

International Standards and Voluntary Monitoring

The International Labor Organization's (ILO's) Garment Sector Project in Bangladesh

September 2003

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Bangladesh's garment workers have long been subject to chronic violations of their human rights in the workplace. This report analyzes an initiative by the International Labor Organization (ILO) in Bangladesh to use monitoring methodologies as part of a strategy to improve working conditions and protect workers' rights in Bangladesh's garment factories. The Lawyers Committee believes that the ILO is taking a positive step in Bangladesh and ought to expand its factory level projects that utilize monitoring methodologies. However, the ILO must ensure that those programs engage trade unions and NGOs, be transparent, and engage in remediation activities.

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Introduction

Bangladesh's textile and garment industry is its largest producer of foreign exchange and employs some 1.8 million people, most of them women. But workers' rights have been largely a dead letter for those employed in this low wage export industry.¹ Garment industry workers are often paid wages below the minimum²; work extremely long hours³, often involuntarily; endure poor conditions of health and safety; and suffer discrimination based on gender or ethnicity. They face pervasive opposition to efforts to unionize by fierce employer resistance, and by deficiencies in labor law that deny workers in this sector the right to organize unions and bargain collectively.⁴

In this context, workers' rights advocates in Bangladesh must make use of a range of strategies and tools to improve working conditions and protect the rights of Bangladesh's garment workers. They are now taking stock of an innovative experiment by the International Labor Organization to advance labor rights in Bangladesh in an unusual arrangement with the garment industry itself.

¹ See generally U.S. Department of State, *Country Reports on Human Rights Practices, Bangladesh*, Section 6 Workers Rights (2002).

² For more information on wage levels in Bangladesh see U.S. Department of Labor Bureau of International Labor Affairs, *Wages, Benefits, Poverty Line, and Meeting Workers' Needs in the Apparel and Footwear Industries of Selected Countries*, Part II-1 (2000).

³ The Factories Act permits a 48 hour workweek plus 12 hours of overtime. See Factories Act, 1965 (Bangladesh), Chapter VI, Article 50.

⁴ The ILO has made note of deficiencies in Bangladesh's labor code with regard to freedom of association, including overly restrictive provisions on the right of workers to join unions of their choice, and burdensome restrictions on the right to strike. See CEACR Individual Observation Concerning Convention No.87, Freedom of Association and Protection of the Right to Organize, 1948, Bangladesh (2002). The U.S. State Department has also noted in its Country Report on Human Rights Practices that the Industrial Relations Ordinance provides for "considerable leeway for discrimination against union members and organizers by employers", and "allows the arbitrary transfer of workers suspected of union activities or termination with payment of mandatory severance benefits" of two weeks salary. U.S. Department of State, *Country Reports on Human Rights Practices, Bangladesh*, Section 6(b) Workers Rights (2002). It has also noted that in practice private sector employers usually discourage union activity, often with the collaboration of police.

The Lawyers Committee for Human Rights has long argued that factory monitoring that generates accurate and reliable information about factory conditions is a vital piece of the larger mosaic of strategies to ensure respect for workers' rights. This report analyzes the ILO's initiative in Bangladesh to use monitoring methodologies as part of a strategy to improve working conditions in Bangladesh's garment factories. The Lawyers Committee believes that the ILO is taking a positive step in Bangladesh and ought to expand its factory-level projects that utilize monitoring methodologies. However, the ILO must ensure that those programs engage all stakeholders, be transparent, and engage in remediation activities.

The ILO is the U.N. body charged with improving global working conditions.⁵ A tripartite body comprised of governments, employers, and trade unions, the ILO has traditionally worked to improve conditions through standard setting. These standards are embodied in ILO conventions and recommendations that its member states may choose to adopt, while the ILO's supervisory bodies oversee their application.⁶ In 1998, the ILO's General Body adopted the Fundamental Declaration on Rights at Work that declares that all members by virtue of membership in the organization are bound to respect and enforce eight conventions under four categories of rights.⁷ These categories are: a) freedom of association and the right to collective bargaining; b) the elimination of all forms of compulsory labor; c) the effective abolition of child labor; and d) the elimination of discrimination with respect to employment. Bangladesh is a member of the ILO, and is thus bound to these conventions. In addition, Bangladesh has ratified seven out of the eight core conventions. It has not ratified Convention 138, the Convention concerning Minimum Age for Admission to Employment.

