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EUROPÉEN
TRADE UNION

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***The European Union and the
Bangladesh garment industry:
the failure of the
Sustainability Compact***

Introduction



In December 2016, garment workers employed in Ashulia, an industrial hub outside Dhaka, commenced a series of peaceful demonstrations over the minimum wage. The current minimum wage remains at 5,300 taka per month (64 USD, 55 EUR), a figure well below the World Bank poverty line. The strike was met with a wave of repression.

Police arrested at least 34 union leaders and organisers, most of whom were not even in Ashulia during the demonstrations. The arrests were made on the basis of at least 14 criminal complaints filed in Ashulia, Gazipur and Chittagong by both police and garment factory management. Several of the complaints lodged by the government were brought under repealed provisions of the Special Powers Act, while others made a range of wholly unfounded allegations including property damage, assault and unlawful assembly. Arrests made in Gazipur and Chittagong, which cited offences unrelated to the demonstration, carry potential sentences of life imprisonment or death. The Bangladesh Garment Manufacturers Employers Association (BGMEA) ordered factories to suspend or dismiss over 1,600 workers in a coordinated closure of roughly 60 garment factories. Police also raided the offices of several trade unions and worker rights NGOs, forcing them to shut down operations temporarily.

Under pressure from the international community, including major brands, BGMEA and government officials reached out to trade union representatives and came to an agreement with the IndustriALL Bangladesh Council on 23 February 2017. Subsequently, all detained workers were released on bail though most of the criminal charges, including all of those lodged by the government, remain pending. International trade union pressure and the intervention of one global garment brand led to dismissed workers at six factories being paid their full severance, but workers were not re-hired. Dismissed workers elsewhere have received much less if anything. Trade union and NGO offices were re-opened though police surveillance and harassment continue unabated.

The crackdown in Ashulia signalled a major escalation of anti-union behaviour in Bangladesh, and a further degradation of the respect of key labour and human rights. This is particularly salient as the country's trade preferences with the EU within the Generalized System of Preferences (GSP) are conditioned on compliance with the Bangladesh Sustainability Compact, which explicitly includes commitments on freedom of association. As the International Labour Organization (ILO) and others have recognized, the government of Bangladesh has not implemented the vast majority of the commitments, and is years overdue. The Ashulia crackdown painfully underscored the wide gap between the government's rhetoric in international meetings and its actions at home.

At the beginning of 2017, the European Commission acknowledged that the Government of Bangladesh had failed to make meaningful progress towards to the implementation of the Compact. On 16 March 2017, the European Commission sent a strongly worded letter to the Ambassador of Bangladesh to the EU making it clear that the government's failure to make progress on the three pillars of the Compact was putting trade preferences with the EU at risk. The letter stated:

“The 3rd Compact follow-up meeting will take place on 18 May of this year. This will be the opportunity for the EU, together with the ILO, the USA and Canada, to evaluate progress regarding Bangladesh's commitments under the three pillars. If insufficient substantial, meaningful progress together with a sound and time-bound strategy can be identified towards implementing the recommendations of the CAS [Committee on Application of Standards], then it will be necessary for the EU to visit Bangladesh later in the year to monitor the situation with respect to the requirements of the GSP Regulation.



We will need to demonstrate to the European Parliament, Council of Ministers and to civil society that Bangladesh is taking concrete and lasting measures to ensure the respect of labour rights. This will be essential for Bangladesh to remain eligible for the EBA regime. Without such progress, our monitoring could eventually lead to the launching of a formal investigation, which could result in temporary withdrawal of preferences.”

The third Compact meeting was convened in Dhaka to again formally review the Government’s progress. However, it once again failed to deliver anything more than empty promises. This prompted the European Commission to issue another, more insistent, letter to the Government of Bangladesh on 31 May which stated:

“The EU is of the firm view that the Joint Conclusions agreed at the Compact meeting are insufficient to restore confidence in Bangladesh’s commitment to the Compact. Much more needs to be done to address the ILO’s recommendations on freedom of association and collective bargaining ahead of the 106th Session of the International Labour Conference on 7 June 2017. The EU is concerned that so far no reply has been given to its letter of 16 March and that no strategy with concrete and time bound actions has been presented at the Compact meeting, in order to address the ILO’s recommendations, as was requested in the letter.”

