

Case #3

FORCED LABOUR IN CANADA'S PPE SUPPLY CHAINS¹



Medical personnel wearing PPE.



Top Glove Tower, Selangor, Malaysia.

Summary

- In 2018, allegations of labour violations and forced labour at Malaysian factories owned by the world's largest rubber glove producer, Top Glove,² made international news. In July 2020, U.S. Customs and Border Protection (CBP) barred imports into the U.S. of goods linked to Top Glove. The agency said it “had found evidence of forced labour practices” at Top Glove facilities.
- In January 2021, it was revealed that at least 18 Canadian companies had imported into Canada Personal Protective Equipment (PPE) from Top Glove,³ despite the U.S. ban.⁴
- In response to the U.S. ban, Top Glove committed to improving its labour conditions and stopping the use of forced labour. CBP lifted the ban in September 2021.⁵
- In January 2022, allegations of forced labour linked to another Malaysian glove manufacturer, Supermax Corp., hit international headlines. CBP had barred imports from Supermax in October 2021, but its products were nonetheless being imported into Canada by Supermax Healthcare Canada, which had contracts with Public Services and Procurement Canada for distribution to Canadian healthcare facilities. Supermax says it has “remediated” the allegations that formed the basis of the U.S. ban and expects the ban to be lifted in the near future.⁶

The Detail

Malaysia produces approximately 70% of the global supply of rubber gloves, including those used by Canadian hospitals and health care facilities during the COVID-19 pandemic.⁷ Reports of workplace injuries, excessive hours and cramped living quarters at Malaysian glove factories have been well documented by human rights organizations.⁸ Most of the workers at Malaysian glove factories are migrant workers from neighbouring countries who pay high fees to recruitment agencies to gain access to employment. A July 2021 study by the Modern Slavery & Human Rights Policy and Evidence Centre in the UK, which surveyed approximately 1,491 workers and carried out interviews with migrant workers, manufacturers and government officials, revealed that with the onset of the pandemic, pressure on workers to meet increased production goals and overall working conditions at factories worsened. This contributed to a range of abuses characterized as forced labour,⁹ as defined by the International Labour Organization's forced labour indicators.¹⁰ These abuses include:

- factory management taking advantage of workers' vulnerability, especially those with precarious migratory status;
- deception by recruitment agencies and employers about the terms of work contracts in relation to hours worked for the pay received;
- physical and sexual violence, intimidation and threats to deter workers from raising concerns related to high recruitment fees – which often leave workers with large amounts of debt – or other grievances; and
- workers' passports being retained by the recruitment agency, making it impossible for workers to leave the country or produce proof of their migratory status if stopped by police;

Finally, during the pandemic, the situation at Malaysian glove factories worsened, with a marked increase in restrictions on movement, isolation, abusive working and living conditions, and excessive overtime.¹¹

Top Glove

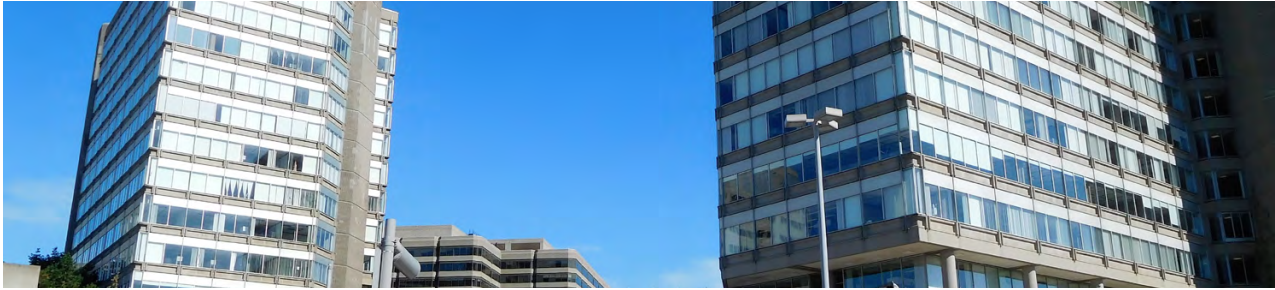
In the case of Top Glove, Malaysia's largest rubber glove producer, reports dating back to at least 2018 show migrant workers working excessive hours to pay off debts to recruiters. The company's managing director at the time vowed to put a stop to this practice.¹² Just over two years later, however, CBC Marketplace aired a special documenting insider footage of Top Glove workers' ongoing dangerous living conditions, debt bondage, excessive work hours, abusive working conditions, and cramped living quarters where approximately 25 people sometimes shared a single room with a common bathroom.¹³

