

fidh

Fédération Internationale des Ligues des Droits de l'Homme

International Federation for Human Rights

Federación Internacional de Derechos Humanos

الفدرالية الدولية لحقوق الإنسان

BANGLADESH

Labour Rights in the Supply Chain and Corporate Social Responsibility

Report of an FIDH Mission to Bangladesh

in the context of FIDH/ Carrefour cooperation – June 2008

Article I: All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood. Article II: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a





Contextual background

The fact-finding mission

This mission took place from December 1-8, 2007 in Bangladesh. It was conducted by Isabelle Brchet, Asia Director (FIDH) and Priscilla Claeys, Globalisation and Human Rights Desk (FIDH).

The objectives of the mission were twofold:

- Assess efforts by Carrefour¹ to deal with labour rights issues in Bangladesh and, in particular, evaluate the training programme for management and workers implemented by the local NGO Karmojibi Nari² in the framework of Infans, and verify the implementation of FIDH's recommendations to Carrefour after previous missions to Bangladesh in 2006 and 2005;
- Issue recommendations to Carrefour Bangladesh, Carrefour Group as well as to the government of Bangladesh and other multinational corporations sourcing in Bangladesh in order to improve respect for labour rights in the garment industry.

Background of the FIDH/Carrefour cooperation

The FIDH-Carrefour cooperation (Infans) was initiated in 1997. Carrefour initially approached FIDH to find ways to improve working conditions at the factory level and in particular to eradicate child labour. FIDH insisted on a broad and consistent human rights approach, that would integrate all human rights at work and be based on internationally recognized human rights standards. In 2000, Carrefour adopted its Social Charter, based on the Universal Declaration of Human Rights and 8 fundamental ILO conventions. The audit methodology was developed with the assistance of FIDH and initial audits were realized by FIDH. In 2002, the mandate of Infans was revised, so as to put an end to the systematic

involvement of FIDH in social auditing. New areas for cooperation were established: the role of local social actors, freedom of association, purchasing practices, advocacy for international standards on business and human rights (see below).

Previous FIDH visits to Bangladesh in the framework of Infans took place in April 2006 and September 2005, to mention only the most recent ones. Recommendations were issued to Carrefour and made public on the FIDH website. One of the outcomes of those visits was the decision to set up a training programme for workers, mid-level management and top-level management for Carrefour supplying factories. This programme was initiated as a pilot project in 2004 and launched in 2006 as a 3 year project for 2007-2009. The trainings are implemented by local NGO Karmojibi Nari.

Carrefour's Global Sourcing Office for Bangladesh and Pakistan is based in Dhaka and sources from a total of 114 factories in Bangladesh and Pakistan, out of which 95 are active at the time of the mission. Among them, about 70 are based in Bangladesh.

FIDH's approach to the human rights responsibilities of corporate actors

Economic globalization has considerably benefited transnational corporations, leading to an unprecedented concentration of economic power in the hands of a relatively limited number of economic actors. This power entails responsibilities. But the accountability of these actors, at present, is deeply unsatisfactory. In particular, the legal framework on the responsibility of transnational corporations with regard to human rights needs to be reinforced. This is a primary obligation of States, but international law could contribute significantly to defining this framework, not only by clarifying both the scope of the obligation to protect imposed on States – including any obligations extending beyond their national borders –, but also by ensuring that the activities of transnational corporations are better monitored.

FIDH has participated actively in the debate on corporate social responsibility (CSR), which has been developing both at global level – particularly since the establishment of the Global Compact in 1999 – and within the European Union. In both these fora, FIDH has consistently advocated in favor of a regulatory framework for CSR. FIDH has engaged in a sustained dialogue with the Special Representative (SR) of the UN Secretary General on the issue of Transnational Corporations and Other Business Enterprises, Mr. John Ruggie, since the creation of his mandate in 2005. FIDH has contributed to the accomplishment of his mandate by a report³ published as a response to the

1. http://www.carrefour.fr/etmoi/developpement_durable/

2. <http://www.karmojibinari.org/>

3. <http://www.fidh.org/?Position=paper-Contribution-to-the>

SR's first interim report, by participating with its member organizations in regional meetings, in legal workshops and by submitting written interventions to the UN Human rights Council.

FIDH has consistently denounced human rights abuses by corporations and their complicity in human rights violations committed by the governments where they operate or with whom they co-operate.