The letter continues to state that with “regards to the preferences granted to Bangladesh under the EU’s GSP regulation, we would like to recall that Bangladesh needs to demonstrate, as a matter of urgency, that concrete and lasting measures are taken to ensure respect of fundamental human and labour rights. Without such progress, the EU will need to monitor the situation more closely in the context of the GSP regulation, including through a dedicated mission to Bangladesh. Such monitoring could eventually lead to the launching of a formal investigation, which could result in temporary withdrawal of preferences.”

The EU gave the government a deadline of the end of August to deliver “tangible progress” as a “matter of urgency” in order to remain eligible for the Everything But Arms scheme.

This deadline has now been passed, yet, as this evaluation document demonstrates, the Government of Bangladesh has still not delivered “concrete and lasting measures” nor “tangible progress” and in fact continues its crackdown on workers. Therefore, the EU must follow through on its warnings and commence an investigation under the GSP to remain at all credible. The European Commission letters and the ILO observations mainly focus on four of the commitments made under the Sustainability Compact: labour law reform, freedom of association in the Export Processing Zones, improving union registration and the curtailing of anti-union discrimination. In all four fields progress falls far short of what the Government of Bangladesh committed to when it signed the Compact.

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1 LABOUR LAW

Commitment made: Undertake amendments to the 2013 Labour Act to address the issues relating to freedom of association and collective bargaining identified by the Committee of Experts, paying particular attention to the priorities identified by the social partners;

Update: The government commenced a process to review the Bangladesh Labour Act of 2013 – though as usual many independent trade unions remain outside of this process. To date, the government has yet to prepare or circulate a draft of amendments, and there is no indication whether it intends to address the major concerns expressed by the trade unions or identified by the ILO Committee of Experts. Further, there is no commitment to reform the Bangladesh Labour Rules, despite serious concerns expressed by the ILO Committee of Experts.

STATUS: UNRESOLVED



Getty Images

A worker passes the police shortly after the start of the crackdown.

2 EXPORT PROCESSING ZONES (EPZs)

Commitment made: Ensure that the law governing the EPZs allows for full freedom of association, including the ability to form employers' and workers' organizations of their own choosing, and to allow workers' organizations to associate with workers' organizations outside of the EPZs;

Update: Although the Government of Bangladesh has made public statements that it will address the lack of freedom of association in the EPZs, there has been no recent communication as to how, or indeed when, it intends to do this. The government has failed to clarify whether EPZ workers will be brought under the Bangladesh Labour Act, and covered by its freedom of association provision, or whether instead the EPZ labour law itself will be amended to allow workers to form and join trade unions and bargain collectively consistent with ILO conventions.

STATUS: UNRESOLVED

3 UNION REGISTRATION

Commitment made: Ensure that applications for union registration are acted upon expeditiously and are not denied unless they fail to meet clear and objective criteria set forth in the law.

Update: The arbitrary and unpredictable nature of the trade union registration process remains a significant barrier for workers wishing to legally register workplace unions. Data shows that the rejection rate for union applications in 2017 stands at around 47% overall, and over 70% in Chittagong (based on data up to 31 August 2017). Rejections are often based on inconsistent and arbitrary grounds, such as asserting that the minimum threshold of 30% has not been met without offering evidence to demonstrate that assertion. Another common tactic is to assert that worker signatures on membership forms do not match those on salary sheets, despite the lack of anything in the labour law requiring such a comparison.



NGWF demonstration in February 2017 protesting harassment against labour leader.

In 2017, union application requests declined markedly, down to just 53 in 2017, compared with 392 in 2014. The reasons for such a decline are certainly the result of the routine rejection of applications as well as anti-union retaliation. The December crackdown in Ashulia had a marked effect on workers feeling confident to organise and establish workplace unions.

The government did adopt Standard Operating Procedures (SOPs) for union registration in May 2017, to much fanfare. However, the SOPs fail to address many of the issues that have created obstacles for workers and certainly will do nothing to halt the collusion between government and employers to prevent unionization. If the government is sincere about addressing union registration, it could take steps like ensuring that unions have access to factory records, including the names of workers in an establishment; reducing the minimum number of 30% of the workplace to register a union (as the ILO supervisory system has repeatedly requested) and eliminating the discretion of the registrar to do anything but ascertain whether the union had met on paper the minimum membership threshold and to ensure that required forms have been submitted.