In July 2020, U.S. Customs and Border Protection (CBP) banned goods produced by some of Top Glove's Malaysian subsidiaries under the suspicion that their goods were being made with forced labour.¹⁴ In March 2021, CBP confirmed that it "found forced labour practices" in factories linked to Top Glove.¹⁵ A provision in the Canada-United States-Mexico Agreement (CUSMA), which came into effect in July 2020, makes it illegal for Canadian companies to import goods made with forced labour.¹⁶ However, according to Above Ground, Canada has not acted swiftly or effectively to address issues of forced labour in Canadian companies' supply chains.¹⁷ Canada has failed to effectively enforce the new forced labour provision and Canadian companies continued to import gloves from at least one Malaysian Top Glove factory.¹⁸

Since 2018, at least 18 companies, including Medline Canada and Superior Glove,¹⁹ have imported goods into Canada from Top Glove and its subsidiaries.²⁰ In September 2021, the U.S. lifted its ban after confirming that the manufacturing giant had "addressed all indicators of forced labor identified at its Malaysian facilities."²¹

Supermax

In another case of alleged forced labour at a Malaysian glove factory, Canada continued to allow goods linked to Supermax Corp. to enter the country – despite a Withhold Release Order (WRO) issued by CBP in October 2021



The offices of Public Services and Procurement Canada.

which barred imports from this manufacturer.²² One of the buyers importing into Canada was Supermax Healthcare Canada, a company that supplies medical gloves to Public Services and Procurement Canada (PSPC), the government agency responsible for procuring medical equipment and supplies for Canadian health and essential service sectors.²³ While PSPC ultimately put a hold on deliveries from Supermax Healthcare Canada and terminated its contracts with the company while the allegations at its Malaysian supplier factory were being investigated,²⁴ the products themselves were never formally banned from entering Canada.²⁵ According to Above Ground, Canada Border Services Agency (CBSA) has not effectively enforced its provision against importing goods

made with forced labour. CBSA may take enforcement action only in rare cases...[and] doesn't plan to publicly report which companies are involved.²⁶

Canada's lukewarm response to this major human rights issue is concerning. It points to the government's failure to ensure that Canadian companies carry out effective human rights due diligence throughout their supply chain. Canada's approach to uncovering egregious human rights abuses in the supply chains of companies importing goods into Canada emphasises the need for a comprehensive and legally binding approach to ensure products made for Canadian markets – including lifesaving PPE – are not made using forced labour, or under other conditions that violate workers' rights and safety.

What if...?

If mandatory human rights due diligence legislation had been in place, what would have been different for workers in Malaysian glove factories?

- It would not have been as easy for companies like Medline Canada, Superior Glove, and Supermax Healthcare Canada to overlook the conditions at the factories from which their glove shipments were imported.
- If those companies had carried out an **effective human rights assessment** prior to contracting those factories, they could have taken steps to assure that the factories were not using forced labour and upon discovering the use of forced labour, could have chosen to do business elsewhere.
- They could have also collaborated with other buyers from the factory to assert leverage on the factory to **cease and mitigate** its practice of forced labour, and to implement mechanisms to **monitor and prevent future abuses**.
- If the abuses continued to occur, workers and/or labour and migrant rights supporters could have brought a suit to Canadian courts alleging Medline Canada, Superior Glove and Supermax Healthcare Canada's **failure to take adequate steps** to identify, evaluate, mitigate or prevent the abuses.

