

BEYOND MINIMUM WAGES IN CORPORATE CODES OF CONDUCT

Private sector innovation toward realizing fair compensation

Jason Judd and Andrew Korfhage, Fair Labor Association

Fair Labor Association (FLA)

Fair Labor Association (FLA) is a collaborative effort of universities, civil society organizations and socially responsible companies dedicated to protecting workers' rights around the world. FLA is an international organization with a dedicated staff and board, headquartered in Washington, DC, with offices in China, Switzerland and Turkey. FLA places the onus on companies to voluntarily meet internationally recognized labor standards wherever their products are made.

FLA is a guest contributor to this volume.



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Introduction

Around the globe, debates over the minimum wage continue in many countries where global brands buy and make their products.

In Myanmar, the garment employers' association argues for keeping garment workers' wages lower than the other industries, ostensibly to spur investment in the country. In Haiti, workers and companies debate the disparity between the legal minimum daily rate and legal minimum piece rate. And in some countries disagreements over minimum wage levels can be so intense they result in mass demonstrations and—as in Cambodia in 2014—violent suppression of wage protests.

Despite these serious debates, workers find that even when a minimum wage is adopted – or its level increased – they often remain unable to afford a basic standard of living. Minimum wages in many countries are simply too low, or government enforcement is lax.

For this reason, corporate codes of conduct that only commit companies to pay minimum or market wages to their workers have proven—in most key sourcing countries—insufficient in the task of ensuring workers are fairly compensated. To do their share, global brands must commit to a higher standard than just paying minimum wages.

The companies that affiliate with the Fair Labor Association (FLA) and similarly designed initiatives have accepted this higher standard, and in February 2015 the FLA launched its Fair Compensation Work Plan – a strategy for buyers, suppliers, and unions to move companies toward meeting their Code of Conduct obligations on fair compensation, and for the FLA to hold them accountable for measurable progress.

The crisis of poverty wages

When global brands follow business models that continually seek the lowest possible cost of production, pressure on suppliers to lower costs can keep both minimum and actual wages low. Governments likewise play a role in keeping minimum wages low, in countries where the low cost of labor is used as a selling point to invite investment.

The 2014 report “Tailored Wages” produced by the Clean Clothes Campaign, in partnership with the Asia Floor Wage Alliance, demonstrated that few companies are currently implementing a corporate code of conduct that can make up for gaps between legal minimum wages and what workers need to live. The report found that of the 40 apparel brands they surveyed, only half made a commitment in their company code of conduct to pay wages that met workers’ basic needs, and only four were “able to demonstrate clear progress on implementing this.”¹

While this report focused primarily on wages in Asia, a subsequent Clean Clothes Campaign report, published in 2015, found similar conditions in the post-Communist economies

of Eastern Europe.² This report found that the gap between the legal minimum wage and the estimated living wage was even greater in the cheaper labor countries of Europe than in Asia. A May 2014 study by the Solidarity Center found that workers in Haiti earning the minimum piece rate make barely enough money to pay for their meals and transportation.³

Similarly, in 2012 and 2013, as part of its annual factory assessments, the FLA began asking workers whether their wages met their basic needs. Across all countries and all sectors⁴ covered by the FLA, the majority of workers surveyed reported that they were unable to meet their basic needs within a regular workweek at their current wage levels.

Other research finds employers failing to pay their workers even the government-mandated minimum wages they are owed. For example, the

American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) reported in March 2015 that 70 percent of employers in Honduras violate the minimum wage law.⁵ In

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the United States, the Department of Labor found that illegal wage violations in 2014 cost workers more than US\$ 3 million in the Southern California garment industry. And in 2014, the FLA found that in 9 percent of its announced factory visits,⁶ workers were not earning the minimum wage. In an additional 16 percent of factory visits, FLA assessors found instances of miscalculated or unpaid overtime.

In China, the country where the FLA conducted the most assessments by far, assessors found unpaid overtime and non-payment of minimum

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wages in 25 and 10 percent of all factories, respectively (See **Table 1**). In both the electronics and apparel sectors of China, assessors found widespread disregard for the legal obligation to provide workers with social insurance and Housing Provident Fund benefits.

