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THE EFFECTS OF GLOBALIZATION ON BANGLADESH'S READY-MADE GARMENT INDUSTRY: THE HIGH COST OF CHEAP CLOTHING

INTRODUCTION

Globalization and the rise of multinational corporations have significantly transformed the world's labor and production markets.¹ To retain a competitive advantage, many multinationals have relocated their manufacturing facilities to developing nations in order to utilize the availability of cheap, abundant labor, which remains relatively unprotected by governmental regulation or organization.² This trend has been particularly apparent in the ready-made garment ("RMG") industry, where rapidly changing fashion trends and the mechanization-resistant nature of fabric render apparel manufacturers exceptionally reliant on human labor.³ As a result, multinationals, and the industrialized nations in which they are based, have actively participated in the globalization of this sector.⁴

Public concern regarding labor conditions under which these garments are made has increased alongside globalization.⁵ In recent years, the RMG industry has faced heightened international scrutiny due to allegations of sweatshop practices, unsafe working conditions, unlivable wages, unreasonable hours, lethal accidents, and both physical and mental abuses by supervisors in developing nations around the world.⁶ In April, 2013, the

1. Maria Gillen, *The Apparel Industry Partnership's Free Labor Association: A Solution to the Overseas Sweatshop Problem or the Emperor's New Clothes?*, 32 N.Y.U. J. INT'L L. & POL. 1059, 1059–60 (2000).

2. Bureau of Int'l Labor Affairs, U.S. DEP'T OF LABOR, *THE APPAREL INDUSTRY AND CODES OF CONDUCT: A SOLUTION TO THE INTERNATIONAL CHILD LABOR PROBLEM?*, 15, 22 (1996) [hereinafter APPAREL CODES OF CONDUCT]; Gillen, *supra* note 1, at 1059.

3. Michael Piore, *The Economics of the Sweatshop*, in *NO SWEAT: FASHION, FREE TRADE, AND THE RIGHTS OF GARMENT WORKERS* 135, 138 (Andrew Ross ed., 9, 1997).

4. APPAREL CODES OF CONDUCT, *supra* note 2, at ii.

5. *Id.* at 22.

6. Though beyond the scope of this Note, issues of child labor, trafficking, and exploitation in Bangladesh are sadly prevalent. The U.S. Department of Labor found as follows:

death of 1,133 workers when the Rana Plaza RMG factory (“Rana Plaza”) in Bangladesh collapsed marked what has been called the worst tragedy in the industry’s history—and sparked significant international mainstream media attention.⁷

Bangladesh, bordered on three sides by India, is located on the northern edge of the Bay of Bengal and shares a short border with Burma.⁸ Approximately 155 million people now live in Bangladesh’s 55,598 square miles.⁹ As the eighth most populous

In 2012, Bangladesh made a moderate advancement in its efforts to eliminate the worst forms of child labor. The Government passed the Human Trafficking Deterrence and Suppression Act, which criminalizes trafficking. The Government also approved the Child Labor Elimination National Plan of Action (NPA). Over the reporting period the Government began a new initiative to eliminate child labor from urban slums and in rural areas. However, *legal protections regarding child labor are limited*, and the capacity to enforce child labor laws remains weak. Children in Bangladesh continue to engage in the *worst forms of child labor*, particularly in dangerous activities in agriculture and in domestic service.

BUREAU OF INT’L LABOR AFFAIRS, *Bangladesh 2012 Findings on the Worst Forms of Child Labor*, U.S. DEP’T OF LABOR, <http://www.dol.gov/ilab/reports/child-labor/bangladesh.htm> (last visited Sept. 13, 2014) (emphasis added). See also Jane C. Hong, *Enforcement of Corporate Codes of Conduct: Finding a Private Right of Action for International Laborers Against MNCS for Labor Rights Violations*, 19 WIS. INT’L L.J. 41 (2000); Ryan P. Toftoy, *Now Playing: Corporate Codes of Conduct in the Global Theater. Is Nike Just Doing It?*, 15 ARIZ. J. INT’L & COMP. L. 905, 909 (1998).

7. Google’s “Google Trends” tool shows that the term “Bangladesh Factory” was searched on the internet at a level of five in March, 2012, and reached its peak at over 100 in May, 2013 (“Bangladesh Garment Factory” yielded 0 and 100 respectively). To utilize this tool see Google Trends, GOOGLE.COM, <http://www.google.com/trends/> (last visited Sept. 5, 2014); see also Barney Jopson, *US and European Retailers Split on Bangladesh Factory Safety Plans*, FINANCIAL TIMES (July 10, 2013), <http://www.ft.com/cms/s/0/b36129e8-e983-11e2-bf03-00144feabdc0.html#axzz2e38tqdKB>; BOF Team, *Unfilled Rana Plaza Fund Exposes Fashion’s Lack of Accountability*, BUS. OF FASHION (Aug. 19, 2014), http://www.businessoffashion.com/2014/08/unfilled-rana-plaza-fund-exposes-fashion-lack-accountability.html?utm_source=Subscribers&utm_campaign=c512a8e0b0-&utm_medium=email&utm_term=0_d2191372b3-c512a8e0b0-416978493.

8. See generally U.S. DEP’T OF STATE - BUREAU OF CONSULAR AFFAIRS, *Bangladesh*, U.S. PASSPORT & INT’L TRAVEL, <http://travel.state.gov/content/passports/english/country/bangladesh.html> (last visited Sept. 13, 2014) [hereinafter *Bangladesh*].

9. *Id.*

nation in the world, it is also the most crowded, ranking first in population density.¹⁰

About four million people currently work in Bangladesh's RMG industry—the world's second largest apparel exporter following China.¹¹ While apparel made in Bangladesh only accounts for about 6 percent of America's apparel imports,¹² the United States is currently Bangladesh's top single trading partner, accounting for almost 25 percent of its total exports.¹³ Despite the collapse of Rana Plaza and the catastrophe's revelation of Bangladesh's extensive industrial safety problems, the industry saw a 16 percent rise in exports to US\$23.9 billion from the time of the collapse to March 2014.¹⁴

In direct response to the collapse, various groups of retailers that sourced from Bangladeshi factories announced plans to improve factory safety in hopes to avoid such fatal events in the future.¹⁵ Due to the United States' unique position as a major buyer in Bangladesh's RMG market, however, the government must take a proactive stand by adopting socially conscious guidelines and regulations that will substantially improve factory safety. This Note will examine what has been done to improve factory conditions in Bangladesh, as well as what must be

10. *Id.* (Not counting “some city states and tiny island nations.”).

11. Ruma Paul and Serajul Quadir, *Bangladesh Urges No Harsh EU Measures Over Factory Deaths*, REUTERS (May 4, 2013), <http://www.reuters.com/article/2013/05/04/us-bangladesh-factory-idUSBRE94304420130504>.

12. *Major Shippers Report U.S. General Imports By Category, 9/2014 Data*, INT'L TRADE ADMIN.: OFFICE OF TEXTILES AND APPAREL (OTEXA), <http://otexa.ita.doc.gov/msr/catV1.htm> (last visited Sept. 13, 2014).

13. Steven Greenhouse and Stephanie Clifford, *U.S. Retailers Offer Plan for Safety at Factories*, N.Y. TIMES (July 10, 2013), <http://www.nytimes.com/2013/07/11/business/global/us-retailers-offer-safety-plan-for-bangladeshi-factories.html?pagewanted=all>; Paul and Quadir, *supra* note 11.

14. Alex Magdaleno, *Bangladesh Charges 18 People in Connection with Deadly Factory Collapse*, MASHABLE (July 16, 2014), <http://mashable.com/2014/07/16/rana-plaza-charges-bangladesh/>; Surman Saha, *Garment Exports Show Resilience*, DAILY STAR (April 23, 2014), <http://www.thedailystar.net/garment-exports-show-resilience-21162>.

15. Shelly Banjo and Suzanne Kapner, *U.S. Retailers to Implement Bangladesh Factory Plan*, WALL ST. J. (Aug. 20, 2013), <http://online.wsj.com/news/articles/SB10001424127887323423804579023640207379578>; Steven Greenhouse, *Europeans Fault American Safety Effort in Bangladesh*, N.Y. TIMES (Nov. 18, 2013), <http://www.nytimes.com/2013/11/19/business/international/europeans-fault-american-safety-effort-in-bangladesh.html?ref=international>.

accomplished, in order to fully address and correct lingering safety concerns. Part I will examine the development of international RMG trade and its sources, as well as the history and interplay between the American and Bangladeshi RMG industries. Part II will uncover the harm that this relationship has caused over time, putting particular emphasis on the figurative high cost of literal cheap clothing by studying two recent and deadly events in depth. Part III will examine the inherent flaws and inadequacies of the procedures currently in place to regulate workplace safety both domestically, within Bangladesh, and internationally, in other nations. Finally, Part IV will address the responsibility of U.S. lawmakers to raise labor standards in Bangladesh, and recommend an approach comprised of three separate, yet interrelated steps. First, the U.S. government, along with labor advocacy groups, must develop campaigns to educate, persuade, and convince American consumers to pressure brands to raise their labor standards. Second, the U.S. government must bolster these campaigns by developing an easily implemented system that utilizes standard American intellectual property law, via certification trademarks, to provide consumers with a trustworthy and reliable guarantee that compliant products are made clearly visible and available for public purchase. Third, and finally, the U.S. government must pass legislation that prohibits goods from entering the country if they are made under unacceptable conditions, (i.e., without proper certification). In its entirety, this proposal seeks to remove blood-stained clothes from the American marketplace, and thus signal to the world that steps must be taken to protect Bangladeshi RMG factory workers.

I: AN INTERNATIONAL HISTORY OF THE RMG INDUSTRY.

This section will examine the development of international RMG sourcing and trade. It will also observe the history and interplay between the U.S. and Bangladeshi RMG industries, showing how Bangladesh secured its place as a leading producer of RMGs, despite setbacks, and remains a vital source of RMGs throughout the world.

A. How the United States Expanded into the International RMG Market.

The United States is currently the world's largest importer of merchandise.¹⁶ American-funded garment and apparel production is now part of a worldwide industry that has changed dramatically over the last fifty years.¹⁷ Historically, American clothing companies manufactured the majority of their garments domestically.¹⁸ In the late 1950s, only one out of twenty-five garments purchased in the United States was produced abroad.¹⁹ During the 1960s and 1970s, however, manufacturers began moving their operations outside of the United States.²⁰ Since competition revolved mainly around maintaining a low price point, the search for profit led many companies to the low wages and developing economies of Taiwan, South Korea, and Hong Kong.²¹ These newly industrialized nations allowed for more open economic policies and enjoyed a highly disciplined, yet unorganized, workforce that could produce the same quality goods at a mere fraction of the price.²² In addition to labor incentives, factors like fleeting trend and product life cycles, unpredictable and fluctuating consumer demands, an abundance of product options, and increasingly complex supply chains continued to

16. *International Trade Statistics 2012*, WORLD TRADE ORGANIZATION, http://www.wto.org/english/res_e/statis_e/its2012_e/its12_merch_trade_product_e.pdf; *Country Profiles: United States*, WORLD TRADE ORGANIZATION, http://stat.wto.org/CountryProfiles/US_e.htm.

17. Dennis Hayashi, *Preventing Human Rights Abuses in the U.S. Garment Industry: A Proposed Amendment to the Fair Labor Standards Act*, 17 YALE J. INT'L L. 195, 196–97 (1992) (internal citations omitted).

18. Samantha C. Halem, *Slaves to Fashion: A Thirteenth Amendment Litigation Strategy to Abolish Sweatshops in the Garment Industry*, 36 SAN DIEGO L. REV. 397, 408 (1999).

19. Holly R. Winefsky and Julie A. Tenney, *Preserving the Garment Industry Proviso: Protecting Acceptable Working Conditions Within the Apparel and Accessories Industries*, 31 HOFSTRA L. REV. 587, 612 (2002).

20. *Id.*

21. Kabeer, Naila and Simeen Mahmud, *Rags, Riches and Women Workers: Export-oriented Garment Manufacturing in Bangladesh*, in CHAINS OF FORTUNE: LINKING WOMEN PRODUCERS AND WORKERS WITH GLOBAL MARKETS 135 (Commonwealth Secretariat, ed., 2004), available at <http://wiego.org/sites/wiego.org/files/publications/files/Kabeer-Mahmud-Export-Oriented-Garment-Bangladesh.pdf>.

