

NIKE LIES





Workers at Violet Apparel protest their stolen wages. (credit: CATU)

Sportswear giant Nike has been under fire for the working conditions in their factories since the 1990s. They have been a leader in outsourcing: when they got their start in footwear in the '60s, just four percent of their product was manufactured outside the United States. That's now 98%. And if the goal was to put the consequences of their low-bar purchasing practices out of sight and out of mind, it might have worked for a few years. But garment workers and activists around the world are onto their tricks.

Now Nike is back with new tactics to do the same old thing: make money off the backs of garment workers around the world.

Nike is one of the long-term holdouts who continues to refuse to pay garment workers what they're owed after devastating pandemic-era wage theft and fulfill their obligations under the UN Guiding Principles.

"I'm confident that our teams are lining up our competitive advantages to create greater impact for our business," said John Donahoe, President & CEO, speaking of Nike's most recent financials. But what's Nike's "competitive advantage"? From here it looks like propping up profits on the backs of workers and spinning out a story that coercion is consent.

The following two case studies illustrate what we mean when we say Nike Lies.

VIOLET APPAREL, RAMATEX SUBSIDIARY, CAMBODIA

In July 2020, the Violet Apparel factory in Cambodia shut down, leaving 1,284 workers, mostly women who had worked at the factory for decades jobless and shorting them \$1.4 million dollars in legally-owed benefits. Violet Apparel was a subsidiary of Ramatex group, and Nike is their biggest customer. Without Nike, Ramatex would not be the profitable company that it is.



NIKE LIE #1: NOT OUR SUPPLIER (DESPITE THE EVIDENCE)

The Violet Apparel case shows how that lack of transparency benefits corporations - and fails workers. When confronted with workers' concerns that brands like Nike had canceled orders leading to the crisis that cost them their jobs, Nike denied that Violet Apparel had produced for them since 2006. That claim directly contradicts Nike's published supplier list from April 2008. And as recently as 2019, workers have photos of manufacturing Nike goods, including thread lists, labels, and other documentation. Nike products are heavily branded so workers know who they are producing for, and have given consistent, credible testimony that they were sewing for Nike at Violet Apparel for years.

Nike explains away the presence of goods bearing their logo by saying that Ramatex had subcontracted out the manufacturing from a supplier Nike approved (Olive Apparel) to one it didn't (Hong Seng Knitting) without their knowledge. Unauthorized subcontracting is indeed a major human rights risk in global supply chains, as Human Rights Watch notes when writing on this case. Yet once again, this suggests that Nike either does not understand their due diligence responsibilities to know their supply chains - illegal subcontracting does not absolve a brand from responsibility - or they are willingly obfuscating. Neither is a rights-respecting position.



Photos from Violet Apparel taken by workers before the factory closed down, showing Nike products.

Lastly, Ramatex is not some rogue supplier. Nike continues to maintain a close supplier relationship with Ramatex. Indeed, in their annual report, Ramatex highlights the awards they have received from Nike for their work. Given that relationship, Nike has significant leverage they could use to ensure workers receive their legally owed pay. Indeed, the UNGPs (Principles 18 and 19) spell out that appropriate action for a company is proportionate to both their connections to the adverse effects (wage theft) and their leverage - both of which would suggest that Nike has a responsibility to ensure workers are paid.



NIKE LIE #2: THE RULES ONLY APPLY WHEN THEY SERVE OUR INTERESTS

Faced with physical evidence of their ties to Ramatex's Violet Apparel factory and Nike's continuing relation with the factory group, Nike's next strategy has been to lean into a biased and legally invalid decision by Cambodia's Arbitration Council. In November 2020, the Arbitration Council claimed a "lack of jurisdiction" and declined to rule on workers' demand for compensation in lieu of prior notice - despite the fact that factory management informed them of their dismissal with less than 24 hours' notice. As the Worker Rights Consortium concludes in their independent analysis, "The Arbitration Council had no legitimate basis in fact or law for its decision against damages or its decision not to rule on notice pay." Human rights advocates have previously raised concerns about the rise of authoritarianism in Cambodia and the corresponding decline in the Arbitration Council's independence. Instead of issuing rights-respecting rulings, Human Rights Watch concludes, the Council is "politically compromised" and rubberstamping labor rights abuses.

Nike is on the record expressing concerns about the integrity of the Arbitration Council. But in this case, when the ruling was in favor of their supplier, they chose to endorse it. That's Nike's next lie: The rules only apply when they serve our interests.

A worker from Violet Apparel calls on Nike's board of directors to pay both Violet Apparel and Hong Seng Knitting workers.



Nike's preference here is once again at odds with their human rights obligations. Article 23 of the United Nations Guiding Principles makes clear that businesses should respect internationally recognized human rights - even when local law may be at odds with those rights.