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Table 1
Compensation-Related Violations In FLA Assessments, 2014

Violation	Number Of Violations (Among 129 Assessments)	Percentage	Countries
Failure to maintain accurate payroll records	31	24%	China, India, Pakistan
Maintenance of false payroll records	20	16%	Guatemala, China, India, Indonesia, Mexico, Slovenia, Sri Lanka, Taiwan, Turkey, USA
Unpaid or miscalculated overtime	20	16%	China, India, Indonesia, Pakistan, Turkey
Non-payment of minimum wage	12	9%	China, India, Indonesia, Pakistan

Table 2

Legal Pay Violations In FLA Assessments In China, 2014

Violation	Number Of Findings (Among 129 Assessments)	Percentage
Non-payment of Housing Provident Fund	47	98%
Non-payment of social insurance	42	88%
Non-payment of minimum wage	13	25%
Unpaid or miscalculated overtime	5	10%

employers to pay into the Housing Provident Fund, and assessors found only one of the 48

facilities to be providing contributions correctly.⁸

The FLA's fair compensation work plan

As a first principle, the FLA's plan emphasizes the gravity of legal pay violations in supply chains, comparing them to fire safety or child labor violations that require swift and immediate remediation.

Beyond calling for the remediation of legal pay violations, such as those mentioned above, the Fair Compensation Work Plan prepares affiliated companies for assessments that flag the parts of the supply chain—from individual suppliers to key sourcing countries—where companies need to work with unions, workers, and governments to close the gap between prevailing wages and fair compensation.

The plan begins with a global stock-taking of the landscape for workers' wages in 2015, followed by a period of original FLA research to help brands and suppliers understand best practices for closing the gap between actual earnings and fair compensation. By 2017, the FLA will set out clear goals for member companies to meet in their own detailed plans, focusing first on countries where the gap between pay and fair compensation is the widest.

Companies are expected to demonstrate that their efforts—including revised sourcing strategies and purchasing practices, engagement

with unions, national governments, and more—are progressing towards fair compensation at their supplier facilities. These plans will be subject to revision, and companies will be measured for progress, with those findings published by the FLA. Companies that fail to engage meaningfully

on the issue of fair compensation will be subject to a review of their affiliation status.

The compensation data collected and analyzed by the FLA in its 129 factory assessments in 2015 will be published—within the bounds drawn

Figure 1

Median Monthly Compensation in U.S. Dollars as Compared to Various Wage Standards⁹ (US\$)