22. *Id.*

transform the industry on a global scale.²³ With the goal of taking

co-operative and constructive action, within a multilateral framework, so as to deal with the situation in such a way as to promote on a sound basis the development of production and expansion of trade in textile products and progressively to achieve the reduction of trade barriers and the liberalization of world trade in these products,²⁴

the World Trade Organization (“WTO”)²⁵ established the Multifibre Agreement (“MFA”) among participating countries in 1974.²⁶ During a period when protective barriers were actually being disassembled in other areas of trade, the MFA guaranteed that RMG trade remained decidedly regulated.²⁷ The MFA imposed quotas, or quantitative restrictions, on the volume of exports from any country that grew at a rate higher than levels established bilaterally.²⁸ The MFA, however, did not necessarily achieve this goal, as the imposition of quotas merely opened the door to the development of clever ways to bypass and undermine these restrictions, which quickly brought Bangladeshi garments to doorsteps all over the world.²⁹

23. BUREAU OF LABOR STATISTICS, *Spotlight on Statistics: Fashion*, UNITED STATES DEPARTMENT OF LABOR, <http://www.bls.gov/spotlight/2012/fashion/> (last visited Oct. 11, 2013).

24. Agreement Regarding International Trade in Textiles (Multifibre Agreement), Dec. 20, 1973, 25 U.S.T. 1001, 1974 WL 166593 (entered into force Apr. 1, 1974).

25. The World Trade Organization is the only global international organization that deals with the rules of trade between nations. The WTO’s main rulemaking output is its agreements, which are negotiated and signed by the bulk of the world’s trading nations, and ratified in their parliaments. The goal of these agreements is to help producers of goods and services, exporters, and importers conduct their business. See *What is the WTO?*, WORLD TRADE ORGANIZATION, http://www.wto.org/english/thewto_e/whatis_e/whatis_e.htm (last visited Oct. 11, 2013).

26. *Textiles Monitoring Body: The Agreement on Textiles and Clothing*, WORLD TRADE ORGANIZATION, http://www.wto.org/english/tratop_e/texti_e/textintro_e.htm#MFA (last visited Jan. 19, 2014).

27. *Id.*

28. *Id.*

29. See generally *Bangladesh | Background*, FSG, <http://www.fsg.org/Portals/0/Uploads/Documents/PDF/Bangladesh.pdf?cpgn=WP%20DL%20-%20Smallholder%20Donor%20> (last visited Sept. 13, 2014); see also Kabeer, Naila and Mahmud, *supra* note 21 at 136; see also BANGLADESH: A COUNTRY

B. The Emergence of Bangladesh in the International RMG Market.

As an indirect result of the MFA, the first garment factories in Bangladesh aimed at the international export markets were opened in the late 1970s by investors from *other*, more developed, Asian nations like South Korea, whose exports had been restrained by quotas imposed by importing nations such as the United States.³⁰ These foreign investors benefitted from *even lower* labor costs than those in their home countries, which offset the added costs of importing all materials to less developed nations, like Bangladesh, that were not privy to the quota restraints.³¹ During this process, investors would provide Bangladeshis with virtually free training and modern equipment in return for extraordinarily cheap labor.³² Due to these sub-contractor relationships, business quickly flourished, and Bangladesh became a more substantial supplier—albeit as a middleman—to the U.S. market.³³ Soon thereafter, Bangladeshi capitalists saw independent opportunities and began to organize their own manufacturing plants in places like Dhaka, Chittagong, and other smaller Bangladeshi towns, where basic garments were cut, assembled, packed, and shipped to customers overseas.³⁴

By the mid-1980s, the RMG industry had become a very strong export earner in Bangladesh.³⁵ At this time, up to 65 percent of American garments were produced abroad and imported.³⁶ Between 1985 and 1995, American imports of apparel grew by 171 percent, reaching nearly US\$34.7 billion.³⁷ By that time, the United States imported apparel products from 168 countries—

STUDY (James Heitzman and Robert Worden eds., 1989) [hereinafter Heitzman and Worden].

30. Heitzman and Worden, *supra* note 29; *History of the Desh Group*, DESH GROUP, <http://www.deshgroup.com/html/corporate.htm> (last visited Sept. 7, 2014) (“Desh Garments Ltd. (established 27th December 1977) was the first export oriented ready-made garment industry in Bangladesh. It was set-up in joint venture with Daewoo of South Korea. At its time of inception, Desh was the single largest and most modern garment-manufacturing unit in the sub-continent.”).

31. Heitzman and Worden, *supra* note 29.

32. Kabeer, Naila and Mahmud, *supra* note 21, at 136.

33. Heitzman and Worden, *supra* note 29.

34. *Id.*

35. *Id.*

36. Hayashi, *supra* note 17, at 196–97.

37. APPAREL CODES OF CONDUCT, *supra* note 2, at ii.

including Bangladesh.³⁸ During that ten-year span, U.S. RMG imports from Bangladesh jumped from US\$126 million in 1985 to US\$1.067 billion in 1995.³⁹

C. Bangladesh Secures its Place in the International RMG Market.

The quota system that made Bangladesh a world-wide producer, however, expired in 2004.⁴⁰ While the MFA had previously provided Bangladesh with a relatively fixed market share, its expiration created the opportunity for ruinous competition, especially from China.⁴¹ Many predicted that the demise of Bangladesh's RMG industry was near.⁴² Instead of losing its foothold in the world's marketplace, however, Bangladeshi RMG exports rose significantly and actually decreased the export gap

38. Nurul Momen, *Implementation of Privatization Policy: Lessons from Bangladesh*, 12(2) INNOVATION J.: PUB. SECTOR INNOVATION J. 4 (2007), available at http://www.innovation.cc/scholarly-style/momen_privatization4e.pdf.

Between 1975 and 1981, a number of important changes in the policies and institutions were introduced (i.e. declaration of Industrial Investment Schedule 1976, withdrawal of the private investment ceiling in 1978, etc.) to broaden the scope for private sector participation in the industrialization process. The major elements in the policy to bring about a decisive shift toward a private sector-driven industrialization during this period included: (i) elimination of ceiling on private investment, (ii) reduction in the reserve list of industries under the public sector and creation of "free sectors", (iii) relaxation of investment sanctioning procedures, (iv) amendment of the Constitution to allow disinvestment and denationalization of both abandoned and taken-over industries, (v) establishment of a Disinvestment Board in 1975, (vi) reopening of the stock market, (vii) shift to a floating exchange rate, and (viii) introduction of various export promotion measures.

Id.; see also APPAREL CODES OF CONDUCT, *supra* note 2, at 230.

39. U.S. DEP'T OF COMMERCE, *Major Shippers Report*, OFFICE OF TEXTILES AND APPAREL, <http://www.otexa.ita.doc.gov/msrpoint.htm> (last visited Sept. 7, 2014).

40. John Chalmers, *Special Report: How textile kings weave a hold in Bangladesh*, REUTERS (May 2, 2013), <http://www.reuters.com/article/2013/05/02/us-bangladesh-garments-special-report-idUSBRE9411CX20130502>; Mahtab Haider, *Defying predictions, Bangladesh's garment factories thrive*, CHRISTIAN SCIENCE MONITOR (Feb. 7, 2006), <http://www.csmonitor.com/2006/0207/p04s02-wosc.html>.

41. Chalmers, *supra* note 40.

42. Haider, *supra* note 40.

with China.⁴³ As labor shortages, wage inflations, and a shift to luxury products developed, China became a less attractive source for garments.⁴⁴ Bangladesh, in contrast, continued to offer highly skilled yet exceptionally cheap labor.⁴⁵ Buyers continued sourcing from Bangladesh since retailers remained unwilling to pass *any* retail price increases to often unknowing customers.⁴⁶ There was simply no substitute for Bangladesh, “where manufacturers even risk[ed] operating from rickety structures to cap costs.”⁴⁷

By 2005, RMG production had grown into a multi-billion-dollar manufacturing and export industry in Bangladesh, accounting for 75 percent of the country’s earnings that year.⁴⁸ With practically no government regulation, the RMG industry in Bangladesh continued to expand.⁴⁹ Consequently, U.S. RMG imports from Bangladesh also increased steadily, totaling US\$2.371 billion in 2005, US\$3.930 billion in 2010 and most recently US\$4.894 billion as of July 2014.⁵⁰ The number of factories in Bangladesh also grew—though only 134 factories existed in 1983, this number grew to 2,353 by 1995 and is around 5,700

43. Chalmers, *supra* note 40.

44. *Id.*

45. Haider, *supra* note 40.

46. Anupama Chandrasekaran, *For Cost-crunching Retailers, Bangladesh Reigns Supreme*, REUTERS (July 9, 2013), <http://in.reuters.com/article/2013/07/09/bangladesh-garments-alternatives-idINDEE9680FY20130709>.

47. *Id.*

48. Mohammed Ziaul Haider, *Competitiveness of the Bangladesh Ready-made Garment Industry in Major International Markets*, 3 ASIA-PAC. TRADE INVESTMENT REV. 3, 6 (2007).

49.

It is often argued in the context of Bangladesh that unlimited political maneuvering has directly contributed to the public sector’s chronic inefficiencies, huge financial losses and rampant corruption over the years. One of the principal reasons for privatizing public enterprises in Bangladesh is to reduce the fiscal burden that their losses and their subsidization impose on the state.

Momen, *supra* note 38 at 1; *See also* Heitzman and Worden, *supra* note 29.

50. *Major Shippers Report*, *supra* note 39.

currently.⁵¹ About four million people now work in these factories,⁵² providing the labor to cement Bangladesh's status as the world's second-largest apparel exporter after China.⁵³ RMGs now make up 80 percent of Bangladeshi annual exports, compared to less than 4 percent in 1984.⁵⁴ In the United States, specifically, Bangladesh is now the fourth largest garment and apparel importer, closely following Indonesia, Vietnam, and China.⁵⁵ This steady incline is noteworthy, as it corresponds with the United States' building interest in the Bangladeshi RMG market.

D. The Modern U.S. and Bangladeshi Partnership in the RMG Market.

While products made in Bangladesh only account for approximately 6 percent of America's apparel imports,⁵⁶ the United States is currently Bangladesh's top single trading partner, accounting for almost 25 percent of its total exports.⁵⁷ Last year, the United States imported over US\$76 billion in apparel.⁵⁸ Currently, more than 97 percent of clothes and shoes sold in the

51. *BGMEA at a Glance*, BANGLADESH GARMENT MANUFACTURERS AND EXPORTERS ASSOCIATION (BGMEA) <http://www.bgmea.com.bd/home/pages/aboutus#.Uk2siGTXg0M> (last visited Sept. 7, 2014).

52. Achim Berg, Saskia Hedrich, and Thomas Tochtermann, *Bangladesh: The Next Hot Spot in Apparel Sourcing?: Lower Costs are an Advantage for the Country's Ready-Made-Garment Industry, but Challenges Remain*, MCKINSEY & COMPANY (Mar. 2012), http://www.mckinsey.com/insights/consumer_and_retail/bangladesh_the_next_hot_spot_in_apparel_sourcing; BGMEA at a Glance, *supra* note 51.

53. Paul and Quadir, *supra* note 11; Md. Mazedul Islam, Adnan Maroof Khan and Md. Monirul Islam, *Textile Industries in Bangladesh and Challenges of Growth*, 2(2) RES. J. ENGINEERING SCI. 31, 31 (2013), available at <http://www.isca.in/IJES/Archive/v2i2/7.ISCA-RJEngS-2013-002.pdf>.

54. Farid Ahmed, *Bangladesh Court Orders Arrest of Apparel Factory Owner, Five Others*, CNN (Dec. 31, 2013), <http://www.cnn.com/2013/12/31/world/asia/bangladesh-fire-arrest-orders/>; *Trade Information*, BANGLADESH GARMENT MANUFACTURERS AND EXPORTERS ASS'N, <http://bgmea.com.bd/home/pages/TradeInformation#.Utr80GQo6u4> (last visited Sept. 7, 2014).

55. *Major Shippers Report*, *supra* note 12.

56. *Id.*

57. Greenhouse and Clifford, *supra* note 13.

58. *Major Shippers Report*, *supra* note 12.

United States are made abroad.⁵⁹ As a result, the entire process has become highly integrated and numerous workers in different locations contribute to the final product.⁶⁰ Therefore, the custom of subcontracting has deep historical roots in the RMG industry.⁶¹ Under the subcontractor system, there is a disconnect between workers and the company for which the work is done.⁶² While companies are still responsible for the creative design and distribution of their final products, it is typical to ship the raw materials to a factory that is not owned by the company for manufacturing.⁶³ Companies prefer this because they can take advantage of the presumption that they are not liable for wage and labor violations in their contractors' shops.⁶⁴ Thus, these particular market forces create a motivation and readiness by RMG contractors and manufacturers to break labor laws.⁶⁵ For example, recent reports in Bangladesh allege workers frequently working nineteen and a half hour days—a clear labor violation.⁶⁶

As a result, the relationship between subcontracting and sweatshops is understandably inseparable.⁶⁷ Workers unfortunately “bear the brunt” of arduous workloads, low wages, uncompensated-yet-forced overtime, and dangerous workplaces as manufacturers attempt to avoid liability and shift responsibility for labor standards onto their contractors.⁶⁸ This arrangement results in consumers' ignorance of the truths that are sewed into

59. *AAFA Releases Apparel Stats 2012 Report*, AMERICAN APPAREL & FOOTWEAR ASS'N (Oct. 19, 2012), <https://www.wewear.org/aafa-releases-apparelstats-2012-report/>.