Nike continues to evade responsibility for the consequences of their purchasing practices. The Violet Apparel case showcases the advantages they gain through doing business with long chains of subcontractors in a country which has gained attention for failing to protect workers' human rights. But through all the twists and turns, two things are clear: Nike Lies, and 1,284 Cambodian garment workers are still waiting to get paid four years later.



Protests in support of Violet Apparel workers in Cambodia, Netherlands, and Croatia.



Top photo: CATU, lower left: Clean Clothes Campaign, lower right: Novi Sindikat

HONG SENG KNITTING COMPANY, THAILAND

In May 2020, Hong Seng Knitting Company responded to pandemic-related order reductions through planned factory closures throughout May and June. These furloughs impacted 3033 workers. Under Thai labor law, workers are supposed to be paid for such furloughs. Instead, Hong Seng management pursued a strategy of deception, intimidation, and retaliation to cheat workers out of legally owed wages, approximately \$800,000 with interest as of 2024.

The case would appear to be quite clear-cut. But Nike has backed their supplier Hong Seng Knitting with a series of “investigations” to convince the public that coercion is actually consent.

NIKE LIE #3: COERCION IS CONSENT

Workers at Hong Seng Factory Knitting were already quite vulnerable when the pandemic hit. Many were migrant workers from Myanmar, working paycheck to paycheck to make ends meet. If they lost their jobs, returning home would be challenging given the ongoing political turmoil in their home country and pandemic border restrictions. A number of the workers were also pregnant at the time. Losing their jobs would mean the loss of maternity benefits and likely difficulties finding a job due to pregnancy discrimination. In short, these workers needed their paychecks, and the odds were stacked against them doing anything that would make them lose their jobs.

Like many other factories, Hong Seng went into lockdown during the early months of the pandemic. In the days before the furlough, Hong Seng management approached workers with “an opportunity,” a piece of paper to sign stating that they wished to take unpaid leave for those days. An independent investigation by the WRC gathered testimony from workers who stated that their understanding was that they would face consequences if they didn't sign this paper.

Their vulnerable situations already made it unlikely for any worker to go against what the management expected of them. But if this were not enough, the company's public Facebook posts threatened legal action against workers who might say anything about the company. The posts were a reference to one worker, Kyaw San Oo, who had refused to sign the paper and instead spoke out against the illegal wage scheme. Hong Seng management then filed a report with the police - a disturbing attempt to criminalize a worker's efforts to defend his rights through speech and collective action. The legal intimidation continued. There is a history of Thai authorities mistreating Burmese migrant workers, including long jail sentences, deportation, and even torture. In that atmosphere of threats, Kyaw San Oo and his wife and infant child fled Thailand for Myanmar.

Despite the measures that Hong Seng management took to intimidate workers out of standing up for their legally-owed pay and rights, a small group of Burmese migrant workers organized. They brought their complaints to the Thai Department of Labour Protection and Welfare (DLPW). The DLPW eventually issued a ruling, stating in part that "It [the unpaid leave request form] cannot be used as an agreement to take leave without pay."

DLPW was clear: the form workers were coerced into signing was not a legitimate agreement. Hong Seng's unpaid leave scheme was illegal. Yet Hong Seng continues to stand firm in its refusal to pay workers their legally owed compensation for the days they were not paid. And Nike continues to back them in this position, conflating coercion with consent.

Once again, we see Nike picking and choosing which rulings apply. In the Violet Apparel case, they chose to side with a biased institution which they have previously criticized, while in the Hong Seng case, Nike chose to dismiss the legal ruling. Laws or human rights seem to come second to whatever best serves Nike's business interests.

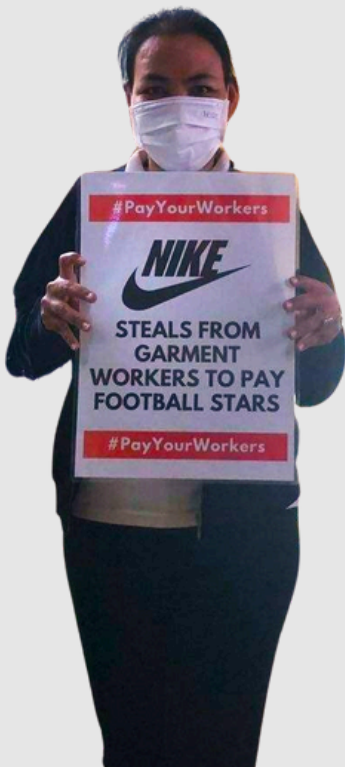


Kyaw San Oo, a worker from Hong Seng Knitting who fled Thailand in fear for his safety.

NIKE LIE #4: TRUST US, WE'VE GOT SECRET REPORTS FROM PAID CONSULTANTS

Hong Seng Knitting manufactured for Nike's branded collegiate apparel. When independent monitoring body WRC raised concerns about the wage theft, documented in a substantial public report, Nike's response was to launch a battle of "investigations."

