instance, the supplier did not abide by the agreement and unions had to call for international solidarity action and enlist the assistance of a global union and labour rights organisations to seek further remedy. The most visible impacts of the intervention by Inditex and the ITGLWF were undoubtedly a final recognition of C.CAWDU and the elimination of FDCs. However, to date, there has been no training provision for the union representatives at River Rich despite a provision in the agreement. Furthermore we would maintain that the agreement has not been able to protect the workers from the insecurities arising from buying practices, and the global slowdown in consumption and production.

Conceptually, the MSIR approach can be thought as an emerging transnational approach which seeks to empower labour and advance democracy in the workplace. As such it is based on the recognition of the primacy of the employment relationship between management and worker at the point of production. In the globalised world of outsourced

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<sup>79</sup> Interviews with CAWDU activists and leadership at River Rich, Khandal, 24 March 2009.

apparel production, however, the extent to which an employment relationship based on Decent Work is able to withstand the broader forces at work in the commercial pressure cooker of an apparel supply chain can be questioned. Inditex and H&M are both fashion retailers which operate in a highly competitive retail environment, which has major implications for the organisation of production and undoubted impacts on industrial relations in supplier factories. Assessing the effectiveness of industrial relations systems cannot be detached from the buying practices of the major clients of any supplier, the regulatory mechanisms – whether public, private or a mix of both – and the national systems of industrial relations where the MSIR approach is purported to operate. This is an area which, we would argue, is in need of further comparative research.

As the MSIR approach develops in conjunction with the ITGLWF’s policy of pursuing IFAs and developing relationships between global retailers, brand-owners and ITG affiliates throughout their supply chains, we would argue that, as a paradigm, MSIR needs to be embraced by suppliers in the sector as much as by buyers. Such a perspective will necessitate a shift in the MNCs targeting strategy of the ITGLWF.

## **Glossary**

ACILS	American Center for International Labour Solidarity
ATNC	Asian Transnational Corporation Monitoring Network
BFC	Better Factories Cambodia
CAMFEBA	Cambodian Federation of Employers and Business Association
CCC	Clean Clothes Campaign
C.CAWDU	Coalition of Cambodian Apparel Worker’s Democratic Union (Federation)
CAWDU	Cambodian Apparel Worker’s Democratic Union (Affiliate of C.CAWDU)
CSR	Corporate Social Responsibility
ETI	Ethical Trading Initiative
FDC	Fixed Duration Contract
FDI	Foreign Direct Investment
FOA	Freedom of Association
GMAC	Garment Manufacturing Association of Cambodia
GUF	Global Union Federation
IFA	International Framework Agreement

ILO	International Labour Organisation
ITGLWF	International Textile, Garment and Leather Workers' Federation
LIDACHO	Cambodian League for the Promotion and Defence of Human Rights
MSIR	Mature Systems of Industrial Relations
MOLVT	Ministry of Labour and Vocation Training
MFA	Multi Fibre Agreement
TATA	Trade Agreement on Textile and Apparel
UDC	Undetermined Duration Contract
WAC	Womyn's Agenda for Change

## **Bibliography**

Addchance, 'Homepage.' Available at: <http://www.addchance.com.hk/content/index.html> (Accessed 16 April, 2009)

Addchance, 'Circular – Proposed Acquisition of River Rich Textiles Ltd.,' August 1<sup>st</sup> 2006. Available at: [http://www.addchance.com.hk/download/announcements/0000000018/2006\\_Jul\\_11\\_Acquisition\\_of\\_the\\_entire\\_share\\_capital\\_of\\_River\\_Rich.pdf](http://www.addchance.com.hk/download/announcements/0000000018/2006_Jul_11_Acquisition_of_the_entire_share_capital_of_River_Rich.pdf) (Accessed 3 March, 2009)

Addchance, *Annual Report 2006*, Hong Kong: Addchance Holdings Limited, 2006. Available at: [http://www.addchance.com.hk/download/annual/0000000011/2006\\_Annual\\_Report.pdf](http://www.addchance.com.hk/download/annual/0000000011/2006_Annual_Report.pdf) (Accessed 16 April, 2009).