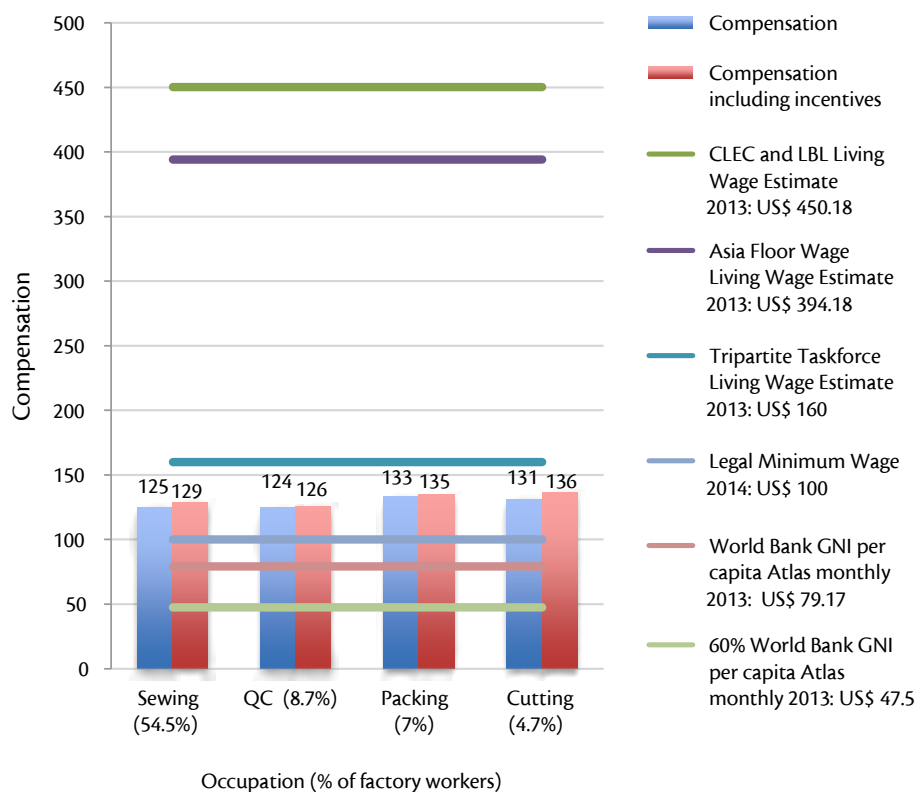
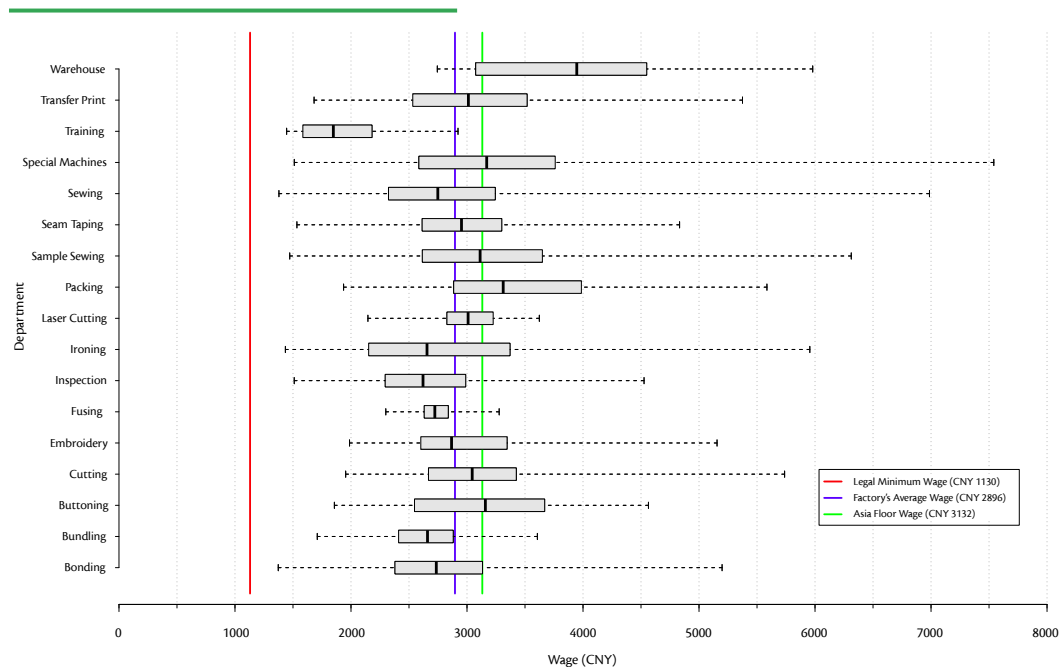


Figure 2
**Wage Data from KTC Limited,
 Garments Manufacturer**



by anti-trust law—in compensation “ladders” showing how factory-level pay stacks up against different benchmarks, including legal minimum wages, poverty line measures, and living wages. **Figure 1** is an example of how the new data will be organized, using Cambodia as an example.

Also in mid-2015, the FLA will pilot the use of mobile phone platforms to collect pay data

directly from workers in key manufacturing areas such as Dhaka and Istanbul. This data and analysis will be published by the FLA and the Cornell University Industrial and Labor Relations School Project on Sustainable Labor Practices in Global Supply Chains.

This systematic data collection and analysis by the FLA and companies, plus data solicited directly

from workers, will help fill critical gaps in the wage landscape. The research will enable the FLA to develop a comprehensive set of benchmarks that FLA affiliates and other stakeholders can use to gauge the gap between wages paid to workers and fair compensation.

Some FLA affiliates are already leading the way. KTC Limited, a Hong Kong-based supplier of technical outerwear with factories in China and Laos, already posts its China wage data publicly, demonstrating how its compensation strategy measures up to objective benchmarks

– the country’s legal minimum wage, the Asia Floor Wage, and the overall average wages at the factory (see **Figure 2**). An early goal of the FLA’s fair compensation work

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is to make KTC’s strategy the norm, such that suppliers and buyers have a clear understanding of wage levels in any given facility, whether those

levels need to rise, and—crucially—how buyers, suppliers, and workers together will make it happen.