STATUS: UNRESOLVED

4 ANTI-UNION DISCRIMINATION

Commitment made: Investigate as a matter of urgency all acts of anti-union discrimination, ensure the reinstatement of those illegally dismissed, and impose fines or criminal sanctions (particularly in cases of violence against trade unionists) according to the law

Update: Trade unions report that harassment and surveillance remain at a higher level than prior to the December 2016 Ashulia crackdown. In Dhaka and the surrounding areas, trade unions report that they can function but those who are most active continue to face significant harassment. The situation is worse in Chittagong, where the government routinely intervenes in their daily activities.

Since May 2017, there have been:

- several reported incidents of violent attacks on workers and trade union organisers at factories, combined with a total failure to investigate and bring to justice those responsible;
- credible and serious death threats made against BIGUF leaders;





- a complete failure to comply with public commitments to resolve criminal cases against union organisers following the Ashulia crackdown;
- an ongoing strategy of using false criminal charges and arbitrary arrests to prevent and deter union organising at the factory level.
- ongoing failure to ensure those perpetuating anti union violence and discrimination are held to account.

Below we provide recent examples of trade union repression, which represent just some of the ways independent trade unions and their members are prevented from organising or bargaining collectively. Most of these cases have been reported publicly and are representative of systematic violations that are severely impeding the establishment of independent trade unions within the Bangladesh garment industry.

A. Violence against union organisers and impunity for the perpetrators

Violence against workers who attempt to organise unions is commonplace in Bangladesh. In most cases, unions report that the police refuse to accept complaints submitted by workers against their employers. We remain unaware of a single criminal charge being filed against an employer for carrying out or ordering these violent attacks. This violence perpetuates an atmosphere of fear and intimidation throughout the garment industry, which serves as a strong deterrent to the exercise of the right to freedom of association. The incidents of violence against union organisers are sufficiently commonplace that most do not even reach the media. However, since May 2017, we are aware of two publicly reported cases, which illustrate what organisers and workers continue to face.

Savar Sweaters and Orchid Sweater Limited (SSL and OSL)¹

BIGUF has been attempting to organise a number of Chittagong based factories belonging to the Azim Group for a number of years, including Savar Sweaters and Orchid Sweater. Azim Group have forcefully opposed any organising attempts at their factories, as evidenced by a previous violent attack on workers at a third Azim factory, Global Garments, in 2015². BIGUF has also repeatedly struggled to gain registration for unions at Azim Group factories, and has been rejected five times in the last year, primarily on arbitrary administrative grounds.

The situation at SSL and OSL came to a head on 27 May 2017, when workers from these two factories, all of whom were members of BIGUF, were set upon by armed men as they left work. The attack - following which five workers were hospitalised - took place in full view of factory management. A second attack on workers took place the following day after management permitted several of the men who carried out the 27 May assault on worker union leaders to enter the factory building, bearing weapons. The thugs again physically assaulted workers who were leaders and supporters of the BIGUF-affiliated unions while they were leaving the factory, leading to a further two workers requiring hospitalisation. Over the weeks that followed at least 70 workers, all of whom were union members, were dismissed. A further 50 workers have stayed away from the factories, fearing for their safety should they return.

None of the perpetrators of the violence at Orchid Sweater and Savar Sweaters have ever been arrested or questioned by the police in regard to their involvement in this unprovoked attack on these workers. However, 61 BIGUF members were charged with criminal offences related to the incident; 22 were arrested on these charges relating to the incident and released on bail (see below).



Haesong Corporation³

In April 2017, 218 workers were fired by Haesong Corporation after demanding payment of owed wages and holiday pay. On 16 August 2017, these workers, along with organisers and leaders from the National Garment Workers Federation (NGWF), participated in a peaceful protest outside the factory demanding payment of the benefits and back-pay they believe were owed to them by the owners. An hour after the protest began, the workers were attacked by 20-25 thugs, allegedly hired by Haesong Corporation, who hit them repeatedly with sticks and knives. Workers claim that a further nine people, all of whom were identified as direct employees of Haesong, were also actively involved in the attack.