Adler, Daniel, Sage, Caroline and Michael Woolcock, 'Interim Institutions and the Development Process: Opening Spaces for Reform in Cambodia and Indonesia,' The University of Manchester, Brooks World Poverty Institute, Working Paper No. 86, March 2009.

Arnold, Dennis, 'The Cambodian Experiment in Ethical Production: Dynamics of a GMO Approach to Promoting Labour Rights and Investment,' Paper presented at the workshop on *Multinational Production and Labour Rights*, University Center for International Studies, UNC Chapel Hill, September 22-24, 2006, p. 7.

Arnold, Dennis, 'Creating Precarity: Labour Law in Cambodia 1,' Asia Monitor Resource Centre. Available at: [http://www.amrc.org.hk/alu\\_article/informalization\\_of\\_labour\\_in\\_asia/creating\\_precarity\\_labour\\_law\\_in\\_cambodia1](http://www.amrc.org.hk/alu_article/informalization_of_labour_in_asia/creating_precarity_labour_law_in_cambodia1) (Accessed 17 April, 2009).

ATNC, 'Fact Sheet of River Rich Textile Ltd. Factory,' May 21, 2007. Available at: <http://atnc.org/html/campaign/river-rich-garment/river-rich-textile-ltd.-factory> (Accessed 3 March, 2009)

Barrientos, Stephanie, 'Contract Labour: The 'Achilles Heel' of Corporate Codes in Commercial Value Chains,' *Development and Change* (2008), 39(6): 977–990.

Barrientos, Stephanie and Sally Smith, *The ETI Code of Labour Practice: Do Workers Really Benefit?* Brighton: Institute of Development Studies, University of Sussex, 2006.

Better Factories Cambodia, 'Facts and Figures.' Available at: <http://www.betterfactories.org/content/documents/Facts%20and%20Figures.pdf> (Accessed 20 April 2009)

Better Factories Cambodia, 'Why it works.' Available at: <http://www.betterfactories.org/ILO/aboutBFC.aspx?z=2&c=1> (Accessed 16 April, 2009)

Better Factories Cambodia, *Cambodia – Women and Work in the Garment Industry* (Phnom Penh: Better Factories Cambodia, December 2006). Available at: [http://www.betterfactories.org/content/documents/1/Women%20and%20Work%20in%20the%20Garment%20Industry%20\(en\).pdf](http://www.betterfactories.org/content/documents/1/Women%20and%20Work%20in%20the%20Garment%20Industry%20(en).pdf) (Accessed 16, April 2009).

Cambodia Arbitration Council, 'Arbitral Award 112/06-River Rich,' 5 January 2007. Available at: [http://www.arbitrationcouncil.org/pdf\\_files/awards/112-06-River%20Rich.pdf](http://www.arbitrationcouncil.org/pdf_files/awards/112-06-River%20Rich.pdf) (Accessed 10 April 2009)

Clapp, Jennifer and Peter Utting, 'Corporate Responsibility, Accountability and Law: An Introduction,' in Jennifer Clapp and Peter Utting (Ed.), *Corporate Accountability and Sustainable Development – Ecological Economics and Human Well-Being* (Oxford: Oxford University Press, 2008, 1-33.

Clean Clothes Campaign, 'Freedom of Association and the Right to Collective Bargaining – A Clean Clothes Campaign Premier Focussing on the Global Apparel Industry,' September 2005, p. 41. Available at: [http://www.cleanclothes.org/codes/docs/CCC\\_FoA\\_Primer.pdf](http://www.cleanclothes.org/codes/docs/CCC_FoA_Primer.pdf) (Accessed 10 May 2009)

Clean Clothes Campaign, 'We are not machines; but they want us to be', Newsletter N. 24, October 2007. Available at: <http://olympicflame.org/about-us/416> (Accessed 17 April, 2009)

Croucher, Richard and Elizabeth Cotton, *Global Unions Global Business- Global Union federations and International Business*, London: Middlesex University Press, 2009.