Until recently, the ILO has not focused on the enforcement or monitoring of these norms at the level of individual companies or workplaces.⁸ Now, the ILO has expanded the breadth of its approach toward the promotion of labor rights standards. To this end, it has begun to design and operate factory-level working condition improvement programs, some of which incorporate monitoring methodologies. Two such projects that incorporate monitoring methodologies are currently underway: one in Cambodia and one in Bangladesh.

In April-May 2002 the Lawyers Committee conducted field investigations of the ILO's factory-level projects in Cambodia and Bangladesh. In Cambodia, the Lawyers Committee was invited by the Workers Rights Consortium (WRC) to join a research team that studied and evaluated the ILO's monitoring program. The WRC is a consortium made up of universities, student activists, and independent labor rights experts. Its mission is to investigate garment and apparel factories that manufacture for university licensees when workers in those factories lodge a complaint with the organization.⁹

⁵ See International Labor Organization, Constitution, Preamble.

⁶ These bodies include, most notably, the Committee of Experts, and the Committee on Freedom of Association.

⁷ See Declaration of Principles and Rights at Work, Art. 2, 86th Session, Geneva, June 1998.

⁸ The Committee on Freedom of Association, for example, examines complaints regarding the conventions on freedom of association. Although the violations often involve allegations of violations of international labor standards by private employers, its mandate is to investigate and comment upon violations by member states of international norms on freedom of association and the right to organize.

⁹ University licensees are manufacturers and retailers of products that bear the logo or name of a university. These licensees are granted a license to produce these goods in return for a fee or percentage of profits.

The Cambodian monitoring effort is a novel program that links the economic incentive of trade with the potential for transparent monitoring to improve working conditions in Cambodia's garment industry. A bilateral textile trade agreement between the U.S. and Cambodia creates an incentive for the Cambodian garment industry to be in "substantial compliance" with international labor standards and Cambodia's labor code by granting additional quotas if it is found to be so.¹⁰ In order to help the industry bring itself into substantial compliance, the ILO has established a monitoring program that evaluates the compliance levels of individual factories and makes those results public.¹¹

The only other ILO program to use monitoring methodologies in its effort to improve working conditions is in Bangladesh. The Lawyers Committee traveled to Dhaka in order to understand how the Bangladesh program was designed, and how it differs from the Cambodia program. This report describes the methodology of the Bangladesh program, and calls on the ILO to consider a set of recommendations that we believe would improve the Bangladesh program and that should be incorporated into future projects.

Background to Bangladesh's Garment Industry

The Multifibre Arrangement provides for an exception to WTO rules and permits importing countries to impose quotas on countries that export garments to them.¹² Bangladesh has received generous quota allotments from the U.S. government since 1985. These quota allotments have benefited Bangladesh because in relation to other producers, such as China, it is relatively uncompetitive in the world market as a garment producer. The big quota allocation, however, means that U.S. buyers, whose apparel imports from China and other countries are limited by the quota system, are encouraged to source from Bangladesh due to its large allocation.¹³

In 2005 the quota system will be eliminated according to the terms of the WTO Agreement on Textiles and Clothing. Many commentators believe that Bangladesh's garment industry exports are likely to be diminished overall by the phase-out, and that a portion of the industry's market share will go to more efficient producers.¹⁴ In part to better position itself for this new competitive challenge, the Bangladeshi Garment Manufacturers and Exporters Association (BGMEA) requested that the ILO create a program to improve working conditions

¹⁰ See U.S. Cambodia Bilateral Textile Free Trade Agreement, January 20, 1999, Article 10; renewed December 2001 for a three year period.

¹¹ For the program's public reports, see <http://www.ilo.org/public/english/dialogue/ifpdial/publ/cambodia.htm> (accessed September 12, 2003).

¹² The Multifibre Arrangement (MFA) was created in 1973 and permitted countries to impose quotas on garment imports from specific countries under certain circumstances that threatened domestic production. This provided an exception from international trade law, now governed by the World Trade Organization, which generally forbids the use of trade quotas. In 1995 the Agreement on Textiles and Clothing (ATC) came into force in the WTO, replacing the MFA and providing for the elimination by 2005 of all quotas permitted under the MFA.

¹³ See Josephine J. Bow, Asia Foundation, *Bangladesh's Export-Apparel industry: Into the 21st Century – The Next Challenges* (2001), p. 15.