- 1 This case study profiles allegations of human rights abuse contained in publicly available reporting by reputable sources. The CNCA has not independently verified the truth of the allegations contained in each report cited here.
- 2 Beh Lih Yi. World's top glovemaking vows clean-up as migrant workers toil in Malaysia factories. *Reuters*, December 6, 2018. <https://www.reuters.com/article/us-malaysia-migrants-rights-glove/worlds-top-glovermaker-vows-clean-up-as-migrant-workers-toil-in-malaysia-factories-idUSKBN1O5146> Accessed January 22, 2022.
- 3 CBC Marketplace. The truth about your lifesaving PPE. January 15, 2021. <https://www.cbc.ca/news/marketplace/the-truth-about-your-lifesaving-ppe-1.5874589> Accessed January 22, 2022.
- 4 Lee, Liz. Amid virus crisis, U.S. bars imports of Malaysia's Top Glove over labour issues. *Reuters*, July 16, 2020. <https://www.reuters.com/article/us-top-glove-usa/amid-virus-crisis-us-bars-imports-of-malaysias-top-glove-over-labor-issues-idUSKCN24H0K2> Accessed January 22, 2022.
- 5 U.S. Customs and Border Protection. CBP Modifies Forced Labor Finding on Top Glove Corporation Bhd. Press release, September 9, 2021. <https://www.cbp.gov/newsroom/national-media-release/cbp-modifies-forced-labor-finding-top-glove-corporation-bhd> Accessed January 29, 2022.
- 6 Email communication with representative of Supermax Corp. November 16, 2022.
- 7 Szeto, Eric, Caitlin Taylor, and Asha Tomlinson. Hidden camera reveals 'appalling' conditions in overseas PPE factory supplying Canadian hospitals, expert says. *CBC*, January 15, 2021. <https://www.cbc.ca/news/world/marketplace-overseas-personal-protective-equipment-manufacturing-working-conditions-1.5873213> Accessed December 27, 2022.
- 8 Zsombor, Peter. Forced Labor Rising in Malaysia's Rubber Glove Factories, Study Shows. *VOA News*, July 7, 2021. https://www.voanews.com/a/east-asia-pacific_forced-labor-rising-malaysias-rubber-glove-factories-study-shows/6207942.html Accessed January 22, 2022.
- 9 Modern Slavery & Human Rights Policy & Evidence Center. Forced labour in the Malaysian medical gloves supply chain during the Covid-19 pandemic. Research Summary. July 2021. <https://modernslaverypec.org/assets/downloads/Malaysia-research-summary.pdf> Accessed January 29, 2022.
- 10 International Labour Organization. ILO Indicators of Forced Labour. Special Action Programme to Combat Forced Labour. https://www.ilo.org/wcmsp5/groups/public/---ed_norm/---declaration/documents/publication/wcms_203832.pdf Accessed January 22, 2022.
- 11 Modern Slavery & Human Rights Policy & Evidence Center. Forced labour in the Malaysian medical gloves supply chain during the Covid-19 pandemic. Research Summary. July 2021. <https://modernslaverypec.org/assets/downloads/Malaysia-research-summary.pdf> Accessed January 29, 2022.
- 12 Beh Lih Yi. World's top glovemaking vows clean-up as migrant workers toil in Malaysia factories. *Reuters*, December 6, 2018. <https://www.reuters.com/article/us-malaysia-migrants-rights-glove/worlds-top-glovermaker-vows-clean-up-as-migrant-workers-toil-in-malaysia-factories-idUSKBN1O5146> Accessed January 22, 2022.
- 13 CBC Marketplace. The truth about your lifesaving PPE. January 15, 2021. <https://www.cbc.ca/news/marketplace/the-truth-about-your-lifesaving-ppe-1.5874589> Accessed January 22, 2022.
- 14 Lee, Liz. Amid virus crisis, U.S. bars imports of Malaysia's Top Glove over labour issues. *Reuters*, July 16, 2020. <https://www.reuters.com/article/us-top-glove-usa/amid-virus-crisis-us-bars-imports-of-malaysias-top-glove-over-labor-issues-idUSKCN24H0K2> Accessed January 22, 2022.
- 15 *Reuters*. U.S. Customs says forced labour used at Malaysia's Top Glove, to seize gloves. *Reuters*, March 29, 2021. <https://www.reuters.com/world/asia-pacific/us-customs-determines-forced-labour-malaysias-top-glove-seize-gloves-2021-03-30/> Accessed January 22, 2022.