FIAS, 'AIDE MEMOIRE - Labor standards monitoring, reporting and remediation in the Cambodian garment sector: Current status, desired end state, and recommendations,' 12 January 2005. Available at: [http://www.ifc.org/ifcext/economics.nsf/AttachmentsByTitle/Cambodia+FIAS+Aide+Memoire/\\$FILE/Cambodia+FIAS+Aide+Memoire.pdf](http://www.ifc.org/ifcext/economics.nsf/AttachmentsByTitle/Cambodia+FIAS+Aide+Memoire/$FILE/Cambodia+FIAS+Aide+Memoire.pdf) (Accessed 16 April, 2009)

FNV Mondial, 'An Introduction to International Framework Agreements,' February 2008. Available at: [http://www.fnv.nl/binary/International%20Framework%20Agreements\\_tcm7-18663.pdf](http://www.fnv.nl/binary/International%20Framework%20Agreements_tcm7-18663.pdf) (Accessed 1 May 2009)

Frost, Stephen and Mary Ho, 'The End of the MFA and Apparel Exports: Has Good CSR Allowed Cambodia to Hold Steady Against China in a Quota Free Environment,' *Corporate Social Responsibility and Environmental Management* (2006), 13: 37-46.

H&M, *CSR Reporting 2006*, Stockholm: H&M, 2006.

Hammer, Nikolaus, 'International Framework Agreements: global industrial relations between rights and bargaining,' *Transfer* (2005), 11 (4): 511-530.

Inditex, *Annual Report 2007*, A Coruña: Inditex Group, 2007.

ITGLWF, 'One Year On, Groundwork on Spectrum Relief Fund Nears Completion,' 11 April 2006. Available at: <http://www.itglwf.org/DisplayDocument.aspx?idarticle=1535&langue=2> (Accessed 26 May 2009)

ITGLWF, 'Solidarity Action Presidium Report 2007,' Unpublished Manuscript, March 2007.

ITGLWF, 'Agreement between River Rich Textile Limited and C.CAWDU together with ITGLWF and Inditex, S.A,' 7 June 2007. Available at: <http://www.itglwf.org/DisplayDocument.aspx?idarticle=15317&langue=2> (Accessed 21 April 2009)

ITGLWF, 'Time to Move to Life after Corporate Codes of Conduct,' 7 December 2007. Available at: <http://www.itglwf.org/DisplayDocument.aspx?idarticle=15453&langue=2> (Accessed 19 May 2009)

ITGLWF, 'From Decent Work comes the Four Wins,' Speech by Neil Kearney delivered at the World Retail Congress 2009, Barcelona, 7 May 2009. Available at: <http://www.itglwf.org/DisplayDocument.aspx?idarticle=15739&langue=2> (Accessed 11 May 2009)

ITUC, '25 trade unionists get their jobs back thanks to international solidarity,' ITUC Union View No. 5, September 2007. Available at: <http://www.ituc-csi.org/IMG/pdf/CambodgeEN.pdf> (Accessed 29 April 2009)

ITUC, 'Spotlight Interview with Ath Thorn,' Brussels 27 September 2007. Available at: <http://www.ituc-csi.org/spip.php?article1435> (Accessed 8 May 2009)

ITUC, CSI and IGB, 'Annual Survey of violation of trade union rights 2007.' Available at: <http://survey07.ituc-csi.org/getcountry.php?IDCountry=KHM&IDLang=EN> (Accessed 21 April 2009)

Kolbent, Kevin, 'Trade, Monitoring, and the ILO: Working to Improve Conditions in Cambodia's Garment Factories,' *Yale Human Rights and Development Law Journal* (2004), 7: 79-107.

LIDACHO, 'Riot Police Clash with Cambodian River Rich Garment Factory Workers on Strike in Phnom Penh,' 22 May 2007. Available at: <http://www.licadho-cambodia.org/articles/20070522/54/index.html> (Accessed 22 April 2009)

Locke, Richard, Fei Qin and Alberto Brause, 'Does Monitoring Improve Labour Standards? Lessons for Nike,' Corporate Social Responsibility Initiative, Working Paper No. 24, John F. Kennedy School of Government, Harvard University.

Lipschutz, Ronnie D., 'Doing well by doing it? Social regulation and the transnational apparel industry,' in Ronnie D. Lipschutz and James K. Rowe (Ed.), *Globalization, Governmentality and Global Politics – Regulation for the rest of us?* London: Routledge, 2005), 69-105.