¹⁴ See generally, *Ibid*; Center for Policy Dialogue, *Phasing out of Multifibre Arrangement: Impact on the Livelihood Conditions in the RMG Sector of Bangladesh* (2002).

in the non-Export Processing Zone (EPZ) garment sector entitled, “A Partnership Approach to Improving Labor Relations and Working Conditions in the Bangladesh Garment Industry.”

The ILO program is an expansion of a successful project begun in 1995 by the ILO and UNICEF to reduce the incidence of child labor in Bangladesh’s garment factories. According to the ILO, the incidence of child labor has decreased dramatically, with an estimated 43 percent of factories in the garment industry employing children under 14 years of age when the program began, compared to only 1 percent at present. The child labor project used a combination of factory monitoring, education, rehabilitation, skills training, and income support to accomplish its goals. The ILO is continuing to implement the child labor project, which shares staff with its garment industry program.

The child labor project was spurred in the early 1990s by U.S. Senator Tom Harkin’s introduction to the Senate of a bill that would have banned the import of all products, regardless of origin, made with child labor. The threat of this bill was enough for many factory owners in Bangladesh to purge their factories of child workers, which consequently left many of them, according to some reports, even more destitute and led many of them to resort to more harmful forms of work, such as prostitution.¹⁵ The ILO/UNICEF program tried to take a more constructive approach by taking children out of the factories and placing them in schools operated by a number of NGOs, most notably BRAC, a major Bangladeshi NGO. Due in large part to the creation and implementation of this program, the Harkin Bill was never enacted.

The Factory Improvement Program

Propelled by the success of the child labor eradication program in reducing the incidence of child labor in garment factories, BGMEA asked the ILO to expand the program to address a broader spectrum of factory conditions. According to the document setting out the project’s terms, the project is approximately 75 percent funded by the U.S. government, while the BGMEA covers approximately 25 percent of the costs.¹⁶ The program is designed to last for three years from its start date in April, 2002.

The core premise of the program is that improved labor standards in the factories will better situate Bangladesh’s garment industry for the quota phase-out in 2005.¹⁷ There are two major reasons for this. First, improved working conditions will be an attractive selling point to buyers that have committed to improving working conditions in their suppliers’ factories.¹⁸ Second, improved labor standards will lead to increased productivity and thus strengthen

¹⁵ See UNICEF, *State of the World’s Children 1997* (1997), p. 60.

¹⁶ The overall program budget is \$2,105,756 according to the project document. See International Labor Organization, Technical Cooperation Project Document, “A Partnership Approach to Improving Labour Relations and Working Conditions in the Bangladesh Garment Industry” (September 17, 2001), p. i.

¹⁷ See Project Document, p. 2; interview with Lutfor Rahman, President BGMEA, Dhaka, Bangladesh (May 3, 2003).

¹⁸ See Project Document, p. 2; interview with Lutfor Rahman, President BGMEA, Dhaka, Bangladesh (May 3, 2003).

Bangladesh's competitiveness.¹⁹ If both of these premises are true, the industry will be better positioned for the phase-out of quotas in 2005.

Participation in the program is voluntary. Initially, 200 factories were chosen to participate from approximately 300 applicants. According to the ILO, 3,400 garment factories are registered in Bangladesh, but in practice only 2,400 of these function full time year round. Thus the 200 participating factories represent about 8 percent of operating factories in the garment industry. However, the owners of the participating factories own about 700 factories in total, which arguably increases the impact of the project.

The program is structured so that assessments take place in three-week segments. During the first week, factories are evaluated using a checklist of 156 issues that are structured as "yes/no" questions. These questions were formulated by the ILO project officer in Dhaka and based on Bangladeshi labor law and international standards. The choice of issue areas and the relevant questions were prioritized based on an initial analysis prior to the start of the program, and on a baseline survey of participating factories that was conducted at the program's outset. The checklist is divided up into five broad categories: Employment, Working Conditions and Welfare Facilities; Occupational Safety and Health; Industrial Relations and Social Dialogue; and Management Systems.

