



Clean Clothes Campaign



April 2017

***European Union and
the Bangladesh garment
industry: The case for
a trade investigation***

Introduction



In December 2016, thousands of Bangladeshi garment workers participated in a non-violent strike to demand an increase in the minimum wage. The unrest occurred in a context where, despite the erosion of wages by rising inflation, the government had refused to instigate a minimum wage review, and where attempts to organise had been met with increasing repression.

In response to the strike, the government of Bangladesh and powerful factory owners carried out an unprecedented crackdown on trade unions and labour rights groups. Employers and the government filed criminal complaints against hundreds of workers and activists and thousands of workers were dismissed. Union and NGO offices, both in Ashulia and in other industrial zones, were closed, many forcibly; those that remained open were subject to intense harassment and interference.

International observers strongly condemned these actions by government and employers. Brands and retailers, governments and international institutions joined global unions and international labour rights campaigners to demand a halt to the repression of workers. This led to a meeting between the government of Bangladesh, the employers and the trade unions, in which commitments were made to resolve the criminal cases, reopen union offices and reinstate the wrongfully dismissed workers. To date these commitments have not been fully realised.

This crackdown took place almost four years after the Bangladesh government, through the signing of a “Sustainability Compact” committed to reform the labour law, strengthen systems to establish and register independent trade unions, and ensure that employers and officials who continued to interfere with union rights would be held legally accountable. To date almost nothing has been done by the Bangladesh government to meet these commitments.

As recent events serve to illustrate, the space for workers to exercise their rights to freedom of association and collective bargaining is being steadily eroded. The European Union has failed to take any action to enforce the commitments made under the Sustainability Compact, or to uphold recommendations made by the International Labour Organisation. This inaction has allowed the government of Bangladesh to avoid taking the concrete action required to turn its commitments into reality. Until more is done to safeguard the rights of Bangladeshi workers, a repeat of the instability and repression of December 2016 through February 2017 is inevitable.

The Clean Clothes Campaign is now calling on the European Union to move beyond dialogue, which is demonstrably failing to protect workers. The EU should instead begin an investigation into the extent to which the government of Bangladesh is in breach of the international obligations which underpin its free access to the vital European market.

Colophon

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NEW CRACKDOWN ON LABOUR RIGHTS

On 11 December 2016, workers launched strikes at factories across the Ashulia industrial belt north of Dhaka, uniting behind a demand for a monthly minimum wage increase from 5,300 taka (€61) to 15,000 (€172) or 16,000 taka (€184). The response from the authorities was swift and disproportionate. Thousands of dismissals, dozens of arrests and detentions, and constant raids by police and security services on unions caused widespread fear, with many worker organizers going into hiding. Although the crackdown now appears to have slowed, it served to reinforce a long-standing fear among workers: that any attempts to organise will be met with force.

THE STRIKE

The strike appears to have been a spontaneous expression of frustration by workers, rather than an organised industrial action. In the weeks leading up to the strike workers in some of the factories had been attempting to speak to their managers about a wage increase, but had failed to get a response. Eye witness interviews suggest that the attitude of management to their concerns was a key trigger for their action.¹ Despite some claims to the contrary by factory owners, there is no verifiable evidence that any notable violence or vandalism was committed during the strike.

THE RESPONSE

On 21 December, the police began to arrest union leaders organising in Ashulia. In the weeks that followed at least 34 workers and union activists were arrested. Observers noted a number of irregularities in these arrests, including: the use of repealed and vague charges under the Special Powers Act; the filing of complaints against “unknown” people; the misuse of “arrest without warrant” powers in contravention of High Court directives; the use of threats to kill persons in detention and the harassment and intimidation of labour activists in the name of investigations.²

When factories re-opened workers returned to find lists and photos of those who were to be dismissed for participating in the strike. In most cases there was no reason given as to why each particular worker had been added to that list. Most workers were too frightened to go back to their factories to ask for their jobs; some went into hiding or left the area altogether.³

The arrests and dismissals were followed by the closure of union offices in Ashulia, Gazipur, Mirpur and Chittagong. Training activities, including safety training sponsored by the ILO, were regularly disrupted by police interference.