- 16 Government of Canada. Canada-United States-Mexico Agreement (CUSMA) - Chapter 23 - Labor. <https://www.international.gc.ca/trade-commerce/trade-agreements-accords-commerciaux/agr-acc/cusma-aceum/text-texte/23.aspx?lang=eng> Accessed January 22, 2022.
- 17 Above Ground. Creating Consequences: Canada's moment to act on slavery in global supply chains. June 2021. P. 12-13. <https://aboveground.ngo/wp-content/uploads/2021/06/Above-Ground-forced-labour-report-June-2021.pdf> Accessed January 4, 2022.
- 18 A review of U.S. import database Panjiva shows various Canadian companies importing from Top Glove Sdn Bhd, whose parent company is Top Glove Corporation Bhd, according to Panjiva. (see Panjiva.com)
- 19 CBC Marketplace. The truth about your lifesaving PPE. January 15, 2021. See list at 15 minutes 16 seconds. <https://www.cbc.ca/news/marketplace/the-truth-about-your-lifesaving-ppe-1.5874589> Accessed January 22, 2022. Above Ground. Creating Consequences: Canada's moment to act on slavery in global supply chains. June 2021. P. 10. <https://aboveground.ngo/wp-content/uploads/2021/06/Above-Ground-forced-labour-report-June-2021.pdf> Accessed January 4, 2022. Also see Above Ground. Report finds high risk of slavery in Canadian supply chains, calls for stricter import controls and new due diligence law. Press release, June 2021. <https://aboveground.ngo/report-finds-high-risk-of-slavery-in-canadian-supply-chains/> Accessed January 4, 2022.
- 20 Above Ground. Creating Consequences: Canada's moment to act on slavery in global supply chains. June 2021. P. 10. <https://aboveground.ngo/wp-content/uploads/2021/06/Above-Ground-forced-labour-report-June-2021.pdf> Accessed January 4, 2022.
- 21 U.S. Customs and Border Protection. CBP Modifies Forced Labor Finding on Top Glove Corporation Bhd. Press release, September 9, 2021. <https://www.cbp.gov/newsroom/national-media-release/cbp-modifies-forced-labor-finding-top-glove-corporation-bhd> Accessed January 29, 2022. In an email response to a draft of this case study, a representative of Top Glove said the company's "journey has been deeply meaningful" and that the company will "continue to improve and build on our achievements in the very important area of ESG [Environmental and Social Governance]." November 21, 2022.
- 22 Replying to a draft of this case study, Supermax said it has "remediated" the allegations that formed the basis of the U.S. Withhold Release Order and expects the order to be lifted in the near future. With public pressure mounting, in January 2022 the company announced it would implement new policies to address forced labour in its supply chains, including improvements to living conditions and payments to workers who had been subjected to forced labour practices. See https://www.bursamalaysia.com/market_information/announcements/company_announcement/announcement_details?ann_id=3223610&fbclid=IwAR1Nau-W31lucV4i34LoyNB6m7PNbKyaev_179MvBJlOTDwXnV5lLqoM6WvQ.
- 23 Public Service and Procurement Canada. Supplying Canada's response to COVID-19. March 10, 2022. <https://www.tpsgc-pwgsc.gc.ca/comm/aic-scr/provisions-supplies-eng.html> Accessed March 19, 2022.
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- 25 Supermax Healthcare Canada Inc. Important details regarding the termination of the glove supply contracts between Supermax Healthcare Canada and the Government of Canada. *CISION*. January 19, 2022. <https://www.newswire.ca/news-releases/important-details-regarding-the-termination-of-the-glove-supply-contracts-between-supermax-healthcare-canada-and-the-government-of-canada-813370570.html> Accessed March 19, 2022.
- 26 Above Ground. Report finds high risk of slavery in Canadian supply chains, calls for stricter import controls and new due diligence law. Press release, June 2021. <https://aboveground.ngo/report-finds-high-risk-of-slavery-in-canadian-supply-chains/> Accessed January 4, 2022.