A major weakness in the checklist is in the area of freedom of association. The checklist, on file with the Lawyers Committee, contains only two questions regarding freedom of association. One asks if there are unions in the factory.²⁰ The next one asks if there has been discrimination against workers who attempt to organize a union. However, only factory management may be asked questions regarding anti-union discrimination.²¹ Asking management if it engages in anti-union conduct without speaking to workers will clearly provide little significant information about the degree to which freedom of association is respected in the factories. According to sources familiar with the program, the Bangladeshi employers involved in setting up the program were very resistant to allowing real monitoring of freedom of association, which likely accounts for the weakness in this aspect of the checklist.

While the project does not genuinely monitor freedom of association, it does give particular attention to the existence of Workers' Welfare Committees (WWC)²², a consultative structure provided for in Bangladeshi labor law. The concept of WWCs is based upon the Industrial Relations Ordinance of 1969 that requires employers to provide for "Participation Committees" in factories that have more than 50 employees.²³ This does not mean, however,

¹⁹See Project Document, p. 2. Lutfur Rahman, president of the BGMEA, in an interview with the Lawyers Committee, did not say expressly that improved productivity was one of the rationales for BGMEA's support of the program. However, this premise is made explicit in the project document and in the project strategy, which uses arguments on productivity and competitiveness to convince factory owners that improving labor conditions will lead to stronger competitiveness.

²⁰ Workplace Improvement Plans - Checklist, S. No. 113.

²¹ Ibid., S. No. 114.

²² These committees are referred to as "Workplace Welfare Committees" in the Project Document, although they have been subsequently called Workers' Welfare Committees. See Project Document, p.8.

²³ See Industrial Relations Ordinance, Section 24(1) (1969) (Bangladesh). The ordinance, which refers to Participation Committees, requires that in factories where there are unions, the collective bargaining agent shall nominate the representatives to the committee.

that the presence of WWCs was welcomed by factory owners or the Bangladeshi labor movement.

Bangladeshi trade unions distrust the WWCs, and are concerned that these labor-management committees will be touted as alternatives to union organization. One union leader, particularly concerned about a similar WWC structure in the Export Processing Zones, told the Lawyers Committee that “I don’t agree with [the WWCs], particularly in the EPZs. Employers and government will choose WWC members. We’re fighting for implementation of [ILO] conventions 87 and 98 [which guarantee the rights to freedom of association, and to organize and bargain collectively].”²⁴ This notwithstanding, the WWCs are also viewed with suspicion by some employers. An ILO official well-acquainted with the program told the Lawyers Committee of intense discomfort on the part of employers with providing *any* form of collective worker forum. Some employers under the BGMEA umbrella apparently wanted the name changed to something along the lines of “worker productivity committees” in order to clarify that their only role was to provide suggestions on how to improve worker productivity.

The details of the organization and operation of the WWCs within the factories taking part in the pilot program have not been made public, although the Lawyers Committee was able to obtain a draft of the ILO’s training program on the committees and their purpose. According to this document, the objectives for establishing the Worker Welfare Committees are to 1) protect the rights and interests of both workers and employers; 2) promote and regulate sound labor-management relations; and 3) improve efficiency and productivity.²⁵

Workers and employers are to be equally represented on the committees in line with the requirements of the Industrial Relations Ordinance, and the workers’ representatives are to be freely elected by the workers to a term of two years. Both workers’ and employers’ representatives, according to a document outlining the operation of the WWCs, “shall enjoy adequate protection against acts of interference by each other or each other’s agents or members.” The roles and responsibilities of the WWC, according to the document, are to represent and defend the rights and interests of both workers and employers; promote mutual trust, understanding and cooperation; involve workers in the implementation of factory development programs; promote access of workers to facilities stipulated under national laws; and to play an active role in the improvement of general and vocational education and training.

There can be discussion of all issues, including wages and hours, but ties to independent labor organizations are barred. The Committees themselves can not be affiliated with any trade union, employer’s organization, or political party—identical restrictions to those imposed on WWCs in Bangladesh’s Export Processing Zones, where trade unions are barred and employers are exempted from labor law protecting freedom of association.²⁶

²⁴ Interview with Roy Ramesh Chandra, Union Leader, Dhaka, Bangladesh (May 3, 2003).

²⁵ See “Workers’ Welfare Committee”, draft version of power point slide presentation on file with Lawyers Committee (May 2003). In a footnote it is explained that “represent and defend the interests of workers” means “for instance, by undertaking dialogues, consultations, and negotiations at all levels on behalf of workers.” The word *negotiation* is important, for it is unclear to what degree actual negotiations, resulting in a collective bargaining agreement, might result.