FIDH considers that global intergovernmental standards on business and human rights are necessary in order to strengthen the protection of human rights and provide a common framework for efforts to address business conduct. There is a need to get governments' support for the eventual negotiation and adoption of a UN declaration or similar instrument outlining standards on business and human rights. FIDH seeks to initiate a process that can ultimately lead to the adoption of a legally binding instrument at an intergovernmental level. Such an instrument, negotiated and adopted at the inter-governmental level, would provide a clear reference point on business and human rights through the outlining of credible and legitimate standards agreed by States. FIDH has been advocating for such an instrument at the international level, in collaboration with other prominent NGOs such as Amnesty International, Human Rights Watch and the International Commission of Jurists, and at the European level in partnership with the European Coalition for Corporate Justice (ECCJ), and others.

FIDH has used its dialogue and cooperation with Carrefour to push for global standards on business and human rights and has contributed to Carrefour's support for the UN Norms on the responsibilities of transnational corporations and other business enterprises with regard to human rights⁴ in 2005. In 2007, FIDH initiated dialogue with other global retailers involved in the Global Social Compliance Programme (GSCP) on this issue. The Global Social Compliance Programme (GSCP) is an initiative of major international retailers, aimed at improving respect for labour standards in the global supply chain. Although it did not initiate them, was not involved in them, FIDH has welcomed discussions between Carrefour and other major retailers (Wal-Mart, Migros, Tesco, Metro) which have led to the creation of this new business platform in 2007. Indeed, FIDH considers that joint efforts and commitments by a critical mass of companies are necessary to bring sustainable improvements to the respect and promotion of workers' rights in the global supply chain. FIDH has been invited to join the Advisory Board of the Global Social Compliance Programme. FIDH sees its involvement in this initiative as a continuation of its long standing cooperation with European retailer Carrefour. FIDH has agreed to join the advisory board of the GSCP, together with, in particular, UNI (Union Network International, the affiliate of the International Confederation of Trade Unions - ITUC) in order to provide advice to the participating companies in the process, to encourage an alignment with the existing international standards



as minimum requirements, and to advocate the linkage between this initiative and other initiatives, particularly multistakeholder initiatives, also aimed at harmonizing attempts to improve respect for workers' rights in the supply chain. As a member of the GSCP's Advisory Board, FIDH believes it is in the most appropriate position to play its surveillance role and to channel the Programme towards increased accountability of all actors.

In 2007, FIDH also reinforced its collaboration with trade unions and developed a joint agenda of work with the International Trade Union Confederation (ITUC).

The Ready-Made Garment (RMG) Industry in Bangladesh

Bangladesh is classified as a least-developed country (LDC) and ranks 140th out of 177 in UNDP's Human Development Report 2007/2008.⁴ An estimated 40% of the population lives below the poverty line and adult literacy, at 47,5%, is among the lowest in the world. Almost 80 percent of Bangladesh's population lives in the rural areas. The rural economy constitutes a significant component of the national GDP, with agriculture (including crops, livestock, fisheries and forestry) accounting for 21 percent and the non-farm sector, which is also driven primarily by agriculture, for another 33 percent⁵.

The garment industry provides 76% of total exports and employs 2,4 million workers,⁶ out of a total population of 144 million.⁷

Most factories are close to Dhaka. Many women come from rural areas, which is said to have a positive impact on women's rights, and remittances are sent

4. For Bangladesh UNDP country fact sheet: http://hdrstats.undp.org/countries/country_fact_sheets/cty_fs_BGD.html

5. World Bank data, <http://go.worldbank.org/770VR4DIU0>

6. Source: <http://bgmea.com.bd>

7. World Bank data 2006.

8. According to BGMEA figures for July 06-June 07. Source: BGMEA newsletter July 07 (www.bgmea.com.bd)

9. Under GSP schemes of preference-giving countries, selected products originating in developing countries are granted reduced or zero tariff rates over the most-favored-nation (MFN) rates. The least developed countries (LDCs) receive special and preferential treatment for a wider coverage of products and deeper tariff cuts.

back to their home villages. The proportion of female workers is 60-80% and RMG is the only formal sector where a significant proportion of women are working. Men are usually found in sweater and knitwear, and in cutting/dying jobs. It is reported that the ratio is changing slowly in favour of men because of the opening of many sweater factories. There is a high level of migration of workers between factories, and the average turnover is reported to be around 20%. This high turnover is due to a strong demand for skilled labour combined with insufficient wages.