60. Winefsky and Tenney, *supra* note 19, at 612.

61. Shirley Lung, *Exploiting the Joint Employer Doctrine: Providing A Break for Sweatshop Garment Workers*, 34 *LOY. U. CHI. L.J.* 291, 299–300 (2003).

62. *Id.*

63. Winefsky and Tenney, *supra* note 19, at 608.

64. Hayashi, *supra* note 17, at 199.

65. Lung, *supra* note 61, at 299–300.

66. Richard Bilton, *Bangladeshi Factory Workers Locked in on 19-hour Shifts*, BBC NEWS (Sept. 22, 2013), <http://www.bbc.co.uk/news/business-24195441> (Describing BBC's September, 2013, secret filming of the Ha Meem Sportswear factory in Dhaka, Bangladesh, that had experienced a fire a few weeks prior. Undercover reporters interviewed a worker alleging that he worked shifts from 7:00am to 2:30am. “My feelings are bad and my health is too,” he says, “In the last two weeks, approximately, it has been like this for eight nights.”).

67. Lung, *supra* note 61, at 299–300.

68. *Id.*

the very garments that clothe them.⁶⁹ The evolution of this process, as well as its current formation, highlights the uncertainty of where liability may fall when things go wrong.

II: THE HARMFUL EFFECTS OF THE U.S. AND BANGLADESHI PARTNERSHIP IN THE RMG MARKET.

In an ideal world, the aforementioned trends in global markets would have minimal negative consequences. Reality, however, is not so idyllic. Bangladesh's safety record is far from clean,⁷⁰ and the United States alone is responsible for purchasing around 25 percent of Bangladesh's annual exports.⁷¹ Since 2005, over 1,800 workers have died in Bangladesh's RMG industry due to preventable building collapses and factory fires.⁷² This section includes examinations of two recent, and lethal, incidents that will illuminate the issues afflicting the industry:

69. Alison A. Gormley, *The Underground Exposed: The United States Corporations' Use of Sweatshops Abroad, and the Abuse of Women*, 25 SUFFOLK TRANSNAT'L L. REV. 109, 119 (2001).

70. While reliable death toll records are nearly impossible to find for the 1980's and 1990's, a more recent sampling—excluding the two incidents discussed in depth below—is as follows: Via fires: forty-six killed at Chowdhury Knitwear & Garments Factory in Narshingdi on November 25, 2000; twenty-four killed at Maico Sweeter Factory in Mirpur, Dhaka on August 8, 2001; twenty-two killed at Shan Knitting and Processing Ltd. in Narayanganj on January 6, 2005; fifty-four killed at KTS Garment Factory in Chittagong on February 23, 2006; twenty-six killed at Ha-Meem Group Factory in Ashulia, Dhaka on December 14, 2010; eight killed in Dhaka in May 2013, ten killed at Aswad Garment Factory in Gazipur on October 8, 2013. Via factory collapse: seventy killed in Dhaka in 2005, fourteen died and twenty-five were injured when another high-rise building, owned by a government official, collapsed on tin-roof shanties in June 2010. See Arun Devnath, *Death Trap*, DAILY STAR (Nov. 27, 2012), <http://archive.thedailystar.net/newDesign/news-details.php?nid=258930>; Serajul Quadir and Ruma Paul, *Bangladesh Factory Fire Kills 8; Collapse Toll Tops 900*, REUTERS (May 9, 2013), <http://www.reuters.com/article/2013/05/09/us-bangladesh-fire-idUSBRE94801T20130509?feedType=RSS&feedName=topNews>; *80 Dead, 800 Hurt in Savar High-rise Collapse*, BD NEWS (April 24, 2013), <http://bdnews24.com/bangladesh/2013/04/24/rana-plaza-collapse-32-dead>; *Bangladesh Garment Factory Fire Kills 10 People*, ABC NEWS (Oct. 8, 2013), <http://abcnews.go.com/International/wireStory/bangladesh-garment-factory-fire-kills-20506935>.

71. Greenhouse and Clifford, *supra* note 13.

72. Arun Devnath and Refayet Ullah Mirdha, *US Suspends GSP for Bangladesh*, DAILY STAR (June 28, 2013), <http://archive.thedailystar.net/beta2/news/us-set-to-suspend-bangladeshs-gsp/>.

A. The Tazreen Fashion Factory Fire

When the Tazreen Fashion factory in the Bangladeshi capital, Dhaka, burned, it injured 200 and killed at least 112 of its over 1,000⁷³ daily workers during the night of November 24, 2012⁷⁴—while as many as 600 workers were still inside the factory working overtime.⁷⁵ At the time, the factory was producing clothes for Wal-Mart, Sears, Walt Disney, Co., and other major, multinational RMG retailers.⁷⁶ A survey of the debris after the fire was contained uncovered children’s shorts with Wal-Mart’s Faded Glory labels, sweatshirts decorated with Disney cartoons, and shorts with hip-hop artist Sean (“Puff Daddy”) Combs’ ENYCE tag, along with sweaters from the French company Teddy Smith and the Scottish company Edinburgh Woollen Mill.⁷⁷

The fire began in an illegal warehouse on the ground floor of the factory, which was used to store flammable yarn near electric generators, and rapidly spread upward through the remaining eight floors.⁷⁸ There were no ceiling sprinklers⁷⁹ and insufficient fire defense materials throughout the building.⁸⁰ The overcrowded factory had only three narrow staircases.⁸¹ Workers descending the stairs were blinded by darkness, as there was no backup source of electricity in the factory.⁸² Iron bars blocked the

73. Vikas Bajaj, *Fatal Fire in Bangladesh Highlights the Dangers Facing Garment Workers*, N.Y. TIMES (Nov. 25, 2012), http://www.nytimes.com/2012/11/26/world/asia/bangladesh-fire-kills-more-than-100-and-injures-many.html?_r=0.

74. *Dhaka Bangladesh Clothes Factory Fire Kills More than 100*, BBC NEWS ASIA (Nov. 25, 2012), <http://www.bbc.co.uk/news/world-asia-20482273>.

75. Bajaj, *supra* note 73.

76. Julhas Alam, *Factory Owner: I Didn’t Know Fire Exits Needed*, ASSOCIATED PRESS (Nov. 29, 2012), <http://bigstory.ap.org/article/ap-exclusive-disney-sears-used-factory-fire-0>.

77. *Id.*

78. Bajaj, *supra* note 73; Jim Yardly, *Horrific Fire Revealed a Gap in Safety for Global Brands*, N.Y. TIMES (Dec. 6, 2012), http://www.nytimes.com/2012/12/07/world/asia/bangladesh-fire-exposes-safety-gap-in-supply-chain.html?pagewanted=all&_r=0.

79. Yardly, *supra* note 78.

80. AIN O SALISH KENDRA, INVESTIGATION UNIT, GARMENT FACTORY FIRE, 3 (Nov. 24, 2012), *available at* <http://www.askbd.org/web/wp-content/uploads/2012/11/ASK%20Investigation%20Report%20-%20Garments%20Factory%20Fire%20-%2024%20November%2020121.pdf>.

81. *Id.*

82. Bajaj, *supra* note 73.

windows.⁸³ The top three floors were under construction at the time and padlocked, making escaping to the roof impossible.⁸⁴ All of the stairways led to the flaming warehouse on the ground floor.⁸⁵ Most of the victims were found on the ground and second floors and were killed because there were no emergency exits.⁸⁶ Most victims were women.⁸⁷ Most of the bodies were burned beyond recognition.⁸⁸

Rather than leading exit strategies to minimize the death toll, managers told workers to ignore the fire alarms, calling it a mock fire drill,⁸⁹ and return to work.⁹⁰ Nine mid-level officials were actually accused of padlocking exits and preventing workers from leaving the building.⁹¹ The main gate, the only entry and exit point of the factory, was found locked just after the fire began, exposing the fleeing workers to excruciating smoke inhalation and suffocation.⁹² Life-threatening practices such as blocking factory exits are common and often hidden under the cover of night.⁹³

83. Yardly, *supra* note 78.

84. Arun Devnath, *Death Trap*, DAILY STAR (Nov. 27, 2012), <http://archive.thedailystar.net/newDesign/news-details.php?nid=258930>.

85. *Id.*

86. Bajaj, *supra* note 73.

87. Farid Ahmed, *Panel Calls Bangladesh Factory Fire Sabotage, Says Owner Should be Tried*, CNN (Dec. 18, 2012), <http://edition.cnn.com/2012/12/17/world/asia/bangladesh-factory-fire/index.html>.

88. Bajaj, *supra* note 73.

89. Ahmed, *supra* note 87.

90. *Wal-Mart says Bangladesh Garment Factory Where Fire Killed 112 Was No Longer Authorized to Make Its Clothing*, N.Y. DAILY NEWS (Nov. 12, 2012), <http://www.nydailynews.com/news/world/bangladesh-fire-factory-high-risk-article-1.1208041>.

91. *Bangladesh Tazreen Factory Fire Was Sabotage –Inquiry*, BBC NEWS ASIA (Dec. 17, 2012), <http://www.bbc.co.uk/news/world-asia-20755952>.

92. *Sabotage, Really?*, DAILY STAR (Dec. 19, 2012), <http://archive.thedailystar.net/newDesign/news-details.php?nid=261703>.

93. Richard Bilton, *Bangladeshi Factory Workers Locked in on 19-hour Shifts*, BBC NEWS (Sept. 22, 2013), <http://www.bbc.co.uk/news/business-24195441> (Describing BBC's September, 2013, secret filming of the Ha Meem Sportswear factory in Dhaka, Bangladesh, that had experienced a fire a few weeks prior. The footage shows a guard locking a main factory gate at 1:15am leaving dozens of workers, who had begun shifts at 7:00am, inside and notes, "If anything goes wrong tonight, the workers are trapped inside." Two days later, the undercover investigator asked the factory manager if the gates were ever locked, to which he replied that they were always left open.).

While initial reports suspected an electrical short circuit caused the disaster,⁹⁴ the Bangladeshi government issued a highly criticized⁹⁵ statement deeming it an “act of sabotage” by an undetermined party and gross negligence on behalf of the factory owner, Delwar Hossain.⁹⁶ The Tazreen factory was just one of a dozen owned by Hossain at the time.⁹⁷ Hossain claimed he was never informed that the facility was required to have an emergency exit,⁹⁸ showing how far removed the control within Bangladesh’s RMG industry was from important—and arguably commonsensical—issues of basic worker safety.⁹⁹

Additionally, the fact that Wal-Mart had previously flagged the factory for “violations and/or conditions which were deemed to be high risk” in May, 2011, via a safety audit—yet continued to do business there—further illuminates the immensity of the problem.¹⁰⁰ An additional inspection a few months later in December, 2011, by NTD Apparel Inc., a Canadian company that supplied Wal-Mart, revealed that Tazreen had “inaccessible/insufficient firefighting equipment,” an “inadequate evacuation plan,” and “partially blocked exit routes [and] stairwells.”¹⁰¹ Yet, the warnings were ignored and business continued as usual.

Wal-Mart, whose items were found in the debris, claimed that its suppliers continued to use the factory without authorization.¹⁰² Sears also claimed that it was unaware that its merchandise was being produced there, yet again blaming unapproved action by a vendor.¹⁰³ Walt Disney, Co., which licenses its characters to numerous clothing makers, said its records showed that

94. *Dhaka Bangladesh Clothes Factory Fire Kills More Than 100*, BBC NEWS ASIA (Nov. 25, 2012), <http://www.bbc.co.uk/news/world-asia-20482273>.

95. *Sabotage, Really?*, *supra* note 92.

96. *Id.*; Ahmed, *supra* note 87; Alam, *supra* note 76.

97. Alam, *supra* note 76.

98. THE BANGLADESH LABOR LAW 62 (2006), *available at* http://www.vivhaan.com/wp-content/uploads/2012/01/Bangladesh_Labor_Law.pdf. (“Precaution in case of fire: (1) Every establishment shall be provided with at least one alternative connection stairway with each floor and such means of escape in case of fire and firefighting apparatus, as may be prescribed by rules.”).