²⁶ A Workers’ Welfare Committee system similar to that established in the pilot garment industry program has been established in Bangladesh’s Export Processing Zones (EPZs) and the ILO has a separate program to develop and

The Monitoring Methodology

The ILO program in the garment sector utilizes 12 monitoring teams consisting of four people per team: two ILO monitors, one representative from the BGMEA, and one labor inspector from the Ministry of Labor and Employment (MoLE). Each team includes at least one woman monitor. Three days of the week are dedicated to the new project, and two days are dedicated to the child labor project.

The inspection process is conducted in three week long stages. During the first week, the monitoring teams inspect factories and fill out the project checklist. The goal is that each team monitor two factories per week—a reduction from the three per week originally envisioned. The checklist is filled out based on interviews with both management and workers except, as noted, on freedom of association.

Visits are announced and workers are not interviewed off-premises. The ILO claims that the logic underlying this is that the information that is generated from these visits will be shared only with management. Because the information is not released publicly, management does not fear public exposure or buyers learning of violations. If there is no fear of consequences, management will not pressure workers to lie, will not punish them for telling the truth, and will not rush to clean things up prior to a visit. The head ILO project officer acknowledged, however, that he is not sure if workers tell the truth and has no way of verifying it.²⁷

This interview methodology raises questions about the effectiveness of the program. It is well known that factory owners often tell their workers that they should not tell the truth to outside monitors about working conditions in the factories. It is unlikely that workers will be able to differentiate between ILO monitors, who are ostensibly there to aid owners in improving conditions in their factories, and buyers' monitors, who are ostensibly there to ensure that factories comply with codes of conduct, or risk losing orders. Moreover, workers are often reluctant to criticize an employer in front of a stranger regardless of the circumstances. The imputed lack of incentive by managers to compel their workers to lie also speaks to a flaw in the project—there is no external leverage to compel factory owners to enforce core labor rights. In the set of recommendations we make below, we advocate the creation of incentives through transparency in the workplace improvement project.

monitor its implementation. In violation of international labor standards, there are by law no rights to freedom of association, to organize unions, or to bargain collectively in the EPZs. In the 1990s, the AFL-CIO, the U.S. trade union federation, filed a series of Generalized System of Preferences petitions in which they requested that trade benefits be withdrawn from Bangladesh because of the exemption granted under national law to the EPZs from Bangladesh's laws governing freedom of association. In response, the Bangladesh Export Processing Zone Authority (BEPZA) agreed to require the creation of WWCs in all EPZ factories as an interim step towards full implementation of freedom of association starting on January 1, 2004. *See* Monowar Hossain, Financial Express, Dhaka (May 15, 2003) (citing Bangladesh Notification SRO – 24/law/2001 declaring that by January 1, 2004 trade union activities would be allowed in the EPZs). The Lawyers Committee is tracking the situation to ensure that freedom of association is indeed implemented as promised in 2004. For more background on this issue, see Abdullah Siddiqui, Asia Monitor Resource Center, "Bangladesh: Human Rights In Export Processing Zones" (2001), *in* Asian Labour Update: Export Processing Zones, Issue 38 (January - March 2001).

²⁷ Interview with Shengjie Li, Chief Technical Officer, ILO, Dhaka, Bangladesh (April 30, 2003).

During the second week, the monitoring teams share results with the factories in the form of work improvement plans. These plans divide the checklist results into 49 issue areas. For every issue area where there are violations, the factories receive a report on what the violations are, how to remedy them, and why remedying them would lead to greater productivity in the workforce.

In the third week, group training sessions are conducted for management on compliance. These sessions are not necessarily based on the particular violations in a given factory, but are designed to address all the issues. Management is given a quiz before and after the training to assess the degree to which they have absorbed the material.

Four weeks after this training, the monitors return to conduct follow-up monitoring visits in order to determine if improvement plans have been implemented.

Recommendations

The premise of the ILO program is that employers will be compelled to improve working conditions for two reasons: 1) improving working conditions will appeal to consumers and commercial buyers, thus increasing demand for Bangladeshi goods; and 2) it will lead to improved productivity and competitiveness. But the program design is more focused on addressing the second goal than the first. There are a number of steps that the program coordinators could take to boost the effectiveness of the program in achieving real improvement in working conditions; and recognition and respect for this by consumers and buyers from major international clothing brands.