Death threats were issued against two union leaders; six others were asked to provide personal financial details to investigators.

**“THE MANAGEMENT IS USING THEIR POWER TO SILENCE ANY DISSENT WITHIN THE FACTORIES. THESE DISMISSALS WILL MAKE OTHER WORKERS AFRAID OF EVER SPEAKING OUT OR TAKING ACTION.”⁴
GARMENT WORKER, THE ROSE DRESSES**

THE AGREEMENT

On 23 February 2017, the Bangladesh government, the Bangladesh Garment Manufacturers and Exporters Association (BGMEA) and the IndustriALL Bangladesh Council (IBC) met to discuss ways to resolve the escalating conflict. The meeting resulted in a number of commitments including the quick resolution of legal cases, the release of those arrested from prison, the opening of union offices and reinstatement of workers who wanted to return to work.

Whether or not the 23 February agreement represents a halt to the current round of repression remains to be seen. What is clear, however, is that it does nothing to address the structural barriers to freedom of association and collective bargaining faced by Bangladesh’s garment workers.



THE WIDER CONTEXT: NO PROGRESS ON TRADE UNION RIGHTS

For a number of years, international trade unions,⁵ human⁶ and labour rights organisations⁷ have regularly expressed their concerns at the failure of the Bangladesh government to bring its labour law and practice in line with international standards, but to no avail.

NO VOICE IN THE WORKPLACE

In the vast majority of factories, workers have no way of safely raising complaints about working conditions or negotiating improvements with management. Attempts to do so are likely to result in threats, intimidation, dismissal and blacklisting. Workers who wish to submit complaints against employers for unfair labour practices have no meaningful access to the justice system; labour cases may take years to come to court, during which time the workers remain without work, and police regularly refuse to accept complaints against factory managers, often threatening workers who try to do so with arrest. Workers are prohibited by law from taking any form of industrial action, unless they are members of a registered trade union. For reasons explained below, only a tiny percentage of Bangladeshi garment workers are in this position. Workers need to be able to take industrial action in order to make negotiations with management meaningful; without it factory managers have no incentive to listen to workers' concerns or make the changes they demand.

BARRIERS TO FORMING A UNION

For workers employed in the Export Processing Zones (EPZs), joining a union or participating in industrial action is prohibited. Even outside the EPZs, forming and registering a trade union is extremely difficult. Unions have to meet a high threshold of 30% of the workforce in order to legally register – a target made even more difficult to reach given the ability of employers to carry out union busting activities with impunity.

Local and international groups have documented numerous cases of factory owners, often in collusion with local police, threatening, intimidating, and in some cases physically attacking, workers who are attempting to unionise⁸. It is rare for anyone to be brought to justice for such attacks – even those of the most extreme nature. The most glaring example of this impunity is the 2012 murder of union leader and workers' rights activist, Aminul Islam, whose killers have still not been brought to justice.⁹

Even when unions manage to overcome these barriers and reach the required threshold of worker support, they often struggle to register. This is the result of a registration system which is arbitrary, bureaucratic, unaccountable and lacking in transparency. Unions report that these problems are getting worse and the numbers of rejected registrations are increasing.¹⁰

Unless the pressure both continues and increases on the Bangladesh government to make the structural and legal changes necessary for the protection and promotion of freedom of association in Bangladesh, the instability caused by the cycle of spontaneous strikes and repressive responses will continue and ultimately stunt the progress of industry.





NO INCREASE IN POVERTY WAGES

The legal minimum wage for Bangladesh garment workers is just 5,300 taka (€61) per month, the lowest in the region and far below a living wage.¹¹

The last wage review took place over three years ago, and, according to press reports, workers had hoped that the government would convene a wage board in 2016. One of the main triggers for the strike is reported to have been the refusal of the government and the BGMEA to do so.