In May 2016, the FLA plans to publish its first annual compensation report, organizing and disclosing a compilation of compensation data collected by the FLA, its research partners, and its affiliates. This report will be the first of its kind to disclose this data¹⁰ and is designed to drive the

debate over pay from questions of “how much” and “where to focus” to the critical questions of “when” and “how.”

A research agenda for designing fair wage strategies

The FLA Fair Compensation Work Plan anticipates a number of strategies for brands to employ to get to fair compensation for their workers, including: engaging in collective bargaining with unions and workers, engaging national governments on wage policy, adjusting their own purchasing and pricing strategies, and developing cooperative relationships with suppliers¹¹ that share their commitment to fair compensation.

To help affiliates learn about the best strategies for achieving fair compensation for workers, the FLA will conduct a series of research projects that will explore how labor costs are negotiated, shared, or offset in relationships between buyers and suppliers.

Some FLA-affiliated buyers already have experience with specific strategies for working with suppliers to raise wages, such as the Fair Wage process (piloted by Adidas, H&M, and Puma), and the Fair Trade USA model (followed by some Patagonia and prAna suppliers).

The Fair Wage process uses three primary tools for assessing whether wages paid by any given supplier are fair to workers. Two rounds of surveys are conducted, the first for factory management and the second an anonymous survey on wages conducted with a representative sample of workers at the same factory. The two surveys

measure 12 “dimensions” of fair wages, going beyond asking if wages meet the legal minimum, or local prevailing wages, to investigate links between wages and performance, cases of wage discrimination, and other issues.¹² The third phase is customized and includes a site visit to investigate any identified problems and cooperate on solutions with the supplier.

While the fair trade model originated as a way to provide higher prices for the producers of commodities, Fair Trade USA has recently expanded its model into apparel supply chains as well. For apparel, the fair trade model involves adding a supplemental premium onto the brand’s Free on Board (FOB) prices paid to suppliers. The amount of this premium is determined by an assessment of wages in the target factory. A worker-committee chooses to distribute the funds to the workers, or to invest in a community development project.

Because workers and unions in many countries experience routine violations of their organizing rights, a second key research question will examine how companies can best support collective bargaining in the diverse industrial relations systems found in sourcing countries around the world. While explicitly endorsing all forms of bargaining by effective, legitimate unions – at the supplier, sectoral, and national levels – as the

best, simplest, and most sustainable mechanism for achieving fair compensation for workers, the FLA will focus its research on how buyers and suppliers can support sector-level bargaining, to maximize the number of workers covered. As IndustriALL has reported, “company agreements tend to cover only a small percentage of non-unionized workers (7 percent on average), [while] under industry agreements, this rises to over 40 percent.”¹³

Existing research confirms that if companies are to protect workers’ collective bargaining rights, they must focus specifically on this issue, as freedom of association violations are far less likely to be uncovered by factory assessments than other violations.¹⁴ The FLA receives and investigates third-party complaints regarding freedom of association at a far higher rate than these violations are reported through factory assessments. Recent FLA freedom-of-association investigations in Honduras¹⁵ and Turkey¹⁶ have resulted respectively in restoration of wages to workers illegally fired for union association and the resumption of a stalled collective bargaining process.

New FLA research on freedom of association will support the fair compensation work by outlining

new ways that companies can support collective bargaining at the factory, sectoral, and national levels.

Buyers and suppliers investing in new approaches to fair wages may be reluctant to share details of their early efforts, both to preserve their advantages over competitors, and to maintain caution about announcing progress before their approach has been modeled, tested, and scaled up. As companies’ approaches mature, however, the FLA anticipates that the organization will independently study and report on its affiliates’ efforts.

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One of the most relevant recent analyses — conducted by the International Labor Organization (ILO) this year and not yet published in full — examines the roles of buyers and suppliers in complying with the 2014 increase in Cambodia’s minimum wage. It plots changes in supplier prices and U.S. retail prices against changes in wages and cost of living for workers in the Cambodian garment sector. Among other questions, the study asks what share of higher labor costs suppliers can meet through productivity gains, and how buyer pricing can impact wage levels and the longer-term viability of Cambodia’s garment industry.