Fifteen people, including workers and NGWF organisers, were injured in the attack. Four of them required hospital treatment at Gazipur Health Complex. The NGWF organiser for the area, Abdul Jalil, was taken away by the attackers and held against his will for several hours. He was finally released back at the factory gates at 9pm, six hours after he was taken.

The attack took place in front of the industrial police and employees of the Department of Factory Inspections, none of whom intervened to prevent the violence. Later that afternoon workers who were at the protest made several repeated attempts to file a complaint at Kaliakoir Police Station, which but the officer in charge refused to accept any complaint against Haesong Corporation.

B. Arbitrary arrests and filing of false charges against union leaders.

Orchid Sweater and Savar Sweater

On 29 May 2017, two days after the violence at Orchid Sweater (OSL) and Savar Sweater (SSL) (see above), Md. Yusuf Chowdhury, the Executive in-Charge in the knitting department at OSL, filed a criminal complaint against 61 Azim employees, all of whom are members of BIGUF-affiliated unions. The criminal complaint accuses these workers of engaging in unlawful assembly, attempted murder, “voluntarily causing harm,” theft and property damage on 28 May. Notably, the complaint does not include any of the employees who assaulted BIGUF supporters outside the factory on 27 May, in full view of factory managers, nor does it name any of the non-BIGUF-affiliates workers involved in the altercations on 28 May.

On 11 June, 60 of those accused employees surrendered before the Metropolitan Magistrate Court in Chittagong and filed petitions for bail. Only 38 of the workers were granted bail and released on 11 June; the remaining 22 were denied bail and remained in detention for several more days before ultimately being released on bail. All 60 remain on bail and are required to report regularly to the courts.



NGWF protesting against violent attacks against the union.

Linktex Sportswear⁴

In late 2016, workers had been attempting to organise a union at the Linktex Sportswear factory in Gazipur, as they were being paid wages that fell well short of the stipulated minimum wage. In October, the workers filed an application with the Joint Directorate of Labour (JDL) to register their union, which was to be affiliated to the Bangladesh Revolutionary Garment Workers Federation (BRGWF). On 28 October 2016, 15 of the workers who had joined the union were fired. That same day, management brought in outside thugs to smash factory windows and then called the police to arrest the workers who had organised with the union. The police conducted no inquiry and simply carried out the direction of factory management. Criminal charges were filed against 19 workers, all of whom were released on bail. They continue to face charges and are required to report to the court monthly.

Grameem Knitwear Ltd⁵

In March 2015, workers at the Grameem Knitwear factory protested against the refusal of management to pay them holiday allowances, culminating with a work stoppage on 12 March. Workers engaged in the stoppage were violently attacked inside the factory by supervisors, accompanied by around 20 police officers who had been brought into the factory. Workers report

having to escape by climbing out of windows and over walls. This was followed by a temporary closure of the factory. When the factory reopened on 19 March, a notice was posted on the gate listing 266 workers who were dismissed. On 22 March, a criminal case was filed against 81 workers for destruction of property and theft. Two years later, all 81 workers continue to face criminal charges. Each month workers must report to the court and continue to carry the financial and emotional burden of ongoing legal action that appears to have no end date.

The above examples are just a snapshot of ongoing cases that demonstrate the use of anti-union violence and criminalisation of trade union organisers and members. This is in no way a comprehensive list of open cases, but serves to illustrate the systematic violation of trade union rights, by both factory management and government bodies, that exists in the garment industry and beyond.

The prevalence of such an anti-union atmosphere within the garment industry serves as a strong deterrent to any worker who is considering joining a union or organising to defending their rights. The ongoing lack of access to justice for workers whose rights are violated, along with total immunity for employers or police involved in anti-union attacks only serves to strengthen this deterrent.

The fear that prevents workers from organising also serves to keep them silent about other abuses, and operates as a barrier to achieving any progress in implementing other rights, including the right to safe work and to a living wage.

C. Access to remedy

As the above cases demonstrate, workers who have suffered from anti-union discrimination carried out by their employers face significant barriers to accessing proper remedy. Delays at the Labour Court mean that cases may take years to be heard; few workers have the financial resources to sustain such a long legal battle. The arbitration process, overseen by the BGMEA is far from impartial and beyond addressing a handful of individual cases, rarely gets involved in the settlement



of employer-union disputes. Workers report that any attempts to file criminal complaints against factory owners, or the industrial police, for violence or intimidation are routinely refused.