99. Alam, *supra* note 76.

100. *Id.*

101. *Bangladesh Companies Fail to Compensate Fire Victims*, HUM. RTS. WATCH (Dec. 16, 2013), <http://www.hrw.org/news/2013/12/15/bangladesh-companies-fail-compensate-fire-victims>.

102. Alam, *supra* note 76.

103. *Id.*

none of its licensees had been permitted to make Disney-brand products at the Tazreen factory for *at least* a year.¹⁰⁴ But, that was not the reality of the situation behind the factory gates, as made clear by the Disney-brand products found among the ashes after the blaze subsided.¹⁰⁵

After the fires went out, finger pointing from all directions ensued—regarding both what caused the fire and who was to blame.¹⁰⁶ While the cause of this particular fire was not determined, defective wiring causes approximately 80 percent of all factory fires in Bangladesh.¹⁰⁷ As further evidence of that fact, only two weeks later, an electrical fire at a nearby factory killed another eight workers.¹⁰⁸ Fires continue to plague the manufacturing ward of the city.¹⁰⁹

On December 31, 2013, over a full year after the blaze, Hossain and twelve other factory officials were charged with “culpable homicide” because of the gross negligence that claimed 112 innocent lives.¹¹⁰ If proven guilty, they could face up to life in jail, or simply be fined under the Bangladesh Penal Code.¹¹¹ This likely marks the first time a garment factory owner has been charged in Bangladesh¹¹²—a fact almost as jarring as those revealed by the fire itself.

104. *Id.*

105. *Id.*

106. *Id.*

107. *Bangladesh Factory Fire: Brands Accused of Criminal Negligence*, CLEAN CLOTHES CAMPAIGN (Nov. 25, 2012), <http://www.clean-clothes.org/news/2012/11/25/bangladesh-factory-fire-brands-accused-of-criminal-negligence>.

108. *Eight Dead in Bangladesh Garment Factory Blaze*, BBC NEWS ASIA (May 9, 2013), <http://www.bbc.co.uk/news/world-asia-22460803#TWEET749128>.

109. *Fire at Ashulia RMG Factory*, DHAKATA TRIBUNE (Dec. 26, 2013), <http://www.dhakatribune.com/bangladesh/2013/dec/26/fire-ashulia-rmg-factory>.

110. Ahmed, *supra* note 54.

111. *Id.*

112. *Bangladesh Orders Arrest of Factory Owners*, SYDNEY MORNING HERALD (Dec. 31, 2013), <http://www.smh.com.au/world/bangladesh-orders-arrest-of-factory-owners-20131231-hv76k.html>; Julhas Alam, *Owners Surrender in Deadly Bangladesh Factory Fire*, ASSOCIATED PRESS (Feb. 9, 2014), <http://news.yahoo.com/owners-surrender-deadly-bangladesh-factory-fire-094206237—finance.html>.

B. The Rana Plaza Building Collapse

As if the possibility of being trapped inside a burning factory is not terrifying enough for the millions that continued to work in the RMG industry after the Tazreen fire, an event that occurred just over one year later on April 24, 2013,¹¹³ less than seven miles away from the Tazreen Factory,¹¹⁴ arguably surpassed factory workers' worst nightmares. The Rana Plaza building, which housed five garment factories in four¹¹⁵ of its eight floors,¹¹⁶ collapsed and took 1,133 lives with it, making it the deadliest garment factory disaster in known history.¹¹⁷ Another 2,500 people were gravely injured, many disabled permanently.¹¹⁸ Though rescuers attempted to save survivors for many days, 150 workers are still listed as missing and newly discovered remains are being found over eighteen months after the collapse.¹¹⁹

Quite simply, the building was designed to house retail stores and offices, not factories.¹²⁰ In fact, Rana Plaza was not only

113. Farid Ahmed, *Bangladesh Building Collapse Kills at Least 123, Injures More than 1,000*, CNN (April 25, 2013), http://edition.cnn.com/2013/04/24/world/asia/bangladesh-building-collapse/index.html?hpt=hp_t3.

114. Driving Directions from Tazreen Fashion Factory to Rana Plaza, GOOGLE MAPS, <http://maps.google.com> (follow "Get Directions" hyperlink; then search "A" for "Ashulia, Bangladesh" and search "B" for "Rana Plaza Collapsed, Dhaka – Aricha Hwy, Savar, Bangladesh"; then follow "Get Directions" hyperlink) (last calculated Sept. 13, 2014).

115. Ahmed, *supra* note 113.

116. Sabir Mustafa and Shyadul Islam, *Profile: Rana Plaza Owner Mohammad Sohel Rana*, BBC NEWS ASIA (May 3, 2013), <http://www.bbc.co.uk/news/world-asia-22366454>.

117. Tansy E. Hoskins, *Preventing Another Rana Plaza*, BUS. OF FASHION (Sept. 16, 2013), <http://www.businessoffashion.com/2013/09/op-ed-preventing-another-rana-plaza.html>.

118. *Id.*

119. *Id.*; Ahmed, *supra* note 113; AGENCE FRANCE-PRESSE, *More Human Remains Found in Bangladesh Factory Disaster Ruins*, NEW DELHI TV (Sept. 24, 2014), <http://www.ndtv.com/article/world/more-human-remains-found-in-bangladesh-factory-disaster-ruins-597216>.

120. Jonathan Fahey and Anne D'Innocenzio, *Leaving Bangladesh? Not an Easy Choice for Brands*, ASSOCIATED PRESS (May 12, 2013), <http://big-story.ap.org/article/leaving-bangladesh-not-easy-choice-brands>; David Bergman, *Bangladesh: Rana Plaza Architect Says Building was Never Meant for Factories*, TELEGRAPH (May 3, 2013), <http://www.telegraph.co.uk/news/world-news/asia/bangladesh/10036546/Bangladesh-Rana-Plaza-architect-says-building-was-never-meant-for-factories.html>.

built using substandard rods, bricks, and cement,¹²¹ but also without a valid permit¹²² and on swampland.¹²³ Amirul Haque Amir, president of the National Garment Workers Federation in Bangladesh (“NGWF”) has explained that “[t]he owners of the factories are ministers, ex-ministers, parliament members, ex-parliament members, army generals, civil bureaucrats, even university vice chancellors—[the] elite of society who have great influence over state mechanisms.”¹²⁴ More than thirty RMG industry leaders are currently members of the Bangladeshi parliament, comprising approximately 10 percent of its lawmakers¹²⁵—illuminating the possibility of corruption, collusion, and bribery.¹²⁶

Initial reports allege that the disaster was sparked when the building’s rooftop generators were engaged during a blackout.¹²⁷ When visible cracks appeared in the building the day before its collapse, police officers warned the owner, Mohammad Sohel Rana, that the building was unsafe.¹²⁸ Rana, characterized by local media as a typical Bangladeshi muscleman, known as a “masthan,” or “neighborhood heavy,” with power and money from

121. Quadir and Paul, *supra* note 70.

122. Julfikar Ali Manik and Jim Yardley, *Building Collapse in Bangladesh Leaves Scores Dead*, N.Y. TIMES (April 24, 2013), <http://www.nytimes.com/2013/04/25/world/asia/bangladesh-building-collapse.html?hp>.

123. Ruma Paul and Ron Popeski, *Bangladesh Charges 18 over Garment Factory Collapse*, REUTERS (July 16, 2014), http://www.reuters.com/article/2014/07/16/us-bangladesh-ranaplaza-idUSKBN0FL1C020140716?_ga=1.87391704.1574167753.1405986543.

124. Hoskins, *supra* note 117.

125. Chalmers, *supra* note 40; *Avoiding the Fire Next Time*, ECONOMIST (May 4, 2013), <http://www.economist.com/news/business/21577078-after-dhaka-factory-collapse-foreign-clothing-firms-are-under-pressure-improve-working>.

126. Chalmers, *supra* note 40; *Avoiding the Fire Next Time*, ECONOMIST (May 4, 2013), <http://www.economist.com/news/business/21577078-after-dhaka-factory-collapse-foreign-clothing-firms-are-under-pressure-improve-working>.

127. Paul and Quadir, *supra* note 11.

128. Interestingly, other businesses that occupied the Rana Plaza building evacuated the day before its collapse. For example, employees of the Savar branch of BRAC Bank were evacuated the day prior, after the crack was detected, and were ordered not to show up on the day the building collapsed. None of the bank’s workers were among the injured or dead—leading to questions as to why the work was deemed important enough to risk so many lives only in the RMG factories that day. See Ahmed, *supra* note 113; T. J. Dhaka, *The New Collapsing Building*, ECONOMIST (April 25, 2013), <http://www.economist.com/blogs/banyan/2013/04/disaster-bangladesh>.

his affiliations with local politicians,¹²⁹ ignored the officers' warnings and his complex remained open for business.¹³⁰

As Rana pointed his finger and shifted the blame to the factory owners,¹³¹ many of the survivors also claimed that their employers had pressured them to turn up for work as usual on the day of the fire.¹³² One survivor, twenty-two year old Rebecca Khatun, who lost her left leg, right foot and five of her family members, including her mother, in the collapse, recalled the morning of the catastrophe as follows: "We didn't want to enter the building because of the huge cracks" detected the day before, "[b]ut the manager told us unless you go in, you won't get paid and you'll lose your job. So, we entered, but I vowed then that I would collect that month's salary and quit."¹³³ She remained *crushed* underneath a beam until rescuers found her the following day.¹³⁴

A lawsuit was filed against Rana over a year after the collapse, but only after the Anti-Corruption Commission had filed a separate case, accusing seventeen people of grossly breaching regulations and codes while constructing the building.¹³⁵ Rana was arrested after a four-day manhunt while allegedly trying to flee to India, was detained, but was released on bail—further angering Bangladeshis who had hoped for the death penalty.¹³⁶

In understanding the calculated decision Khatun made to risk her own life, however, note that Bangladesh's RMG workers were paid an average of less than US\$40 a month at the time, while the estimated cost of basic living necessities is about US\$120 a month.¹³⁷ Though the Bangladeshi Ministry of Labor recently raised the minimum wage to about US\$68 a month for

129. Mustafa and Islam, *supra* note 116.

130. Dhaka, *supra* note 128.

131. Mustafa and Islam, *supra* note 116.

132. Dhaka, *supra* note 128.

133. Julie McCarthy, *Bangladesh Collapse: The Garment Workers Who Survived*, NPR (July 10, 2013), <http://www.npr.org/blogs/parallels/2013/07/10/200644781/Bangladesh-Collapse-The-Garment-Workers-Who-Survived>.

134. *Id.*

135. Paul and Popeski, *supra* note 123.

136. Julie Zerbo, *Rana Plaza Owner Finally Named in Tragedy-Related Lawsuit*, THE FASHION L. (July 15, 2014), <http://www.thefashionlaw.com/rana-plaza-owner-finally-named-in-tragedy-related-lawsuit/>; *Bail for Rana Plaza Owner*, DAILY STAR (March 24, 2014), <http://www.thedailystar.net/bail-for-rana-plaza-owner-16994>.

137. Hoskins, *supra* note 117.

garment workers—an increase of about 77 percent—in December, 2013,¹³⁸ Bangladeshi RMG workers still remain the lowest paid in the world.¹³⁹ These underpaid individuals simply work to live; yet, many lost their lives while working.¹⁴⁰

III: THE CURRENT MONITORING OF THE RMG INDUSTRY BY BANGLADESH AND THE UNITED STATES

The RMG industry accounts for 80 percent of Bangladesh's annual exports and a 15 percent share of its GDP.¹⁴¹ The RMG industry also accounts for 45 percent of all industrial employment in the country.¹⁴² As a result, it is not surprising that, although Rana Plaza contained a number of different businesses, it was the RMG workers who were essentially forced to work on the day of the collapse—as it is the four million RMG workers who form the backbone of Bangladesh's economy. Yet, these workers are disregarded by the employers, the government, and the entire industry alike.¹⁴³ Understanding the regulation—or failed regulation—of this highly influential industry requires a two-pronged analysis focusing on domestic, Bangladeshi laws as well as international laws. While a detailed discussion of the complex history of Bangladesh's government and labor laws is outside the

138. Syed Zain Al-Mahmood, *Bangladesh Factory Owners Way of Wage Increase*, WALL ST. J. (Dec. 4, 2013), <http://online.wsj.com/news/articles/SB10001424052702304579404579235351833424162>; *Bangladesh to Raise Garment Workers' Minimum Wage*, BLOOMBERG BUS. WEEK (Nov. 4, 2013), <http://www.businessweek.com/ap/2013-11-04/bangladesh-to-raise-garment-workers-minimum-wage>.

