

Clean Clothes Campaign

International Office



Office of the United Nations High
Commissioner for Human Rights
Palais des Nations
CH-1211 Geneva 10
Switzerland

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Regarding: Stakeholder Submission concerning the Peoples Republic of
Bangladesh (Bangladesh)

To whom it may concern,

Please find below the joint submission of the Clean Clothes Campaign (CCC)
concerning the Peoples Republic of Bangladesh for the Committee on Economic,
Social and Cultural Rights.

Yours sincerely,

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Improving working conditions in the global garment industry



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(1) Submitting organisation

Since 1989, CCC has worked to ensure that the fundamental rights of workers are respected. We educate and mobilise consumers, lobby companies and governments, and offer direct solidarity support to workers as they fight for their rights and demand better working conditions.

Clean Clothes Campaign brings together trade unions and NGOs covering a broad spectrum of perspectives and interests, such as women's rights, consumer advocacy and poverty reduction.

As a grass-roots network of hundreds of organisations and unions, both in garment-producing and in consumer markets, we can identify local problems and objectives and transform them into global actions. We develop campaign strategies to support workers in achieving their goals. We also cooperate extensively with similar labour rights campaigns.

(2) Summary

The Peoples Republic of Bangladesh is not respecting its human rights obligations in relation to the right to freedom of association and specifically the right to join and establish trade unions without interference and the right to carry out trade union activities and in particular public protests and strikes. In the past few years, Bangladesh has acted repeatedly to close down the activities of certain unions, to repress rallies, ban strikes, and to arrest and prosecute key trade union organisers and activists. The current state of trade union rights in Bangladesh can be considered as highly repressive and at a critical level, requiring urgent review by international supervisory mechanisms. The recent arrest, sentencing and imprisonment of the leader of a national trade union centre demonstrates the extent to which this situation has escalated.

Our primary concerns with respect to trade union rights in Bangladesh are:

- the arrest, violence against and prosecution of many trade unionists and the absence of a rights based dispute resolution mechanism dealing with unfair labour practices
- the arbitrary and highly politicised process to register and attempts to de-register unions
- a labour law and law on the export processing zones, both of which are clearly coming short of core labour standards

In addition to the above mentioned trade union rights, Bangladesh continues to provide for one of the lowest minimum wage levels in the globalised garment sector.

Finally, despite the Rana Plaza Factory Collapse, Bangladesh has yet to develop a robust national Employment Injury Insurance Scheme in line with ILO Convention 121 in order to compensate victims of workplace accidents.

(3) International Human Rights Obligations

The Covenant on Economic, social and Cultural Rights makes it clear that “everyone has the right to form and to join trade unions for the protection of his interests”. In 1998 the Peoples Republic of Bangladesh ratified the International Covenant on Economic, Social and Cultural Rights obliging State parties to ensure the right to form and join trade unions of their own choice, including at national and international level. The Covenant further states that trade unions have the right to function freely and to take strike action. The

International Covenant on Civil and Political Rights was also ratified by The Peoples Republic of Bangladesh in 1990 and stipulates that, “everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests”. The Peoples Republic of Bangladesh has also ratified ILO Convention No. 87 on Freedom of Association and Protection of the Right to Organise (1948), and ILO Convention No. 98 on the Right to Organise and Collective Bargaining (1949). Finally, under the Covenant, Bangladesh has the obligation to fair wages, healthy working conditions and social security.

(4) Anti-union Violence and Discrimination

For many years, there has been a spotlight to numerous criminal acts of violence towards trade unionists, including murder, committed by factory owners, hired thugs and the police. The murder of Aminul Islam remains unsolved to date. This concern has also been a repeated by several governments and global apparel brands. However, the Peoples Republic of Bangladesh failed to provide any information which would indicate that it has investigated any of these crimes, much less held anyone accountable. It is no surprise then that recently the ILO Committee of Experts “expresses deep concern at the continued violence and intimidation of workers and emphasizes in this regard that a truly free and independent trade union movement can only develop in a climate free from violence, pressure and threats of any kind against the leaders and members of such organizations.”

Trade unions report that harassment and surveillance remain at a higher level since 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.

Overall, garment workers face poor working conditions and anti-union tactics by employers including assaults on union organizers. Our October 2017 report *The European Union and the Bangladesh garment industry*¹ documented attacks against union representatives and threats, intimidation, dismissal, and sometimes physical assault at the hands of factory management or hired third parties continues to remain a pressing problem, that significantly hampers workers ability to collectively negotiate better working conditions.