On 12 March 2017, under international pressure, the Government of Bangladesh formed a 20-member Tripartite Consultative Council (TCC) to examine and review the labour situation in the garment sector. However, no clear mandate or formalized procedure for its operation was provided and the outcome of its first, and to date only, investigation into a specific case of anti union discrimination has been criticised for its flawed process and apparently biased outcome.⁶

STATUS: UNRESOLVED



A worker injured in the Haesong attack.

THE CONCERNS OF THE ILO

In its 2017 report, the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) voiced concerns on the same issues addressed in this report. On **labour law reform**, the Committee noted the Government of Bangladesh's failure to provide information on its steps towards reviewing the labour law and urged the government to ensure that the Labour Rules enable full enjoyment of freedom of association and prevention of unfair labour situations. Regarding the **situation of workers in EPZs** it reminded the Government of Bangladesh of the workers' right "to form free and independent trade unions and to associate with the organizations of their own choosing", and urged the government to bring the EPZs "within the purview of the labour inspectorate." The committee also voiced concerns about the high number of **refused trade union registration applications** and has requested the government "to take any necessary measures to ensure that the registration process is a simple formality, which should not restrict the right of workers to establish organizations without previous authorization." Lastly, the committee noted the marked "**anti-union discrimination**, slowness of the labour inspectorate in responding to such allegations and the lack of adequate sanctions in practice, as well as a serious lack of commitment to the rule of law in this respect."



CONCLUSION

Since the Rana Plaza collapse of April 2013, the international community has called on the Government of Bangladesh to implement clear and time-bound commitments to improve fire and building safety and to bring laws and regulations with regard to freedom of association and collective bargaining into line with international conventions as well as effectively enforce them. What needs to be done is abundantly clear. The Government of Bangladesh has been given ample opportunity and significant support to enable it to deliver on these commitments. As this document illustrates, progress remains elusive and indeed the situation has deteriorated in the last year. The excuses for continued inaction are simply not credible. Steps need to be taken and the leverage needed can be provided by an investigation into the trade preferences Bangladesh is enjoying.

To be clear, we are not calling for full trade sanctions to be imposed now. However, the launch of a GSP investigation will provide a time-bound framework during which the Government of Bangladesh will have two choices - finally comply with its legally binding international obligations under the ILO core conventions or lose in whole or in part generous EU trade preferences.

The Government of Bangladesh, with good reason, did not believe that the EU would ever make good on the threat of an investigation. Failure to launch a GSP investigation after further inaction by Bangladesh would strongly suggest that the EU's commitment to human and labour rights remains little more than lip service and will never be prioritised over other interests. Failure to act will also send an unfortunate signal to other trading partners that the human and labour rights obligations that underpin the GSP trading arrangements can be ignored without consequences. Indeed, *we would argue the failure of the EU to act in light of the mountain of evidence makes it complicit in the ongoing violations of core labour rights in the country.*

The EU must act now and commence an investigation.

- 1 [http://workersrights.org/freports/WRC%20Assessment%20re%20Orchid%20Sweater%20and%20Savar%20Sweater%20\(Bangladesh\)%206.24.17.pdf](http://workersrights.org/freports/WRC%20Assessment%20re%20Orchid%20Sweater%20and%20Savar%20Sweater%20(Bangladesh)%206.24.17.pdf)
- 2 On earlier labour rights violations in the Azim group: <https://www.nytimes.com/2014/12/23/business/international/attacks-on-union-leaders-at-azim-factories-in-bangladesh-are-documented.html> (22 December 2014).
- 3 Information from <http://www.industrialunion.org/bangladesh-haesong-garment-workers-assaulted>, NGWF press release and interviews with NGWF organisers.
- 4 Communication between CCC and BRGWF between October 2016 and September 2017.
- 5 https://www.just-style.com/news/sacked-grameen-knitwear-workers-protest-in-bangladesh_id131319.aspx
- 6 <http://workersrights.org/freports/WRC%20TCC%20Report%20Analysis%209.28.17.pdf>