Exports increased by 16.59 % between 2005-06 and 2006-07. Ready Made Garment (RMG) exports are divided in: 49% to the European market, 33 % to the US market and the remaining 18% to other countries.⁸ Bangladesh products can enter the EU free of duty

under the Everything but Arms (EBA) window of EU's Generalized System of Preference (GSP) for Least Developed Countries (LDCs). However, Bangladesh fails to utilize the total GSP credit⁹ due in part to non-availability of domestic raw materials. Indeed, raw material is not produced in Bangladesh, which consequently depends on China, Pakistan and India for its supplies. The Bangladesh Garment Manufacturers and Exporters Association (BGMEA) is currently working to get duty free access to US market.

Safeguard restrictions on imports from China are due to expire on January 1, 2008 for the EU and January 1, 2009 for the US, meaning that Bangladesh will face increased competition. Many actors are of the opinion that diversifying the industry is necessary to guarantee a more sustainable development. ■

Recent Progress

Rapid improvements in factory conditions

Many actors interviewed shared the impression that working conditions in export garment factories had substantially improved over the last two years. Illustrations of such improvements included:

- Increased compliance of minimum wage payment; deductions from wages – as penalties – are becoming rare,
- Factory owners have started to assign a human resources, welfare or social compliance officer, and complaints can be directed to him/her,
- Some factories have created a “social welfare committee”¹⁰,
- Ventilation regulations are better observed,
- There is less verbal abuse,
- Workers increasingly receive a copy of their appointment cards (contract),
- Child labour is eradicated in export factories.

These observations seem valid for medium or large export garment factories but not for small factories which are producing for the domestic market.

Tripartite Memorandum of Understanding (MoU) was signed

A Tripartite Memorandum of Understanding (MoU) was signed in June 2006 between Employers, Employees and Government (Labour and Employment Minis-

tries), after a period of severe labour unrest.

The 10 conditions agreed upon in the deal were:

1. Reaching a consensus on immediate end to unrest
2. Withdrawing the cases filed against the workers in Gazipur, Ashulia and Savar and releasing the arrested workers
3. No workers will be terminated
4. Reopening the closed factories immediately
5. All workers to be given appointment letters and identity cards
6. No obstruction in fair trade unionism and combined bargaining
7. One-day weekly holiday for workers and other holidays as mentioned in the existing labour law
8. Overtime allowances to the workers enjoying regular salary as per the labour law
9. Maternity leave with pay as per the labour law, and
10. Forming a Wage Board to fix wages.

Set by the Wage Board, the minimum wage was increased for all categories of workers in the garment industry and came into effect on 22 October 2006. It had not been revised in the last 12 years. It is now set at 1662.5 Taka per month (about 16.5 EUR) for a Grade 7 worker (entry-level, unskilled). The workers had been asking that the minimum wage be increased from 900 Taka to 3000 Taka.

¹⁰ These committees are a substitute for what the law provides for in the form of “participation committees”. Participation committees require, according to the law, equal participation from workers and management and require workers representatives to be appointed by the unions or, in the absence of unions, to be elected by the workers. See Bangladesh Labour Law, 2006, section 205.

Revision of labour law in 2006

The initial labour law text dates back to 1969¹¹. All relevant laws are now included in one document. On the whole, this new legislation constitutes a progress with regards to the previous legal framework. Improvements include the extension of maternity leave from 12 to 16 weeks, and the facilitation to create trade unions in specific sectors. Also, all prosecutions for offences in the Labour Code 2006 must now take place in the Labour Court – rather than in the Magistrates Courts as before – and the court should follow the Criminal Procedure Code (section 313(1)). Complaints can be lodged either by an inspector [Section 319(5) allows an inspector to “lodge a complaint to the Labour Court with regard to commission of any offence”] or an “aggrieved person or trade union” – but they must be done so within six months of the commission of the offence (section 313(2))¹². However, several actors pointed to the fact that the new labour law is still weak on many issues. On Working hours for example, the legislation is weak: it fixes the working hours of a worker to a maximum of 10 hours a day, but specifies that “exception may be allowed in general or in particular for any establishment with the conditional permission”.

Strong signal from government that factories have to comply

The Caretaker government and trade associations (BGMEA and its equivalent for knitwear, BKMEA – Bangladesh Knitwear Manufacturers and Exporters Association) seem to have developed an efficient relationship, and the government supports the actors of this key sector for the economy of Bangladesh. However, the state of emergency established in January 2007 involves a prohibition of trade union activities, which is necessarily detrimental to workers’ rights. ■



11. As early as 1965 for certain regulations

12. Source: <http://www.corporateaccountability.org/international/bangladesh/law/code/criminal.htm>

Initiatives towards social compliance

Government efforts

Compliance issues gained significant importance of late, in particular after the Spectrum tragedy.