Nike commissioned auditing firm ELEVATE to look into the case. The scope of the investigation has not been made public, nor has any summary of findings. Nike states that, "The investigation found that the furlough program was **consensual and voluntary** and was consistent with local law and labor guidelines" [emphasis added]. This position goes against both logic and the legal ruling in the case - why would workers earning paltry wages voluntarily sign away their paychecks? How could signatures extracted in an environment of such rampant intimidation, vulnerability, and retaliation be considered "consensual and voluntary"?



Failing to disclose the findings of the ELEVATE report is a violation of the Memorandum of Understanding (MOU)(section (I)C) that Nike signed with 146 universities across the U.S. and Canada. This list includes top Nike licensing partners such as the University of California Berkeley, University of Michigan, and Georgetown University. The terms of their MOU explicitly state that Nike will share audit records and, "Nike and the WRC will discuss any findings that have been made and corrective actions that have been recommended or implemented." Yet instead of the transparency required in the terms of their MOU with universities, Nike chose to keep the coverup going.



A protest in support of Hong Seng Knitting workers at the University of Michigan, which sources from the factory.

credit: Students for International Labor Solidarity at University of Michigan

In 2022, over two years after the original wage theft occurred, Nike contracted with legal firm DLA Piper to issue yet another opinion in the case. Once again, neither the scope nor the findings were made public. Nike's statement on the results of this inquiry was that "This investigation concluded again that all workers had been **compensated in accordance with local law** and Nike's Code of Conduct" [emphasis added]. The Thai labor body's ruling contradicts the claim that the wage theft scheme was "in accordance with local law." And, once again, the complete absence of transparency in this decision makes clear that Nike's primary concern is getting worker advocates off their backs, not respecting their human rights obligations.

The case of Hong Seng Knitting exposes the extent to which the social auditing industry prioritizes their clients' business interests over the rights of workers - as we have been saying for years.

While Nike has continued to hire more consultants to make the case for shirking their responsibilities, it is worth noting that in a similar case, brands took the opposite course of action. 43 workers at another apparel manufacturing company, Thai Garment Export, were similarly laid off in the early part of the Covid pandemic. In this case, the company did not engage in such severely retaliatory conduct and workers' case proceeded before the Thai labor authorities, who ruled in favor of the workers getting their legally owed wages. An initial settlement agreement had workers receive 80 percent of their compensation. In stark contrast to Nike, buyers Burberry and L.L. Bean engaged with their supplier in support of workers and their human rights obligations. The result: workers received the pay and access to remedy they were owed.

The example of Thai Garment Export shows that Nike is an outlier in the industry. Instead of following clear legal precedent and the example of other brands in the industry, Nike chose to hire consultant after consultant to rubber stamp their supplier's schemes - in violation of their MOU with some of their most significant buyers, universities.



American students and garment union leaders demonstrate in support of Hong Seng workers.

credit: Students for International Labor Solidarity

NIKE LIE #5: STEALING FROM WORKERS IS JUSTIFIED

Nike has twisted the truth, hiring consultants to issue secretive reports and trying to convince the world that coercion is consent. But the latest evidence shows what their priorities actually are.

Universities in the U.S. are a key customer group for Nike, which manufactures their branded apparel. When concerned universities brought these violations of their code of conduct (and workers' fundamental rights) to Nike, Nike explained the absurd notion that workers would forfeit their much-needed wages with a new lie. And that lie was even more bold than the others. Nike claimed that Hong Seng Knitting was facing such grave financial challenges that the workers feared the factory would close and thus they willingly gave up their wages to keep the company solvent.

Once again, the evidence disproves this claim.

WRC obtained Hong Seng Knitting's financial reporting from the period in question. Hong Seng reported a profit - indeed, they paid out a dividend of nearly half a million dollars to their owners at that time (the initial wages owed to workers were approximately half million dollars as well; with interest that now stands at \$800,000 and counting). In short, Hong Seng stole from workers not because they had to, but because they could.

Nike continues to back Hong Seng Knitting's preposterous claims instead of making good on their responsibility to ensure that the 3,033 workers are paid the \$800,000 that they are owed.



HAVE NIKE'S LIES CAUGHT UP WITH THEM?



Violet Apparel workers call on Nike's board of directors to act in support of workers at both factories.

Both these case studies make clear that Nike is willing to lie and twist the truth repeatedly. There's just one truth that runs through all these cases: Nike, and the cash-rich factory groups that make its products, put profits and commercial success above everything else, including their responsibility to workers and to international human rights norms.

But have Nike's lies caught up with them? By standing behind the secret reports from their paid consultants, Nike has violated their MOUs with the 146 universities for whom they manufacture branded apparel, and deceived their global consumer base to whom they present themselves as a company that is empowering women of color. It's beginning to look like Nike's position that the rules only apply when they choose may have some bigger business consequences.