It directly confronts the question of who has to pay when wage levels have to rise, noting that the prices Cambodian factories receive have been “stagnating or declining.” At the same time, the study shows that expected wage increases are “far higher than what can be generated through efficiency gains.” The study concludes that buyers must make up the difference.

To cover the shortfall, and assuming other costs remained the same, the ILO estimates that global brands would need to pay Cambodian factories between 2.4 and 3 percent more, adding about two cents to the production costs of T-shirts that can currently be made for 80 cents and that might retail for about US\$ 10.¹⁷ Similarly, an August 2014 study conducted by Georgetown University found that the Alta Gracia factory in the Dominican Republic – a factory

committed to paying living wages – was able to increase compensation for workers with only very small increases to the cost to produce a shirt.¹⁸ The report found that brands can choose to absorb

these costs, or pass them on to consumers with very small mark-ups, while some amount of the cost will be “off-set by increases in worker productivity and quality control, reduced turnover, fewer marketing costs, and initially lower profits.”

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Fair compensation is a right

The Ruggie Framework, as approved by the UN Human Rights Council, identifies a “state duty to protect against human rights abuses by third parties, including business.” Building off this principle, the FLA framework calls for international brands to actively engage with governments to ensure that wage regulations are in line with the goal that every worker receives a living wage. In November 2014, nine FLA-affiliated brands took a stand in support of legitimate collective bargaining and higher wages in Cambodia.

But the goal of fair wages cannot wait on government action in places where minimum wages are too low. So in the framework’s second

pillar, the “corporate responsibility to respect human rights” comes into play, obligating socially responsible companies to pay fair wages out of respect for their workers’ human rights.

The data collection project that the FLA is now beginning – combined with the data collection efforts of affiliated companies and others examining wages worldwide – will show the private sector where it is obligated to pay higher wages. This process will help drive the next wave of innovation in production, as buyers, suppliers, unions, and governments grapple with strategies to make measurable progress towards fair compensation.

Endnotes

¹ Clean Clothes Campaign. 2014. Are the big brands paying the people who make our clothes enough to live on? Accessed on August 14, 2015. <http://www.cleanclothes.org/livingwage/tailoredwages/tailored-wage-report-pdf>

² Clean Clothes Campaign. 2014. Poverty wages for garment workers in Eastern Europe and Turkey. Accessed on August 14, 2015. <http://www.cleanclothes.org/resources/publications/stitched-up-1>

³ Solidarity Center. 2014. The High Cost Of Low Wages In Haiti. Accessed on August 14, 2015. <http://www.solidaritycenter.org/wp-content/uploads/2014/11/Haiti.Living-Wage-Study-FINAL-updated.3-11-15.pdf>

⁴ The FLA primarily works with apparel and footwear companies. Among its affiliates, the FLA also includes two agricultural companies and an electronics company.

⁵ AFL-CIO. 2015. Trade, Violence and Migration: The Broken Promises to Honduran Workers. Accessed on August 14, 2015. <http://www.aflcio.org/content/download/147761/3770791/file/Honduras.PDF>

⁶ The FLA conducted 129 factory assessments in 2014 in Bangladesh, Cambodia, China, El Salvador, Guatemala, Honduras, India, Indonesia, Jordan, Laos, Malaysia, Mexico, Pakistan, Singapore, Slovenia, Sri Lanka, Taiwan, Thailand, Turkey, the USA, and Vietnam.

⁷ One prominent supplier affiliated with the FLA recently completed a comprehensive revision of its social benefits program to come into full and complete compliance with national law. The FLA's verification report of its progress can be found at: <http://www.fairlabor.org/report/social-benefit-verification-factories-operated-pou-chen>.