139. Monthly minimum salaries for garment sector workers in Bangladesh average around US\$38, far below the US\$100 average for Indian factory workers. See Shelly Bajno, *Bangladesh Garment Factories Often Evade Monitoring*, WALL ST. J. (Oct. 3, 2013), <http://online.wsj.com/article/SB10001424052702304795804579101003566148372.html>; See also Chandrasekaran, *supra* note 46.

140. McCarthy, *supra* note 133.

141. Md. Mazedul Islam, Adnan Maroof Khan and Md. Monirul Islam, *supra* note 53, at 31.

142. *Id.*

143. Liana Foxvog, Judy Gearhart, Samantha Maher, Liz Parker, Ben Vanpeperstraete, and Ineke Zeldenrust, *Still Waiting: Six Months After the History's Deadliest Apparel Industry Disaster, Workers Continue to Fight for Compensation*, CLEAN CLOTHES CAMPAIGN, <http://www.cleanclothes.org/resources/publications/still-waiting> (last visited Sept. 14, 2014).

scope of this Note,¹⁴⁴ a survey of the state of modern laws and regulations provides an illustration of where the country currently stands, and where it must go in order to make substantive changes—and to ultimately prevent fatal disasters like the Tazreen fire and the Rana Plaza collapse in the future.

A. Bangladesh's Domestic Regulation of the RMG Industry.

Labor law legislation in Bangladesh dates as far back as 1881.¹⁴⁵ During the subsequent 100 years, over fifty acts, ordinances, and regulations, were passed in an attempt to regulate labor and employment.¹⁴⁶ Because these laws were enacted in a piecemeal fashion, contradictions often arose between legislations that were not particularly well suited to address Bangladesh's emergence onto the global marketplace.¹⁴⁷ As a symbol of that emergence, Bangladesh became a member of the United Nations' International Labour Organization ("ILO") on June 22, 1972.¹⁴⁸ The ILO is "devoted to promoting social justice and internationally recognized human and labour rights, pursuing its

144. For a discussion, see generally Lisa Clay, *The Effectiveness of the Worker Rights Provisions of the Generalized System of Preferences: The Bangladesh Case Study*, 11 *TRANSNAT'L L. & CONTEMP. PROBS.* 175 (2001).

145. See BANGLADESH EMPLOYERS' FEDERATION, *A HANDBOOK ON THE BANGLADESH LABOUR ACT, 1-2* (2006), available at <http://www.ilo.org/dyn/travail/docs/353/A%20Handbook%20on%20the%20Bangladesh%20Labour%20Act%202006.pdf>.

Laws regulating employer and establishment with regard to the rights and interests of workers were introduced during the colonial time before the emergence of Bangladesh as an independent country. The Factories Act, 1881, was the first law of its kind. Workmen's Compensation Act, 1923, Trade Unions Act, 1926, Trade Disputes Act, 1929, Payment of Wages Act, 1936, Maternity Benefit Act 1939, and the Employment of Children Act, 1938 are the subsequent legislation of the colonial era. [The Factories Act, 1881] was subsequently repealed by the Factories Act, 1934, which was again repealed by the Factories Act, 1965, which gave effect to some of the ILO conventions.

Id.

146. *Id.*, at 2–4.

147. *Id.*, at 4–5.

148. *About Us*, INT'L LABOUR ORG., <http://www.ilo.org/dhaka/Aboutus/lang-en/index.htm> (last visited Jan. 23, 2015).

founding mission that labour peace is essential to prosperity.”¹⁴⁹ Along with the Government of Bangladesh, Bangladesh Employers’ Federation,¹⁵⁰ and the National Coordination Committee for Workers’ Education,¹⁵¹ the ILO has been working toward promoting decent and productive employment opportunities for Bangladeshi workers since its inception.¹⁵² The ILO, however, has no formal ability to sanction, and, practically, the enforcement of its rules requires discreet persuasion by ILO officials or public embarrassment through the media.¹⁵³

In 1992, a thirty-eight member National Labour Law Commission began the task of revising the varied Bangladeshi labor legislation in order to codify one comprehensive code.¹⁵⁴ After fourteen years, the Bangladesh Labour Act of 2006 (“Labor Act”) was passed and took effect.¹⁵⁵ The Labor Act addressed wages, working hours, leave, child labor, requirements for employee identification cards, death benefits, safety, unfair labor practices, and

149. *ILO Missions and Objectives*, INT’L LABOUR ORG., <http://www.ilo.org/global/about-the-ilo/mission-and-objectives/lang-en/index.htm> (last visited Jan. 23, 2015).

150. The Bangladesh Employers’ Federation, founded in 1998, now represents nearly 90 percent of the established employers in the private sector, including the Bangladesh Jute Mills Corporation, Bangladesh Power Development Board and numerous associations from industries like the RMG, leather, agro-processing and frozen food sectors. *About BEF*, BANGLADESH EMPLOYERS’ FED’N (Oct. 12, 2013), <http://www.bef.org.bd/>.

151. *Workers and Employers Organizations*, INT’L LABOUR ORG., <http://www.ilo.org/dhaka/Areasofwork/workers-and-employers-organizations/lang-en/index.htm> (last visited Jan. 23, 2015)

National Coordination Committee for Workers’ Education is a united platform of fourteen major national trade union federations in Bangladesh who represent the maximum number of workers and employees of the country. It is affiliated with International Trade Union Confederation (ITUC) and World Federation of Trade Union (WFTU), and also with the International Transport Workers Federation (ITF).

Id.

152. INT’L LABOUR ORG., *supra* note 148.

153. Lance Compa and Tashia Hinchliffe-Darricarrere, *Enforcing International Labor Rights Through Corporate Codes of Conduct*, 33 CORNELL J. TRANSNAT’L L. 663, 671 (1995).

154. BANGLADESH EMPLOYERS’ FEDERATION, *supra* note 145, at 5; *See also*, Bangladesh Labour Act, Ch. VI, Section 61, *available at* http://www.vivhaan.com/wp-content/uploads/2012/01/Bangladesh_Labor_Law.pdf.

155. *Id.*

the rights to collectively bargain and participate in trade unions.¹⁵⁶

Chapter VI of the Labor Act addresses safety standards and requirements in establishments with conditions that are “dangerous to human life or safety” and provides for recourse

[i]f it appears to the Inspector that the use of any building or part of a building or of any part of the ways, machinery or plant in the establishment involves imminent danger to human life or safety, he may serve on the employer of the establishment an order in writing prohibiting its use until it has been properly repaired or altered.¹⁵⁷

Under this legislation, however, tragedies have still occurred—casting doubt on its ultimate effectiveness.¹⁵⁸ This has been blamed largely on how the Labor Act, and the government in general, treats unions and labor activism.¹⁵⁹ The anti-union demeanor of the industry barred any opportunity to resolve dire industrial relations issues, such as safety and health, through either dialogue or collective negotiation.¹⁶⁰ Instead, the industry, with the support of the government, has been consistently fighting to stop labor organization by promoting participation committees in place of unions.¹⁶¹ These committees have no power to bargain over the actual terms and conditions of worker employment, and are typically dominated by management’s carefully selected representatives from among its employees.¹⁶²

With pressure from many fronts mounting after the Rana Plaza disaster, the Bangladeshi government enacted amendments to the Labor Act on July 15, 2013.¹⁶³ Almost immediately, however, the amendments were criticized.¹⁶⁴ An initial review

156. *Id.*

157. *Id.*

158. Chalmers, *supra* note 40.

159. *Id.*

160. *Survey of Violations of Trade Union Rights: Bangladesh*, ITUC-CSI-IGB, <http://survey.ituc-csi.org/Bangladesh.html> (last visited Oct. 12, 2013).

161. *Id.*

162. *Id.*

163. *ILO Statement on Reform of Bangladesh Labour Law*, INT’L LABOUR ORG. (July 22, 2013), http://www.ilo.org/global/about-the-ilo/media-centre/statements-and-speeches/WCMS_218067/lang-en/index.htm.

164. *Bangladesh: Amended Labor Law Falls Short*, HUM. RTS. WATCH (July 15, 2013), <http://www.hrw.org/news/2013/07/15/bangladesh-amended-labor-law-falls-short>.

by the ILO suggested that the amendments addressed some of its specific concerns, but still fell short of several significant steps called for by the ILO supervisory system to bring the law into compliance with ratified international labor standards.¹⁶⁵

On a positive note, the amendment did include several key provisions to improve workplace safety, such as the formation of safety committees in factories of fifty workers or more, the requirement of individual safety equipment and the establishment of health centers in workplaces of more than 5,000 employees.¹⁶⁶ “No matter how much training [in safety] you have [however], you can’t walk through flames or escape a collapsed building,” said Ineke Zeldenrust of the Amsterdam based Clean Clothes Campaign, which lobbies for garment workers’ rights.¹⁶⁷

Simultaneously, the amendment makes unionization more difficult, as it requires a minimum of 30 percent of the workers in an establishment to join a union in order for the government to register it—furthermore requiring that unions select their leaders from workers within the establishment.¹⁶⁸ Requiring selection from within will enable employers to force union leaders out by firing them for superficial reasons, which is a common practice worldwide.¹⁶⁹ “The issue is that even if you have a legal right to form a union, the question is, what is being done to protect that right once you try ‘operationalize’ it—when you try to organize a meeting or pass out pamphlets or become known as a union activist?”¹⁷⁰

Moreover, the amendment also allows the government to stop a strike if it would cause “serious hardship to the community,”

165. ILO, *supra* note 148.

166. *Revised Bangladesh Labour Law ‘Falls Short’ of International Standards – UN Agency*, UN NEWS CENTER (July 22, 2013), http://www.un.org/apps/news/story.asp?NewsID=45470#.Un_8F5SxNvb.

167. Kay Johnson and Julhas Alam, *Big Brands Rejected Bangladesh Factory Safety Plan*, YAHOO! NEWS (Apr. 26, 2013), <http://news.yahoo.com/big-brands-rejected-bangladesh-factory-safety-plan-122206229.html>.

168. *Bangladesh: Amended Labor Law Falls Short*, *supra* note 164.

169. *Id.*

170. Syed Zain Al-Mahmood and Tripti Lahiri, *Bangladesh Opens Door to More Unions*, WALL ST. J. (May 13, 2013), <http://online.wsj.com/news/articles/SB10001424127887324216004578480813191051492>.

or be “prejudicial to the national interest.”¹⁷¹ These undefined terms are rather ambiguous and ripe for abusive interpretation. Should workers attempt to protest, they are likely to face life-threatening situations at the hands of Bangladeshi police.¹⁷² In fact, the government also set up a 2,990-man Industrial Police force to collect intelligence and prevent unrest in factory zones.¹⁷³ This practice is common in the industry.¹⁷⁴

B. The United States’ Regulation of the RMG Industry.

With the United States purchasing around 25 percent of Bangladesh’s exports,¹⁷⁵ it is in a unique position, having the most external control of Bangladesh’s market. Because it holds the largest single share of exports, the United States must adopt standards and guidelines that will substantially improve Bangladeshi labor practices. Fearing that enforcement will encourage corporations toward more economically profitable locations, developing countries like Bangladesh cannot, and simply will not, enforce their own labor standards and regulations.¹⁷⁶

The United States began moving its manufacturing abroad as early as the 1950s.¹⁷⁷ While Bangladesh’s contribution came decades later,¹⁷⁸ adequate labor enforcement standards have arguably not accompanied this transition in production.¹⁷⁹ Incidents like the Tazreen Factory fire and Rana Plaza collapse have recently brought factory conditions to the attention of the world.¹⁸⁰

171. Steven Greenhouse, *Under Pressure, Bangladesh Adopts New Labor Law*, N.Y. TIMES (July 16, 2013), http://www.nytimes.com/2013/07/17/world/asia/under-pressure-bangladesh-adopts-new-labor-law.html?_r=2&.

172. On September 20, 2013, Bangladeshi police used batons, rubber bullets, and tear gas to stop a five-day protest that resulted in authorities closing more than 100 factories. *Garment Workers, Police Clash in Bangladesh*, PORTLAND PRESS HERALD (Sept. 26, 2013), http://www.pressherald.com/2013/09/26/garment-workers-police-clash-in-bangladesh_2013-09-26/.

173. Chalmers, *supra* note 40.

174. *Bangladesh Factories Shut Amid Workers’ Protests*, ABC NEWS (Sept. 25, 2013), <http://abcnews.go.com/International/wireStory/100-factories-shut-bangladesh-workers-protest-20365442>.