Factory officials in general continue not to be held accountable for attacks, threats, and retaliation against workers, particularly those involved with unions. In response to protests in December 2016 by garment workers seeking higher wages, factory owners dismissed over 1,500 workers and authorities detained 38 union leaders and workers on unsubstantiated criminal charges

1 <https://cleanclothes.org/resources/publications/the-european-union-and-the-bangladesh-garment-industry-the-failure-of-the-sustainability-compact>

(5) Labour Law

Falling short of core labour standard, the government failed to start a process to review the Bangladesh Labour Act of 2013. Recently, the ILO's Committee of Experts reported that no amendments to the Bangladesh Labour Law have yet been made. In fact, Bangladesh did not even commence discussions on reforms with some of the social partners until November 2018. Unfortunately, the handful of draft proposals either 1) fail to address numerous concerns of the Committee, 2) fail to address those concerns adequately or 3) in some cases make the law even worse than it already is.

The law requires a minimum membership of 30% of the workforce to form a union. The Government of Bangladesh has proposed to reduce that number but by such a miniscule degree that it will make no practical difference, meaning that a minimum of hundreds if not thousands of workers would still be necessary to form a union in large enterprises, including in the garment industry.

(6) The EPZ Law

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.

(7) Union Registration

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.

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 antiunion 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.

However, as the ILO Committee of Experts notes, in 2017, with the adoption of the SOPs, only 36% of registration applications were accepted – an extraordinarily low number. The registration should not amount to previous authorization but rather be a simple, administrative process.

The ILO Committee of Experts also raises its eyebrows to the unclear status of the 64 per cent rejected applications. Especially, more than a third of the applications for registration available in the database on registration (62 out of 191) are marked as rejected without a clear indication as to the reasons.

Furthermore, the ILO Committee on Freedom of Association has noted that the recurrent practice of factory management to seek injunctive relief from the courts to stay union registrations that have been properly granted, thus freezing union activities for prolonged periods of time is highly problematic.

(8) Wages

The december 2016 wage struggle in Ashulia highlighted the low wages prevalent in the Bangladeshi garment sector. The minimum wage which was set in 2013 at BDT 5,300. However, inflation and the rising cost of basic needs have made the current minimum wage simply insufficient to make ends meet. Indeed, most Bangladeshi garment workers earn less than the 2016 World Bank Poverty Line Wage for Bangladesh, which was BDT 7,418 per month. It was therefore no surprise that garment workers demanded that the lowest wage in the sector be increased to BDT 15,000-16,000. While this means that the current minimum wage would have to triple, which may seem like an unrealistic request. However, authoritative fair wage calculations² show that the workers' demand are, in fact, rather modest relative to fulfilling the basic needs. Based on the national legislation, the next regular minimum wage revision is due in 2018.

(9) Employment Injury Insurance Scheme

Following the collapse of the Rana Plaza Building, the Rana Plaza Arrangement was established. This provided a framework for the provision of compensation for the victims based on ILO Convention 121, included establishing a victims database, determination of the beneficiaries, designing a special software tool to determine compensation levels, claims intake and assessment, establishing bank-accounts, pre- and post award counseling, medical assessment and delivery of ongoing medical care where needed. The Rana Plaza Arrangement model was later also applied for the Tazreen Claims Trust.

It also laid the groundwork for a more structural and permanent solution in the form of National Employment Injury Insurance (EII) Scheme in line with international standards that would be self financed and could operate on a no-cause basis³. The ILO is working with the Government of Bangladesh and national stakeholders on this National Employment Injury Scheme, including developing a national and institutional legal framework and establishing the necessary public administration capacity. However, this process seems to have stagnated.

Meanwhile factory incidents leading to deaths and injuries continue to happen in Bangladesh, both in factories and safety areas within the scope of the Accord as well as beyond. An analysis of local media reports estimate that more than 500 workers have been injured and around 60 killed in over 100 safety incidents in the textile sector since 2013. In absence of a National EII scheme, victims and their families will not receive compensation for loss of income.

² See <https://cleanclothes.org/resources/background/background-wage-struggle-bangladesh-december-2016/view>

³ The National Tripartite Plan of Action on Fire Safety and Structural Integrity in the RMG foresees to realize EII as per its 13th item.

(9) Clean Clothes Campaign recommends the Committee ask the government of Bangladesh:

- What steps has the government taken to respond to workers' grievances?
- What steps has the Bangladesh government taken to expedite amending its labor laws to bring them in line with international core labor standards and human rights and ensure that workers' right to work is not subverted?
- What steps has the Bangladesh government taken to ensure trade union registration becomes a mere administrative measure?
- What steps has the Bangladesh government taken to establish a permanent national Employment Injury Insurance Scheme?
- What steps has the government taken to begin a process of transparent and participatory review of worker wages in order to bring minimum wage levels in line with a living wage?

(10) Clean Clothes Campaign asks the Committee to call upon the government of Bangladesh to:

- 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;
- Undertake amendments to the 2013 Labour Act to address the issues relating to freedom of association and collective bargaining identified by the ILO Committee of Experts, paying particular attention to the priorities identified by the social partners;
- 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.
- 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
- Initiate a transparent and participatory wage review process in consultation with independent unions and labor advocates.