⁸ More information on social insurance and Housing Provident Fund requirements can be found at: <http://www.fairlabor.org/report/social-insurance-china> and <http://www.fairlabor.org/report/housing-provident-fund-china>

⁹ Data for Figure 1 are from the following sources:

- Actual 2013-14 compensation is taken from sample of 19 Cambodian apparel manufacturers. Figure 1 above categorizes workers into the largest four occupations.
- CLEC and LBL Living Wage Estimate 2013 (US\$ 450.18): The Community Legal Education Centre (CLEC) – a Cambodian NGO – and Labour Behind the Label (LBL) – a UK-based NGO – calculate living wage based on food consumption and price for a family of three, including one worker and two dependents.
- Asia Floor Wage Living Wage Estimate 2013 (US\$ 394.18): Living wage estimate based on food consumption and price for a family of three including one worker and two dependents (dependent counts as half of the consumption unit) by Asia Floor Wage Alliance, a global coalition of trade unions and workers' and human rights organizations.
- Tripartite Taskforce Living Wage Estimate 2013 (US\$ 160): Living wage estimate based on basic needs expenditure for a worker and his/her family (family size not specified) by a tripartite taskforce comprised of Cambodian government officials, representatives of both the Garment Manufacturers Association in Cambodia (GMAC) and Cambodian trade unions. Information comes from "Crackdown in Cambodia: Workers Seeking Higher Wages Meet Violent Repression" by Worker Rights Consortium, March 24, 2014.
- Legal Minimum Wage 2014: US\$ 100.
- World Bank GNI per capita Atlas monthly 2013 (US\$ 79.17): Original data from World Bank GNI per capita based on the Atlas method (current U.S. dollars) is 950 US dollars per year – or 79.17 per month (<http://data.worldbank.org/indicator/NY.GNP.PCAP.CD>).
- 60% World Bank GNI per capita Atlas 2013 monthly (USD 47.5): 60% of the World Bank GNI per capita Atlas monthly figure. This is a variation on the standard OECD measure for poverty.

¹⁰ This data will be disclosed within the limits allowed by anti-competition law.

¹¹ These relationships will necessarily be within the bounds of anti-trust law.

¹² The 12 dimensions of the Fair Wage process are: (1) Payment of wages (Are wages paid in full and on time?); (2) Living wage (Do wages meet workers' basic needs and provide discretionary income?); (3) Minimum wage (Do wages exceed the local legal minimum?); (4) Prevailing wage (Do wages exceed the local industry standard?); (5) Working hours (Can workers earn fair compensation without excessive working hours?); (6) Pay systems and wage structures (Are holidays and social benefits properly paid? Does piece rate allow workers to earn fair compensation?); (7) Social dialogue and communication (Does the supplier communicate clearly on wages with workers and unions?); (8) Wage disparity (Are there cases of wage discrimination?); (9) Real wages (Do wages keep pace with inflation?); (10) Wage share (Are workers' wages linked to company performance?); (11) Wage costs (Is the share of labor costs within total production cost holding steady or increasing?); (12) Wages, training, and technology (Do wages progress with training and technological improvements?).

¹³ industriall. 2015. Industry bargaining is an essential tool in the fight for living wages. Accessed on August 14, 2015. <http://www.industriall-union.org/special-report-industry-bargaining-is-an-essential-tool-in-the-fight-for-living-wages>

¹⁴ Mark Anner. 2010. Corporate Social Responsibility and International Labor Rights: The Quest for Legitimacy and Control. Accessed on August 14, 2015. https://mitsloan.mit.edu/iwer/pdf/Mark_Anner-IWER_paper_20111101.pdf

¹⁵ Fair Labor Association. 2015. Freedom Of Association Violations At Petralex In Honduras. Accessed on August 14, 2015. <http://www.fairlabor.org/report/freedom-association-violations-petralex-honduras>

¹⁶ Fair Labor Association. 2015. Orma Tekstil Independent Freedom Of Association Investigation. Accessed on August 14, 2015. <http://www.fairlabor.org/report/orma-tekstil-independent-freedom-association-investigation>

¹⁷ UN News Centre. 2015. UN agency calls on global clothing brands to help Cambodian manufacturers absorb wage hike. Accessed on August 14, 2015. <http://www.un.org/apps/news/story.asp?NewsID=49731#VZ52iRNVhBc>

¹⁸ John M. Kline and Edward Soule. 2014. Alta Gracia: Four Years and Counting. Accessed on August 14, 2015. <https://georgetown.app.box.com/s/8jgos0ainsv13civ-o30q>