175. Greenhouse and Clifford, *supra* note 13.

176. Gormley, *supra* note 69, at 125.

177. Winefsky and Tenney, *supra* note 19, at 612.

178. Heitzman and Worden, *supra* note 29.

179. Gormley, *supra* note 69, at 125.

180. See *supra* sections IIA and IIB.

Succumbing to media pressure, many multinational corporations have developed their own unique human rights monitoring systems.¹⁸¹ Since the early 1990s, many large, U.S. corporations have adopted internal, voluntary measures to regulate production of their goods.¹⁸² Two leading types of voluntary measures now exist in the form of corporate codes of conduct and self-determined product labeling schemes.¹⁸³ Corporations that pledge to follow a corporate code of conduct make a voluntary, written promise to respect labor rights listed in their individualized code.¹⁸⁴ Product labeling schemes require that, in addition to adhering to the code, corporations affix a label to their products, which certifies that they are made under acceptable working conditions. For example, such a label might guarantee that clothing was produced without the labor of children under a specified age.¹⁸⁵ It is unclear, however, whether these self-imposed ethical protocols are anything more than “publicity gold”—having no real legal effect.¹⁸⁶

Since these initiatives are “market-based and essentially treat humane workplace conditions as private goods for which consumers are willing to pay a premium,”¹⁸⁷ effective measures require both coherence and integrity via external monitoring and the public disclosure of violations.¹⁸⁸ While clear and convincing private initiatives may have some degree of positive effects on labor practices, these effects will be limited to a small group of workers in any developing nation.¹⁸⁹ “Direct effects will be fur-

181. Gormley, *supra* note 69, at 125.

182. Haley Revak, *Corporate Codes of Conduct: Binding Contract or Ideal Publicity?*, 63 HASTINGS L.J. 1645, 1646 (2012).

183. Robert J. Liubicic, *Corporate Codes of Conduct and Product Labeling Schemes: The Limits and Possibilities of Promoting International Labor Rights Through Private Initiatives*, 30 LAW & POL'Y INT'L BUS. 111, 113 (1998).

184. *Id.*

185. *Id.*

186. Revak, *supra* note 182, at 1646.

187. Liubicic, *supra* note 183, at 113.

188. *Id.*

189. *Id.* at 114.

ther limited by [the] innumerable problems prevalent in monitoring compliance systems.”¹⁹⁰ First, these voluntary steps usually do not contain mechanisms for enforcement.¹⁹¹ Second, they generally do not contain any monitoring provisions.¹⁹² Third, even when a code requires monitoring, the monitoring is rarely conducted by an independent agency, thus setting legitimacy further into doubt.¹⁹³ As a result, they are often seen as “standards without teeth, and function primarily as a public relations gesture.”¹⁹⁴

In addition to these schemes, and in direct response to the Rana Plaza collapse, a group of primarily North American apparel companies, retailers, and brands,¹⁹⁵ led in part by the megabrands Gap, Target and Wal-Mart, founded the Alliance for Bangladesh Worker Safety to develop and launch the Bangladesh Worker Safety Initiative (“Initiative”).¹⁹⁶ Recognizing that the “safety record of Bangladeshi factories is unacceptable and requires . . . collective effort,” to correct, the Initiative hopes to “prevent future tragedies by consolidating and amplifying . . . individual efforts to bring about real and sustained progress.”¹⁹⁷ Since it was promulgated on May 13, 2013,¹⁹⁸ however, the Initiative has faced criticism for a number of reasons. As a company-developed and company-controlled arrangement, skepticism has inevitably arisen about its motives.¹⁹⁹

190. *Id.*

191. Laura Ho et. al., *(Dis)assembling Rights of Women Workers Along the Global Assembly Line: Human Rights and the Garment Industry*, 31 HARV. C.R.-C.L. L. REV. 383, 402 (1996).

192. *Id.*

193. *Id.*

194. *Id.*

195. As of Sept. 12, 2014, twenty-six brands joined. See *About the Alliance for Bangladesh Workers Safety*, ALLIANCE FOR WORKERS SAFETY, <http://www.bangladeshworkersafety.org/en/about/about-the-alliance> (last visited Sept. 12, 2014).

196. ALLIANCE FOR BANGLADESH WORKERS SAFETY, STATEMENT OF PURPOSE, available at <https://www.wewear.org/assets/1/16/CEO-Letter-7.9-CR-11pm.pdf> (last visited Sept. 12, 2014).

197. *Id.*

198. *Id.*

199. See *Frequently Asked Questions (FAQ) about the Bangladesh Safety Accord*, CLEAN CLOTHES CAMPAIGN, <http://www.cleanclothes.org/issues/faq-safety-accord> (last visited Nov. 9, 2013); see generally *Gap and Walmart in Bangladesh: A History of Irresponsibility and Empty Promises*, CLEAN CLOTHES

The Initiative valiantly committed US\$42 million for worker safety in Bangladesh, including factory inspections and an anonymous hot line for workers to report concerns, and more than US\$100 million in loans and financing to help Bangladeshi factory owners correct safety problems over five years.²⁰⁰ The onus, however, is on the factory owners themselves to inspect and improve their workplaces, and the signatories to the Initiative are not bound to finance any needed improvements, independent of these loans.²⁰¹ Furthermore, few requirements are imposed on members, and any member can abandon the agreement whenever it chooses.²⁰² In fact, the Initiative is not legally binding and lacks commitments to pay for any improvements whatsoever.²⁰³ Essentially, if a factory is not up to the standard, and does not fix the problems on its own, the American retailers simply say they will no longer do business there.²⁰⁴ While, at first, it may seem that no longer manufacturing in Bangladesh would be a viable solution to this problem, it is also a naïve one. Simply pulling out of the country, like the Walt Disney Co. has,²⁰⁵ could

CAMPAIGN, <http://www.cleanclothes.org/resources/background/history-gap-and-walmart-bangladesh> (last visited Sept. 12, 2014).

200. Greenhouse and Clifford, *supra* note 13; *see also* Press Release, Alliance for Bangladesh Workers Safety, Alliance of Leading Retailers in North America Join Forces in Comprehensive, Fire-Year Commitment to Improve Factory Safety Conditions for Workers in Bangladesh, 3 (July 10, 2013), *available at* http://az204679.vo.msecnd.net/media/documents/bangladesh-alliance-press-release_130179348070616796.pdf.

201. *Id.*; As of September, 2014, the Initiative has inspected 587 factories in Bangladesh and has either fully or partially closed ten of them, though reports allege that they have “identified 45 problems in each of the 587 factories it has inspected so far”—a small percentage actually shut. *See Setbacks Still Remain in Factory Safety: Alliance*, DAILY STAR (Sept. 11, 2014), <http://bd.thedailystar.net/business/setbacks-still-remain-in-factory-safety-alliance-41149>; *see also* Steven Greenhouse & Elizabeth A. Harris, *Battling for a Safer Bangladesh*, N.Y. TIMES (April 21, 2014), http://www.nytimes.com/2014/04/22/business/international/battling-for-a-safer-bangladesh.html?_r=0.

202. (FAQ) about Bangladesh Safety Accord, *supra* note 199.

203. Greenhouse and Clifford, *supra* note 13; *see also* Shelly Banjo, *Walmart, Gap Press for Safety in Bangladesh*, WALL ST. J. (Oct. 23, 2013), <http://online.wsj.com/news/articles/SB10001424052702304402104579151942188514188/>.

204. (FAQ) about Bangladesh Safety Accord, *supra* note 199.

205. Emily Jane Fox, *Disney Pulls Out of Bangladesh Factories*, CNN MONEY (May 2, 2013), <http://money.cnn.com/2013/05/02/news/companies/disney-bangladesh/>.

“devastate Bangladesh’s economy, while threatening the livelihood of millions.”²⁰⁶ “The whole nation should not be made to suffer,” Mohammad Fazlul Azim, a member of the Bangladesh Parliament and an influential garment factory owner has said.²⁰⁷ “This industry is very important to us. Fourteen million families depend on this. It is a huge number of people who are dependent on this industry.”²⁰⁸ Since businesses like Walt Disney Co. have profited from their relations with Bangladesh in the past, it is fundamentally misguided for companies to avoid responsibility by simply deserting.

Thus, the Initiative arguably “preserves the very model that has failed workers for years and failed to prevent nearly two thousand deaths.”²⁰⁹ In essence, the Initiative’s proponents discuss renovations but lack substance.²¹⁰ Without legal accountability, the Initiative is not worth the paper it is written on.²¹¹

*C. What neither Bangladesh nor the United States are Doing—
an Examination of Europe’s Regulation of the RMG Industry*

A competing plan, created to address the issues facing Bangladesh’s RMG industry, further illuminates the Initiative’s shortcomings—and areas for potential growth. With “the goal of a safe and sustainable Bangladeshi RMG industry in which no worker needs to fear fires, building collapses, or other accidents that could be prevented with reasonable health and safety

206. Steven Greenhouse, *Bangladesh Fears an Exodus of Apparel Firms*, N.Y. TIMES (May 2, 2013), <http://www.nytimes.com/2013/05/03/business/factory-owners-in-bangladesh-fear-firms-will-exit.html>.

207. *Id.*

208. *Id.*

209. (FAQ) about Bangladesh Safety Accord, *supra* note 199.

210. Greenhouse and Clifford, *supra* note 13.

211. *Tell Gap to Support Safe Working Conditions*, GLOBAL CITIZEN PROJECT (Dec. 29, 2013), <http://www.globalcitizen.org/Content/Content.aspx?id=fec9868d-a446-4c95-9927-28871325c211>; *see also Comparison: The Accord on Fire and Building Safety in Bangladesh and the Gap/Walmart Scheme*, CLEAN CLOTHS CAMPAIGN, <http://www.cleanclothes.org/resources/background/comparison-safety-accord-and-the-gap-walmart-scheme> (last visited Sept. 13, 2014).

measures,”²¹² a number of international parties signed the Accord of Fire and Building Safety in Bangladesh (“Accord”).²¹³ Signatories include over 170 international brands and retailers,²¹⁴ global unions,²¹⁵ local unions,²¹⁶ non-governmental organizations²¹⁷ and the ILO, as an independent chair to the committee.²¹⁸ Notably, the Accord also includes an important role for workers and worker representatives, including direct trade union participation.²¹⁹ Furthermore, European governments have given the Accord a great deal of support, bordering on pressure. For example, the European Parliament Resolution of May 20, 2013, on Health and Safety in the Bangladesh Garment Industry fully supported the Accord, as well as the Dutch Minister of Foreign Trade, the French Minister of Foreign Trade, the Danish Minister of Foreign Affairs, the Norwegian Minister of International Development and the U.K. Minister of State to name a few.²²⁰

Under the Accord, which will run for five years, each signatory commits to the following: facilitating independent fire safety inspections by trained experts, public reporting and disclosure, mandatory repairs financed by the brands themselves, worker representatives placed in factories to educate workers about

212. ACCORD ON FIRE AND BUILDING SAFETY IN BANGLADESH, 1 (May 13, 2013), http://bangladeshaccord.org/wp-content/uploads/2013/10/the_accord.pdf.

213. *Id.*

214. For a full list, see *Signatories*, ACCORD ON FIRE AND BUILDING SAFETY IN BANGLADESH, <http://www.bangladeshaccord.org/signatories/> (last visited May 13, 2013); see also *More Brands Commit to the Accord on Fire & Building Safety in Bangladesh*, CLEAN CLOTHES CAMPAIGN (Aug. 28, 2013), <http://www.clean-clothes.org/news/2013/05/14/more-brands-commit-to-the-accord-on-fire-building-safety-in-bangladesh>.

215. *Id.* (As of Sept. 4, 2014, this included the IndustriALL Global Union & UNI Global Union).

216. *Signatories*, *supra* note 214. (As of Sept. 4, 2014, this included the Bangladesh Textile and Garments Workers League, Bangladesh Independent Garments Workers Union Federation, Bangladesh Garments Textile & Leather Workers Federation, IndustriALL Bangladesh Council, Bangladesh Revolutionary Garments Workers Federation, National Garments Workers Federation, and the United Federation of Garments Workers.).

217. *Id.* As of Sept. 4, 2014, this included the Clean Clothes Campaign, Maquila Solidarity Network, International Labor Rights Forum, and Workers Rights Consortium.

218. (FAQ) about Bangladesh Safety Accord, *supra* note 199.