1) Improve Transparency

Transparency is a cornerstone of effective monitoring methodologies. However, the Bangladesh program releases virtually no public information regarding the content or the participants of the program. Transparency should be a fundamental principle of the program, with the release of information about the program and the findings of its monitoring structured so as to create a competitive race upward. Accordingly, there are a number of mechanisms that might be useful to deploy in the Bangladesh program and other similar programs.

- *Release Agreements Establishing the Program's Terms of Reference and all Relevant Materials.*

Obtaining information about the project is extremely difficult. The Lawyers Committee was denied permission, initially, to view any documents relating to the program. No information on the program is readily accessible on the ILO's website. The U.S. Department of Labor, the major funder, has little information on its website about the program²⁸, and Department of Labor representatives refused to release information about the program when approached "without the permission of other stakeholders". The U.S. government is a major funder of ILO programs around the world that are designed to improve working conditions. It is vital that any projects of

²⁸See website of Department of Labor, International Labor Affairs Bureau, <http://www.dol.gov/ilab> (accessed September 12, 2003).

this nature that receive U.S. funding be completely transparent. Accordingly, transparency requirements ought to be a condition of U.S. participation.

- *Release Monitoring Results*

One of the innovative mechanisms employed by the ILO's program in Cambodia is its provision of information to a compliance-conscious buyers' market. This is accomplished by making public the results of monitoring visits in synthesis reports. Buyers can read these reports that synthesize findings and make sourcing decisions based upon them. Moreover, buyers may request the full factory reports from their suppliers as a condition of conducting business. Indeed, the Lawyers Committee has been told that some major buyers now routinely do this.

This methodology could be helpful in the Bangladesh context. One of the problems in Bangladesh is that there are few incentives in place for producers to improve their labor standards. The ILO is effectively focusing on one form of incentive: the labor standards/labor productivity connection. However, we believe that it should also implement the second form of incentive: upward competitive pressures through transparency.

Some less compliant producers may balk at transparency because it poses the risk that those factories that are less compliant with the law might lose business or completely shut down. Concerns about these consequences are potentially valid. From a macro level, however, this might not be too problematic if in fact the higher standard factories thus have a competitive advantage and can absorb the lower standard factories' orders and jobs. However, this could still entail job displacement and potential unemployment of workers in those factories that close down.

Because there will be some losers, there will be pushback from certain factory owners within the BGMEA who do not want there to be any forms of transparency that might expose their practices. One approach therefore might be to phase in the transparency elements after the initial program segment that focuses on the labor standard/productivity link. This would provide some time for the factories to improve, and then owners might feel more comfortable making their results public. But the time frame for such a phasing-in of transparency must be limited if the program is both to win credibility internationally and successfully bolster Bangladesh's competitive standing before the phase-out of quotas.

One might also be able to show that certain buyers will privilege those suppliers that show improvement from one monitoring visit to the next. This would require that there be follow-up visits, in addition to the one scheduled three weeks after the original monitoring visit, in order to allow for factories to improve and for that to be reflected in the public record.

- *Publicly Release Names of Participants*

Another interim step would be to publicly release the names of the participating factories. While some manufacturers might be worried that this would imply that they are the factories with the most problems, in fact the opposite would be expected. Voluntarily participating in the program suggests a good-faith desire to improve conditions. This will signal to buyers that the supplier is perhaps more likely than others to utilize better employment practices and is more

likely to try to respect the buyers' codes of conduct.²⁹ Buyers might also make it a contractual requirement that its Bangladeshi suppliers participate in the ILO program. This would require greater funding for the program, however, which might come from buyers and governments.

- *Generate Improvement Charts*

As a way of creating a means of comparison, the ILO should consider devising two kinds of charts: 1) A *factory improvement chart* that would track improvements in particular factories, and 2) a *cross-factory comparison chart* that would compare participant factories across the industry. The first would enable interested outside parties to analyze to what degree manufacturers have improved in the course of their participation in the program based on the monitoring reports. The factory improvement chart ideally would name the factories, and indicate in which areas they have improved as well as the ways they have not. The cross-factory improvement chart would facilitate the race to the top by creating competition between factories. If they can show that they have better working conditions than their competitors, then they will be more motivated to improve.