Historically the minimum wage has only been increased in Bangladesh following mass worker unrest. The establishment of a minimum wage board in 2006 was supposed to address this by ensuring regular reviews of the minimum wage. The board is supposed to convene at least every 5 years, but this has proven too infrequent because high levels of inflation rapidly outstrip the gains of any wage increase.

In this context it is unsurprising that workers see no other avenue to address the issue of poverty wages than through widespread industrial action. The only way to prevent this cycle of unrest, aside from workers gaining the freedom to unionise without retaliation, is to ensure that the wage rate is reviewed systematically and regularly on an annual basis.

**“I THINK, IF THEY RAISE OUR SALARIES, IT WOULD BE GOOD FOR US. OUR SALARY IS 6,300 TAKA (€72). CAN WE SURVIVE WITH THAT? WE CAN'T. IF WE DON'T GET ANY REWARD FOR OUR WORK, EVEN THOUGH WE WORK SO HARD, THEN HOW WOULD WE LIVE?”
GARMENT WORKER ¹²**





THE CASE FOR AN INVESTIGATION UNDER GSP

Bangladesh is the second largest exporter of garments to the European Union, and the EU is in turn Bangladesh's most important market. Almost half of all garments produced in Bangladesh for export are destined for EU countries. In the last five years the value of Bangladesh exports, 90% of which are garments, has nearly tripled from €5,464 million to €15,145 million.¹³

Since 2001, exporters from Bangladesh have benefited from the Everything But Arms (EBA) trade arrangement, under which Bangladesh has been granted tariff and quota free access to the valuable EU market in exchange for protecting human rights.

EVERYTHING BUT ARMS AND THE SUSTAINABILITY COMPACT

Access to EU markets under the EBA scheme has undoubtedly contributed to the economic success of Bangladesh's garment industry. However, EBA is also supposed to promote sustainable development, by requiring that countries that benefit from the scheme adhere to standards embedded in core human and labour rights conventions, including those relating to Freedom of Association and Collective Bargaining.

It is clear that Bangladesh is failing to abide by these commitments, and a key objective of the EBA scheme is not being implemented. Thus, the vast majority of the benefits of this scheme have gone to factory owners; Bangladesh's four million garment workers have seen very little benefit.

Following the Rana Plaza disaster, when the public outcry increased pressure on the Bangladesh government for reform, some were hopeful for change. The Sustainability Compact, signed between the EU, the Bangladesh government and the ILO, outlined concrete actions that the government would take to strengthen workers' rights. In 2015, after it became clear that the government had made no progress on the promised reforms, EU Trade Minister Cecilia Malmström

warned that "a continuation of today's poor conditions for workers could also force the European Union to revisit Everything but Arms." The European Parliament also issued a strong resolution urging a review of the country's eligibility for GSP.¹⁴

Since 2015, the situation has deteriorated even further, but still no action has been taken by the EU to enforce either the Sustainability Compact or the EBA conditions. The EU has appeared to limit its response to dialogue long after it was clear that Bangladesh was not listening. As a result, the Bangladesh government has continued in flagrant violation of its commitments, in the certain knowledge that there will be no real consequence for doing so.

THE ILO "SPECIAL PARAGRAPH"

In the Everything But Arms scheme, the Commission has determined that the trigger for a trade investigation is the inclusion of a "special paragraph" in the report of the ILO Committee on the Application of Standards (CAS) of the International Labour Conference.

In 2015, Bangladesh narrowly avoided this sanction after agreeing to a high level tripartite mission to Bangladesh, which took place in April 2016. The report of this mission raised a number of serious concerns and issued steps the government needed to take urgently to improve the situation for workers' rights, many of which corresponded directly to prior commitments made in the Sustainability Compact.