219. ACCORD ON FIRE AND BUILDING SAFETY IN BANGLADESH, *supra* note 212.

220. (FAQ) about Bangladesh Safety Accord, *supra* note 199.

safety and workers' rights, and a safe and confidential complaints process.²²¹ Most recently, the Accord's technical team finalized the fire, electrical, and building inspection standards it will use to inspect all factories producing for signatory brands.²²² It represents not only a commitment to inspect 1,500 factories by September, 2014, but also to publish the results and information on necessary remediation.²²³ Additionally,

[a] unique aspect of the [Accord] is its legal enforcement. Section 5 of the Accord explicitly outlines the process of dispute resolution, in which the outcomes can be reinforced in the court of law. This feature is unique because previously established initiatives involving corporate accountability and labour rights are basically voluntary commitments. Many U.S. companies refuse to sign the Accord based on this legal enforceability, fearing lawsuits. However, in essence the Accord's legal obligations do not differ much from other business contracts companies routinely chose.²²⁴

When comparing the two, the Initiative has been called "a pale imitation" of the legally binding Accord, and criticized alongside previous voluntary initiatives that have not functioned well in the past.²²⁵

221. ACCORD ON FIRE AND BUILDING SAFETY IN BANGLADESH, *supra* note 212.

222. *Id.*

223. *Id.*; As of Sept. 5, 2014, the Accord conducted over 1,000 inspections and posted over 250 Corrective Action Plans online. Press Release, Accord on Fire and Building Safety in Bangladesh, Accord Makes Good Progress Towards Safe Factories in Bangladesh (Sept. 5, 2014) (available at <http://bangladeshaccord.org/2014/09/accord-makes-good-progress-towards-safe-factories-bangladesh/>).

224. (FAQ) about Bangladesh Safety Accord, *supra* note 199.

225. Greenhouse and Clifford, *supra* note 13; see generally Benjamin Hensler & Jeremy Blasi, *Making Global Corporations' Labor Rights Commitments Legally Enforceable: The Bangladesh Breakthrough*, WORKERS RIGHTS CONSORTIUM (June 18, 2013), <http://www.cleanclothes.org/resources/recommended-reading/making-global-corporations2019-labor-rights-commitments-legally-enforceable-the-bangladesh-breakthrough>.

In sum, the inclusion of contractually enforceable obligations on brands and retailers in the Accord on Building and Fire Safety in Bangladesh is a major breakthrough for global labor rights. By putting teeth behind strong substantive commitments, the agreement holds the promise of finally addressing the worker safety crisis in Bangladesh. Contrary to the claims of its critics, however, it does not

IV: WHAT MORE SHOULD THE UNITED STATES DO TO ADDRESS THE PROBLEMS PLAGUING THE RMG INDUSTRY IN BANGLADESH?

“The worldwide growth of international capital in the garment industry places great control in the hands of American corporations instead of the government.”²²⁶ The principal control, however, must be placed back in the hands of the government with a simple, three-pronged solution. Since the United States purchases such a large percentage of Bangladesh’s RMG exports,²²⁷ it must take a stand to enact realistic and effective solutions to counteract the abuses occurring within the RMG industry. This Note recommends an approach composed of three separate, yet interrelated, steps. First, the U.S. government, along with labor advocacy groups, must develop campaigns to educate, persuade and convince American consumers to pressure brands to raise their labor standards, either by amending the Initiative or by signing onto the Accord. Second, the U.S. government must bolster these campaigns by implementing a system that utilizes standard American intellectual property law, via certification trademarks, to provide consumers with a trustworthy and reliable guarantee that compliant products are made clearly visible and available for public consumption. Third, and finally, the U.S. government must utilize Customs and Border Protection (“CBP”) by passing legislation that prohibits goods from entering the U.S. market if they are made under certain unacceptable conditions, or without the certification.

This Note recognizes that attempting to prevent future incidents does not make up for the tremendous losses the people of Bangladesh have already suffered. Years after the Tazreen fire and Rana Plana collapse, many injured victims, as well as the families of the deceased, had still not received any compensation.²²⁸ Frustration is inevitable, as survivors that face destitution and are now unable to work have been forced to sell off their

impose substantial risks of undefined legal liability on the signatory companies.

Id. at 5.

226. Gormley, *supra* note 69, at 134.

227. *See supra* Section ID.

228. *Bangladesh: Companies Fail to Compensate Fire Victims*, HUM. RTS. WATCH (Dec. 16, 2013), <http://www.hrw.org/news/2013/12/15/bangladesh-companies-fail-compensate-fire-victims>; *see also* BOF Team, *supra* note 7.

possessions or beg for money in order to pay for treatment.²²⁹ When Bangladeshi workers took justice into their own hands on December 3, 2013, and burned down another factory that mainly supplied Gap and Wal-Mart, they brought this issue back into the international spotlight.²³⁰ Though no one was harmed in the blaze,²³¹ such vigilantism is unlikely to spur progress, and only causes more harm.²³²

A. Step One: Spread Awareness, Persuade and Convince

The first aspect of this Note's solution will have the largest impact and will also be the easiest to accomplish—because a movement is already under way. At the most fundamental level, individuals within a society must be aware of something before they can take steps to support or condemn it.²³³ Without access to truthful, relevant information, individuals remain ignorant and lack power to make cognizant decisions or take action. It is unlikely that citizens would continue to embrace cheap clothing, knowing that it is laced with corruption, suffering, and exploitation. As a result, the U.S. government must take proactive steps

229. *Id.*; Bruce Kennedy, *The Bangladesh Factory Collapse Over One Year Later*, CBS MONEY WATCH (April, 23, 2014), <http://www.cbsnews.com/news/the-bangladesh-factory-collapse-one-year-later/>.

230. Serajul Quadir, *Workers Burn Down Bangladesh Garment Factory that Supplied Gap, Wal-Mart, Zara*, BUSINESS INSIDER (Dec. 3, 2013), <http://www.businessinsider.com/workers-burn-down-bangladesh-garment-factory-that-supplied-gap-wal-mart-zara-2013-12>.

231. *Id.*

232. For a full discussion, see generally Nahla Valji and Bronwyn Harris, *Vigilantes Push Us Farther from Justice*, CENTRE FOR THE STUDY OF VIOLENCE AND RECONCILIATION (Jul. 1, 2003), <http://www.csvr.org.za/index.php/media-articles/latest-csvr-in-the-media/2316-vigilantes-push-us-further-from-justice.html>.

[V]igilantism can initiate a dangerous self-perpetuating spiral. Mob justice is characterized by violent methods, often resulting in death. Vigilantes are therefore contributing to crime and lawlessness themselves, and in doing so are threatening the very human rights culture upon which our new democracy is built. Rather than alleviating the crime situation, vigilantes are exacerbating it.

Id.

233. David Court, Dave Elzinga, Susan Mulder, and Ole Jørgen Vetvik, *The Consumer Decision Journey*, MCKINSEY & COMPANY (June 2009), http://www.mckinsey.com/insights/marketing_sales/the_consumer_decision_journey.

to spread awareness of the horrors plaguing Bangladesh's RMG industry—or, at the very least, support organizations that do so. For example, Global Citizen, an initiative by the Global Poverty Project, is an education and advocacy organization that works to increase the number and effectiveness of individuals taking action to end extreme poverty throughout the world.²³⁴ Rather than focusing on fund raising, Global Citizen places its resources toward advocacy and awareness by utilizing the budding power of social media to transform individuals into activists by encouraging its members to do things like sign petitions, or share information via their Facebook and Twitter accounts.²³⁵ With the goal of capitalizing on this potential to affect change,

Global Citizen harnesses the power and reach of online and mobile technology to provide passionate people with opportunities to learn about issues and take online action anytime, anywhere. It will also provide a variety of offline action opportunities—offering users pathways and journeys to more, and more varied, action.²³⁶

On November 22, 2013, Global Citizen, with the belief “that the power of the consumer is about more than just demanding cheap fashion” and the goal of “fairness for those that make our clothes,” created a petition requesting that the Gap specifically sign the Accord in order to bolster “a fashion industry that helps lift people out of extreme poverty, not trap them in it.”²³⁷ Actions like this, which heighten public awareness, essentially force brands to take action or face public ridicule and, eventually, loss of profit. While the Gap has yet to sign the Accord, an example of a similar, and successful, initiative was the United Students

234. *Frequently Asked Questions*, GLOBAL CITIZEN, <http://www.globalcitizen.org/AboutUs/AboutUs.aspx?typeId=17> (last visited Sept. 4, 2013).

235. *Id.*

236. *Id.*

237. *Tell GAP to Support Safe Working Conditions*, GLOBAL CITIZEN, <http://www.globalcitizen.org/Content/Content.aspx?id=fec9868d-a446-4c95-9927-28871325c211> (last visited Nov. 22, 2013).

Against Sweatshops'²³⁸ "End Deathtraps" Campaign.²³⁹ As a result of community activism, including demonstrations and petitions,²⁴⁰ four American universities now require brands that manufacture their university apparel to sign the Accord,²⁴¹ which has indirectly caused a number of brands to also sign the Accord for all of their products.²⁴²

In an internet-driven and socially-connected society, it is easier than ever to spur, develop, and foster a movement toward social change.²⁴³ The government must seize this opportunity for positive action. If individual Internet users can spark such trivial trends as viral animal videos or prank videos that spread almost instantaneously throughout the world,²⁴⁴ even a small government agency, with limited resources, would have a definitive impact and perhaps be the ripple that starts the tidal wave of reform. The agency could easily be composed of teams of younger individuals, eager to make a change in this sector²⁴⁵ and armed

238. United Students Against Sweatshops is currently the nation's largest student-led, labor campaign organization, with affiliated locals on over 150 American college campuses. *About*, ORGANIZING STUDENT & WORKER POWER, <http://usas.org/about/> (last visited Nov. 25, 2014).

239. Zoe Willingham, *Ten Victories to End Deathtraps in 2013*, UNITED STUDENTS AGAINST SWEATSHOPS (Dec. 29, 2013), <http://usas.org/2013/12/29/ten-victories-to-end-deathtraps-in-2013/>.

240. Fahey & D'Innocenzio, *supra* note 120.

241. These universities are Duke University, New York University, University of Pennsylvania, and Temple University. *See* Willingham, *supra* note 239.

242. These brands are Adidas, Top of the World, Fruit of the Loom, Knights Apparel, and Zephyr Headwear. *Id.*

243. In fact, some shoppers already took to the Internet to voice their disapproval of brands that had sourced from Rana Plaza. *See* Emily Fox, *Shoppers Lash Out at Stores Over Bangladesh*, CNN MONEY (May 2, 2013), <http://money.cnn.com/2013/05/01/news/companies/bangladesh-factory-shoppers/index.html>.

244. A viral video is defined as "[a] video that spreads quickly via the Internet. It is often a short clip on a video sharing site such as YouTube or Vimeo that people reference in blogs, e-mails and instant messages." PC MAGAZINE ENCYCLOPEDIA, <http://www.pcmag.com/encyclopedia/term/58238/viral-video> (last visited Jan. 16, 2014).

245. Formed in 1997, United Students Against Sweatshops is a "grassroots organization of youth and students who believe that a powerful and dynamic labor movement will ensure greater justice for all people." Only students can join. For more information see generally *Organizational Structure*, UNITED STUDENTS AGAINST SWEATSHOPS, <http://usas.org/about/structure/#art3> (last visited July 24, 2014); *National Leadership*, UNITED STUDENTS AGAINST

with modern, relevant knowledge about the socially driven world around them. The younger generation would gain valuable experience and the world would benefit.

One demonstration of this potential is KONY2012—a short film designed to raise public awareness about an obscure African war criminal in the hope of rallying the world to stop him.²⁴⁶ In a single day, the video boasted over forty-one million online views, and, in six days, surpassed 100 million views.²⁴⁷ As a direct result, the global movement reached Congress²⁴⁸ via a strongly supported bipartisan resolution,²⁴⁹ and President Obama sent 100 U.S. military advisors to Africa to support local efforts to locate Kony and assist affected communities.²⁵⁰ American attention was heightened and change was sparked.²⁵¹ The viewership numbers speak volumes about the potential impact of video campaigns that audiences choose to watch.²⁵² In order to choose to watch them, however, the videos must first be created and distributed. Tech-savvy millennials, with government support, have the ability to create a more transparent industry with the power to create change.²⁵³ At a recent summit, for example, 120 international students and young professionals from

SWEATSHOPS, <http://usas.org/about/national-leadership/> (last visited July 24, 2014).

246. *Kony 2012*, INVISIBLE CHILDREN, <http://invisiblechildren.com/kony/> (last visited Jan. 2, 2014).

247. Matt Fiorentino, *Ten Stats That Will Change the Way You Look at Video in 2013*, AD AGE (Dec. 27, 2012), <http://adage.com/article/digitalnext/ten-stats-change-video-2013/238915/>.

248. Chris Coons, *Pursuing Joseph Kony*, COONS.SENATE.GOV <http://www.coons.senate.gov/kony/> (last visited Nov. 25 2014).

249. Scott Wong, *Joseph Kony Captures Congress' Attention*, POLITICO (Mar. 22, 2012), <http://www.politico.com/news/stories/0312/74355.html>.