Martson, Ama, 'Labour Monitoring in Cambodia's Garment Industry: Lessons for Africa', The Ethical Globalization Initiative Special Report, 1 May 2007, p 5. Available at: [http://www.realizingrights.org/pdf/Labor\\_Monitoring\\_in\\_the\\_Garment\\_Industry\\_May2007\\_A\\_Marston.pdf](http://www.realizingrights.org/pdf/Labor_Monitoring_in_the_Garment_Industry_May2007_A_Marston.pdf) (Accessed 29 April 2009)

Merk, Jeroen, 'The Structural Crisis of Labour Flexibility: Strategies and Prospects for Transnational Labour Organising in the Garment and Sportswear Industries,' Clean Clothes Campaign May 2008. Available at: [http://www.cleanclothes.org/documents/Structural\\_Crisis.pdf](http://www.cleanclothes.org/documents/Structural_Crisis.pdf) (Accessed 29 April 2009)

Miller, Doug, 'Preparing for the Long Haul - Negotiating International Framework Agreements in the Global Textile, Garment and Footwear Sector,' *Global Social Policy* (2004), 4 (2): 215-239.

Miller, Doug, 'The ITGLWF's policy on crossborder dialogue in the textiles, clothing and footwear sector: Emerging strategies in a sector ruled by codes of conduct and resistant companies,' in Kostantinos Papadakis (Ed.), *Cross-Border Social Dialogues and Agreements – An emerging global industrial relations framework?* Geneva: ILO Publications, May 2008, 161-189.

Miller, Doug, Tuner, Simon and Tom Grinter, 'Back to the Future: Mature systems of industrial relations approaches and social compliance in outsourced apparel supply chains,' Paper prepared for the conference *Capturing the Gains*, The University of Manchester, December 2008.

Miller, Doug and Peter Williams, 'What Price a Living Wage?' *Global Social Policy* (2009), 9 (1): 99-125.

O'Brien, Robert, 'The varied paths to minimum global labour standards,' in Jeffrey Harrod and Robert O'Brien (Ed.), *Global Unions? Theory and strategies of organised labour in the global political economy*, London: Routledge, 2002, 221-234.

O'Rourke, Dara, 'Outsourcing Regulation: Analyzing Nongovernmental Systems of Labor Standards and Monitoring,' *The Policy Studies Journal* (2003), 31(1): 1-29.

Papadakis, Kostantinos, 'Introduction,' in Papadakis Konstantinos (Ed.), *Cross-Border Social Dialogue and Agreements: an emerging industrial relations framework?* Geneva: ILO Publications, May 2008, 1-11.

Perman, Sarah, 'Decent Work and the textile industry – Case study on Cambodia,' *Solidar and the Global Network*, January 2007. Available at: [http://cms.horus.be/files/99931/MediaArchive/international\\_cooperation/JJJ/JJJ\\_briefing\\_CambodiaEN.pdf](http://cms.horus.be/files/99931/MediaArchive/international_cooperation/JJJ/JJJ_briefing_CambodiaEN.pdf) (Accessed 26 May 2009)

Pruett, Duncan, 'Looking for a quick fix: how weak social auditing is keeping workers in sweatshops,' *Clean Clothes Campaign*, November 2005. Available at: [www.genombrott.se/maj/load\\_file.php?id=18](http://www.genombrott.se/maj/load_file.php?id=18) (Accessed 25 May 2009)

Riisgard, Lone, 'International Framework Agreements: A New Model for Securing Workers Rights?' *Industrial Relations* (2005), 44 (4): 707-737.

Utting, Peter, 'The Struggle for Corporate Accountability,' *Development and Change* (2008), 39 (6): 959-975.

Wells, Don, 'Best Practice in the regulation of international labour standards: lessons of the US-Cambodia Textile Agreement,' *Comparative Labour Law and Policy Journal* (2006), 27 (3): 357-376.

Wells, Don, 'Too Weak for the Job: Corporate Codes of Conduct, Non-Governmental Organizations and the Regulation of International Labour Standards,' *Global Social Policy* (2007), 7 (1): 51-73.

Wills, Jane, 'Bargaining for the space to organize in the global economy: a review of the Accor-IUF trade union rights agreement,' *Review of International Political Economy* (2002), 4: 675-700.