In 2016, the Committee did agree to include a special paragraph on Bangladesh in its report, given the continued and serious nature of violations of ILO

"THE GOVERNMENT HAS FAILED TO MAKE PROGRESS ON THE REPEATED AND CONSISTENT CONCLUSIONS OF THIS COMMITTEE DESPITE THE SUBSTANTIAL TECHNICAL ASSISTANCE AND FINANCIAL RESOURCES PROVIDED BY DONOR COUNTRIES."¹⁵



Convention 87 (Freedom of Association) in a number of its key industries, including garments. The Committee noted “with deep concern that the Government has failed to make progress on the repeated and consistent conclusions of this Committee despite the substantial technical assistance and financial resources provided by donor countries.” ¹⁵

To date, the Bangladesh government has failed to implement a single recommendation made by the Mission, nor has it taken steps to address any of the conclusions of the CAS. In fact, the events of December 2016 through February 2017 show that the situation is only deteriorating further.

The current approach of dialogue combined with technical and financial assistance has failed. It is now clear that the Bangladesh government is not going to take the action required of them, unless they believe that not doing so will have economic consequences.



By commencing a trade investigation now, the European Commission will provide the incentive that is required to promote genuine improvements to freedom of association. If Bangladesh takes this seriously and implements the reforms consistent with ILO recommendations, it could avoid any lapse in trade preferences.



CONCLUSION: NEXT STEPS FOR THE EUROPEAN UNION

As the largest export market for garments made in Bangladesh, the EU is uniquely placed to ensure positive changes in the country.

The failure of the European Union to enforce the labour rights conditionality of the Everything But Arms agreement has reinforced the perception that the Bangladesh government can continue to violate workers' rights with impunity, a perception that directly contributes to the current deterioration of respect for workers' rights. As such, the EU itself must bear some responsibility for the current situation.

In March 2017, it was widely reported that the European Commission - Directorate General for Trade, the European Commission - Employment, Social Affairs and Inclusion, and the European External Action Service sent a joint letter to the Ambassador of Bangladesh in Brussels, warning the Bangladesh government that it risked a temporary withdrawal of trade preferences if key labour reforms were not undertaken.¹⁶ This is an encouraging step, but such warnings have been issued before without result or further action by the EU.

The EU now needs to prove to the Bangladesh government that it is willing to use its trade leverage in support of workers' rights, by launching an investigation under the provisions of the GSP.

It is important to note that in calling for an investigation, we are not calling for a trade sanction. We believe that an investigation would provide ample opportunity for the government of Bangladesh to make rapid progress on the required reforms, enabling it to protect and maintain the duty and quota free access currently enjoyed by its export industries.

We urge all those concerned with the future of Bangladesh's garment industry to support such a call and to send a much-needed signal that the European Union is seriously committed to a sustainable garment industry in Bangladesh.

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- 1 Interviews with workers from selected factories - unpublished
 - 2 <https://www.hrw.org/news/2017/02/15/bangladesh-stop-persecuting-unions-garment-workers>
 - 3 <http://www.newagebd.net/article/6159/sacked-workers-on-the-run>.
 - 4 Memo on Bangladesh crackdown, January 2017 Worker Rights Consortium (unpublished)
 - 5 See https://www.ituc-csi.org/IMG/pdf/ituc-ia-uni_evaluation_of_the_bangladesh_sustainability_compact_march_final.pdf;
 - 6 <https://www.hrw.org/news/2017/02/15/bangladesh-stop-persecuting-unions-garment-workers>
 - 7 <https://www.solidaritycenter.org/category/asia/bangladesh/>
 - 8 <https://www.nytimes.com/2014/12/23/business/international/attacks-on-union-leaders-at-azim-factories-in-bangladesh-are-documented.html>
 - 9 <http://www.laborrights.org/publications/chronology-investigation-murder-labor-activist-aminul-islam>
 - 10 <https://www.solidaritycenter.org/3-years-after-rana-plaza-little-change-without-a-union/>
 - 11 <https://cleanclothes.org/resources/background/background-wage-struggle-bangladesh-december-2016/view>
 - 12 <http://laborrights.org/ourvoicesreport>
 - 13 http://ec.europa.eu/trade/policy/countries-and-regions/countries/bangladesh/index_en.htm
 - 14 <http://www.europarl.europa.eu/sides/getDoc.do?type=TA&reference=P8-TA-2015-0175&language=EN&ring=P8-RC-2015-0363>
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