250. Coons, *supra* note 238.

251. Wong, *supra* note 249. “When you get 100 million Americans looking at something, you will get our attention,” said Senator Lindsey Graham, a co-sponsor of the resolution. “This YouTube sensation is [going to] help the Congress be more aggressive and will do more to lead to his demise than all other action combined.” Furthermore, Graham deemed the video’s success a “breakthrough on the foreign policy front,” likening it to how Twitter and Facebook have sparked political uprisings in places like Egypt and Tunisia.

252. Fiorentino, *supra* note 247.

253. Nora Locskai, *Avoiding Another Rana Plaza Will Take More Than Outrage*, STUDENT REPORTER (July 15, 2014), <http://studentreporter.org/2014/07/avoiding-another-rana-plaza-will-take-more-than-outrage/>.

top business and design schools demanded “garments which deliver trustworthy experiences.”²⁵⁴ As the saying goes, knowledge is power.

B. Step Two: Bolster Consumer Confidence

Once the public is made aware of the issues plaguing the RMG industry, they must also be empowered to make socially conscious purchases. Since the early 1990s, many large U.S. corporations have adopted internal, voluntary measures to regulate production of their goods.²⁵⁵ One of the main ways brands now regulate internally is with product labeling schemes.²⁵⁶ It is unclear, however, whether these self-imposed ethical protocols are anything more than public relations maneuvers, with no legal effectiveness.²⁵⁷ Product labeling requires that corporations attach a label to their products certifying that they are made under acceptable conditions.²⁵⁸ Since they are self-imposed, however, it can be logically assumed that consumers don’t necessarily have reason to fully trust these labels, which lessens their value and effectiveness. If the U.S. government utilizes the power that the Constitution places in the Patent and Trademark Office (“USPTO”), it can alleviate these consumer doubts and bolster consumer confidence.

Section 45 of the Trademark Act, 15 U.S.C. § 1127, defines a certification mark as “any word, name, symbol, or device, or any combination thereof” owned by one party who certifies the goods and services of others when they meet certain standards—the owner of the mark exercises control over the use of the mark because the sole purpose of a certification mark is to indicate that certain standards have been met.²⁵⁹ Therefore, the U.S. government must create, and register, a specific certification mark that is designed to differentiate apparel from factories that meet the standards of the Accord, or similar requisite standards, from apparel that does not. Gradations of adherence might warrant dif-

254. *Id.*

255. Revak, *supra* note 182, at 1646.

256. Liubicic, *supra* note 183, at 113.

257. Revak, *supra* note 182, at 1646.

258. Liubicic, *supra* note 183, at 112-13.

259. U.S. PAT. & TRADEMARK OFF., *Frequently Asked Questions about Trademarks*, USPTO.gov, http://www.uspto.gov/faq/trademarks.jsp#_Toc275426676 (last modified April 23, 2013).

ferent trademarks. Such a scheme allows brands that seek exemplary compliance to reap higher rewards by rising to the bar set by the Accord. Moreover, this system would also serve as a new method of advertisement for brands that are proud to meet high standards.

In fact, an independent certifying organization called Blue Sign effectively does precisely this, in order to protect the environment.²⁶⁰ Founded in Switzerland in 2000, Blue Sign attempts to utilize a certification mark system in order to “link chemicals suppliers, textile manufacturers, and brands together to foster a healthy, responsible, and profitable textile industry.”²⁶¹ Currently, certified textiles are awarded two bluesign® labels: bluesign® product and bluesign® approved fabric, which differ in the level and the quantity of their manufacturing ingredients.²⁶²

An American example of a similar certification²⁶³ is Made in USA Certified®, which is the leading non-partisan, independent certification company for the “Made in USA,” “Product of USA” and “Service in USA” marks.²⁶⁴ The USA-C™ seals certify that a company bearing the marks has passed an arduous supply chain inspection to confirm compliance with American laws and

260. *Vision*, BLUE SIGN, <http://www.bluesign.com/industry/bluesign-technologies/vision#.UsBq2JSxNvY> (last visited Dec. 29, 2013).

261. *Id.*

262. *How to Find it*, BLUE SIGN, <http://www.bluesign.com/consumer/label#.UsC6d5SxNvY> (last visited Dec. 29, 2013).

263. Additional international examples include Hong Kong's *Green Label Scheme*, which recognizes that “[i]ncreasing global environmental awareness has created a demand for, and the supply of, green products.” *Green Label Scheme*, GREEN COUNSEL, <http://www.greencouncil.org/eng/greenlabel/intro.asp> (last visited Nov. 19, 2013); Europe's *The Water Label*, which certifies “[b]athroom manufacturers across the globe are aiding governments in their quest to reduce water consumption . . .” *The Label*, WATER LABEL, <http://www.europeanwaterlabel.eu/thelabel.asp> (last visited Nov. 19, 2014); as well as numerous European Union schemes that cover windows, refrigerators, dishwashers, washing machines, light bulbs and other energy-consuming appliances. See Pete Harrison and Davin Brunnstrom, *EU's Eco-labeling Scheme to Tackle More Products*, REUTERS (Nov. 17, 2009), <http://www.reuters.com/article/2009/11/17/us-eu-energy-labels-idUSTRE5AG3WJ20091117>.

264. Brenda K. Huffman, *Can You Believe That “Made in America” Label?*, BUS. INSIDER (Sep. 29, 2011), <http://www.businessinsider.com/are-made-in-america-claims-always-honest-and-true-2011-9#ixzz2qnyzUKKN>.

regulations while providing consumers with a recognizable symbol that can be trusted.²⁶⁵ An initiative counter to the action that this Note proposes is the recent movement of consumers toward domestically made clothes.²⁶⁶ This movement toward locally manufactured clothing shows that some Americans' buying decisions *are* influenced by the origin of the product. If the U.S. government issued certifications for clothing imported from Bangladesh—and, if successful, eventually from all importing states—consumers would be armed with the information necessary to make knowledgeable decisions with confidence. With time, these trademarks would become part of the overall buying experience. As a result, brands would be pressured to meet this standard in order to gain, or retain, the stamp of approval.

C. Step Three: Purge the U.S. Market of Blood Stained RMG Entirely

Should the certification system not provide ample incentive for brands, or even fail to influence consumers' buying decisions, the ultimate way to rid the market of these goods lies with the U.S. government. It must pass legislation to prohibit imported goods that are made under unacceptable conditions. The U.S. CBP performs three crucial roles in facilitating trade to and from the United States, and around the world. CBP secures trade from acts of terrorism, ensures that arriving goods are legitimate, and that appropriate duties and fees are paid.²⁶⁷ While this Note does not argue that these Bangladeshi factories are linked to acts of terrorism, terror is sewn deep into these garments. Whether it is the fear workers face as they are forced to enter unsafe factories, or the thousands that are left without mothers, daughters, or sisters, terror plagues the RMG industry. Therefore, the United States must take a stand to eliminate this terror from its sphere altogether. The ultimate power behind such a movement, however, lies in the hands of American leaders to spur change.

265. *Id.*

266. See Amanda Alix, *Is the "Made in America" Campaign Really Bringing Jobs Home?*, DAILY-FINANCE (Dec. 29, 2013), <http://www.dailyfinance.com/2013/12/29/is-the-made-in-america-campaign-really-bringing-jobs/>.

267. *About CBP*, U.S. DEP'T HOMELAND SECURITY (Nov. 10, 2013), <http://www.cbp.gov/xp/cgov/about/>.

Once the President and lawmakers realize the necessity of a movement to reform the RMG industry, they must also realize the power that they have to foster that movement. In fact, the U.S. government *does* realize the importance of enacting legislation that imposes regulations equivalent to the Accord because the House of Representatives approved a bill requiring all military garments made in Bangladesh to come from factories that either join or abide by the conditions of the Accord on June 14, 2013.²⁶⁸ Unfortunately, the Senate thwarted the garment bill, based on a provision in the most recent military spending bill, which would have given preferential treatment to stores on military bases that signed the Accord.²⁶⁹ The measure, which had been incorporated into the National Defense Authorization Act, was ultimately left out of the version that was presented to President Obama.

In a joint letter to the Senate and House Armed Services Committees, some of the largest retail and clothing lobbies in the United States took a patriotic tack in their argument against the provision—a strategy that would ultimately prove effective on the Hill. They claimed that endorsing the “European” accord in such a way would undermine the primarily “American” alliance that shared the same concerns in Bangladesh.²⁷⁰

While the Initiative and the Accord may share the same commitment,²⁷¹ the efforts and the standards which they impose are quite disparate.²⁷² If it becomes illegal to import goods from countries like Bangladesh without providing documented proof that the goods are produced under sufficient standards or certifications—like those the Initiative *attempts* to set forth—U.S. companies that are hesitant to join the Accord, or implement similar binding provisions, will simply be unable to get their

268. Press Release, Committee on Educ. & Workforce Democrats, House Approves Bill Containing Amendment Regarding Bangladesh Safety Accord and Military-Branded & Licensed Apparel (June 14, 2013) (available at <http://democrats.edworkforce.house.gov/press-release/house-approves-bill-containing-amendment-regarding-bangladesh-safety-accord-and>).

269. Dave Jamieson, *How A Plan to Help Curb Garment Factory Disasters in Bangladesh Died in the U.S. Senate*, HUFFINGTON POST (Jan. 4, 2014), http://www.huffingtonpost.com/2014/01/04/rana-plaza-bangladesh-senate_n_4538747.html.

270. *Id.*

271. *See supra* sections IIIB and IIIC.

272. *Id.*

products to the U.S. market. This embargo will function just as the current prohibition on counterfeit trademarked goods.²⁷³ The inability to sell products in the U.S. market will provide manufacturers and retailers with the incentive to take action. If vendors are unable to get their goods into the market, they will be forced to take a more proactive stance. While this will certainly cost additional funds to implement, and must take place gradually, it is likely that brands will comply in order to avoid losing U.S. sales. To bolster the possibility of this option, the Federal Trade Commission amended its Textile Labeling Rules in March, 2014, in order to address, among other topics, country-of-origin disclosures.²⁷⁴ These amendments to the labeling rules prove that the Commission has the power to implement change, should it make the choice.²⁷⁵

Should brands choose to simply pull their production from countries like Bangladesh, or even threaten to do so, the Bangladeshi government, as well as the owners of the factories, will voluntarily increase their safety standards. After the incident at Rana Plaza, Bangladeshi leaders begged buyers to avoid harsh measures in order to protect their economy. Mahbub Ahmed, the top civil servant in Bangladesh's Commerce Ministry, has noted that "[i]f the EU or any other buyers impose any harsh trade conditions on Bangladesh it will hurt the country's economy . . . millions of workers will lose their jobs."²⁷⁶ Again, the RMG industry accounts for 80 percent of Bangladesh's annual exports, 15 percent of its GDP, and 45 percent of all industrial employment in the country.²⁷⁷ In short, Bangladesh does not want to

273. A recent investigative report, however, alleges that this may not be as effective since "plenty of federal agencies don't practice what American officials have been preaching when it comes to the ethical sourcing of clothing. Several facilities from which the U.S. government has purchased garments on the cheap have been complicit in labor abuses discovered in workplace audits." See Jamieson, *supra* note 264; see also Ian Urbina, *U.S. Flouts its Own Advice in Procuring Overseas Clothing*, N.Y. TIMES (Dec. 22, 2013), <http://www.nytimes.com/2013/12/23/world/americas/buying-overseas-clothing-us-flouts-its-own-advice.html?ref=ianurbina&r=1&>.

274. *FTC Issues Changes to Textile Labeling Rules*, FED. TRADE COMMISSION (March 14, 2014), <http://www.ftc.gov/news-events/press-releases/2014/03/ftc-issues-changes-textile-labeling-rules>.

275. *See Id.*

276. Paul and Quadir, *supra* note 11.

277. *See* Md. Mazedul Islam, Adnan Maroof Khan and Md. Monirul Islam, *supra* note 53 at 31.

lose the United States as a business partner, nor should it have to, if the plan recommended in this Note is implemented.

CONCLUSION

Members of Bangladesh's RMG industry, divided by the very garments that they sew, face a difficult situation. To remain competitive, they seek to cut corners. These corners, however, have repeatedly led to injury and death. Once the United States recognizes how deadly the industry currently is, as well as the fact that the U.S. market holds the key to change the practices utilized for at least 25 percent of Bangladesh's output, the United States must also seize that opportunity to create change. If it implements the recommended three-pronged approach, the U.S. government will have the ability to enact realistic and effective resolutions to counteract the abuses occurring within the Bangladeshi RMG industry, with even the most limited of resources. It is time to rid America of its bloodstained garments—and to acknowledge the *actual* high price of cheap clothing.

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