All of the recommendations above assume that a significant number of buyers consider labor standards in their sourcing decisions. While not all buyers are concerned with labor compliance issues, a significant number are. This is demonstrated by buyer participation in the Fair Labor Association and SA 8000, among other multi-stakeholder initiatives, and the growth of labor rights compliance departments within brand name companies. Indeed, buyer demand was a stated reason by the BGMEA for its support of the ILO program, and in Cambodia the garment industry is convinced that compliance will enhance its competitive advantage so significantly that participants intend to continue with some form of factory monitoring and/or certification program once the ILO program in that country ends.³⁰

2) Create Remediation Process

A strong remediation process ought to be part of effective factory-level working conditions improvement programs. This would entail a process to engage with workers and employers to remedy violations of the law. While the Bangladesh program does have a training program for managers on the law and how to comply with it, there is no system to address factory-specific violations and work with all the parties to remedy them. This system ought to have a complaint mechanism that would permit workers to lodge complaints about violations of their rights with the ILO's workplace improvement/monitoring program.³¹ The ILO would then directly intervene and attempt to remedy the problem through negotiation, or work to bring

²⁹ Alternatively, buyers might make it a contractual requirement that all of its suppliers participate in the ILO program. This would require greater funding for the program, however, which might come from buyers and governments.

³⁰ Interview with Cham Prasidh, Minister of Commerce, Kingdom of Cambodia, Phnom Penh, Cambodia (April 21, 2003); interview with Ray Chew, General Manager, Garment Manufacturers Association of Cambodia, Phnom Penh, Cambodia (April 22, 2003).

³¹ This is different than filing a representation before the supervisory bodies of the ILO. These bodies are only empowered to hear complaints by ILO constituents regarding member states. There is no reason, however, that workplace projects cannot provide for a local complaint based mechanism as it relates to specific factories.

together a variety of stakeholders such as government and foreign buyers to remedy specific or more chronic violations.

3) Engage with Trade Unions and Civil Society

Local union representatives and NGO leaders repeatedly told the Lawyers Committee that the ILO has had little contact with them about the program to seek their input.

Workers and their unions have unique knowledge of their work situation that can benefit these programs, and their input ought to be integral in the program design. Yet union leaders complained of being excluded from the process and not having access to any information. Nazma Akhtar, leader of the Bangladeshi Independent Garment Workers Union Federation (BIGUF), complained that the ILO hasn't published any information about the factories and never asked for advice on how to structure the program.³² Badrudozza Nizam, General Secretary of the Bangladesh National Coordinating Council (BNCC), a trade union federation, told the Lawyers Committee that the ILO did not consult unions in the design of the project, and that the BNCC has not been approached since its implementation.³³

NGOs can also provide valuable information about the local political and labor context, and contribute important perspectives on issues the ILO program ought to take into consideration. Yet NGOs have also, reportedly, been left out of the process. Mashuda Khatun Shefali, executive director of Nari Uddug Kendra and general convener of the Bangladeshi Garment Workers Protection Alliance, told the Lawyers Committee that the ILO never consulted with any NGOs in the design of the program.³⁴ But NGOs are essential partners in working conditions improvement programs. Many work closely with factory workers, often with groups, such as women, whose interests unions have not always been successful in representing.

- *Help Foster Independent and Democratic Trade Unions*

It is also important at a broader level that the ILO take an institutional approach to improving labor standards by seeking to encourage and improve the capacity of independent and democratic trade unions. The ILO notes on its website that part of its mandate is to promote the development of independent workers' organizations.³⁵ Independent and democratic unions are crucial to sustainable enforcement and improvement of labor standards in factories; and the ILO should take a more aggressive stance in fostering the right to form independent trade unions.

Conclusion

The implementation of factory-level workplace improvement projects is an important and welcome development for the ILO. We hope that the ILO will continue to design and implement such projects in other regions and contexts. At the same time, we believe that if these projects

³² Interview with Nazma Akhtar, Dhaka, Bangladesh (May 2, 2003).

³³ Interview with Badrudozza Nizam, Dhaka, Bangladesh (May 2, 2003).

³⁴ Interview with Mashuda Khatun Shefali, Dhaka, Bangladesh (April 29, 2003).

³⁵ See <http://www.ilo.org/public/english/about/index.htm> (accessed August 25, 2003).

are to be effective, it is vital that they be transparent, incorporate remediation programs, fully engage all stakeholders, including trade unions and NGOs, and work to ensure the enforcement of core international labor rights.