The National Social Compliance Forum was formed in 2005. It is headed by the Ministry of Commerce and co-chaired by the Ministry of Labour. It also coordinates with the Ministry of Works and Ministry of Home (on safety issues), BGMEA and BKMEA, buyers, donors, NGOs and international labour unions (notably ITGLWF and AFL-CIO). It acts as a guiding and coordinating authority at policy level on compliance related activities. A Compliance Monitoring Cell provides secretarial support to the National Social Compliance Forum (SCF), monitors compliance with the Tripartite MoU (using a database of 500 factories), raises awareness on compliance issues, and links with buyers. Two task forces were set up: one on labour welfare in RMG, and one on occupational safety (including building safety). Their role is to formulate compliance related work plans for the sector. A Crisis Management Committee was also established in July 2007.

Labour inspections are coordinated by the Ministry of Labour. Currently, the total number of inspectors is 111 for the whole country, out of which 63 are dedicated to factories inspections (not only RMG), the rest to stores and establishments. More inspectors are expected to be hired in 2008. Inspectors visit factories according to the government schedule, and it is unclear whether factories get notified in advance. If factories are not compliant within a set time frame, the Ministry may take them to the Labour Court (there are 3 in Dhaka, 7 in total for the country). The Chief Inspections Officer interviewed by the mission criticized the focus on RMG at the expense of other sectors e.g. printing press, cigarettes, etc. where child labour is still rampant.

Trade associations (BGMEA and BKMEA)

The Bangladesh Garment Manufacturers and Exporters Association (BGMEA) was formed 25 years ago and has a membership of 4000 factories, out of which about 2800 were active at the time of this mission. BKMEA (Bangladesh Knitwear Manufacturers and

Exporters Association) was formed in 1996, and has 1 500 members, out of which many are also BGMEA members.

BGMEA is active in the field of social compliance and is proud to say that compliance levels with the new minimum wage and other points of the MoU are high (over 90%). BGMEA has its own compliance teams for monitoring. BGMEA has established a Labour Cell (which gave input into new labour law, talks to buyers), a Safety Committee, health centers, training programmes, schools... According to BGMEA, the “Next step is participatory approach within the factory, rather than outside interference of unions. We want to develop processes by which workers can take their complaints”.

BGMEA has set up an Arbitration Committee, which, according to BGMEA, settles issues free of charge for workers and is faster than going to the Labour Court. It deals mostly with issues of payment of wages and overtime, leaves, illegal termination and dismissals and factory closures. It has reportedly handled over 2 000 cases since 1998 and realised more than 20 million Taka but requests by the mission for detailed information on the cases and their outcome were left unanswered.

BGMEA has received land allocation from government to build a garment village to be located 20km out of Dhaka, with dormitories for single workers. 400 factories will be moved and infrastructure will be built with government support. The objective is to close down old factories and attract foreign investment. FIDH is concerned about the potential negative impacts of this project on women workers as factories will be relocated further outside Dhaka, and include no plans for family housing. Women with children may not be able to work there as a consequence.

13. In April 2005, 64 workers were killed, 74 injured, and hundreds left jobless when the Spectrum-Shahriyar garment factory collapsed.

14. For more on the MFA Forum, see <http://www.mfa-forum.net/>

15. International actors committed to work with the MFAF in Bangladesh: The World Bank, The International Textile, Garment and Leather Workers’ Federation, Oxfam International, Ethical Trading Initiative (ETI), Social Accountability International, and the Fair Labor Association.

16. Gap Inc., Inditex, KarstadtQuelle AG, H&M, Levi Strauss & Co., Carrefour, Cotton Group, Inditex, Tesco, Nike, Marks & Spencer, Wal-Mart, Asda George UK, The Co-op.

17. GTZ has a program for the RMG sector called PROGRESS in which it partners with the Ministry of Commerce and Labour (provides training to labour inspectors), industry associations (BGMEA and BKMEA) and the NGO Karmojibi Nari and two other NGOs in Chittagong. The programme includes trainings to BGMEA/BKMEA social compliance officers, advisory role to factories, productivity improvement, environmental issues (e.g. ecological efficiency, focus on low cost solutions), and improving the image of the industry.

18. For example, in February 08, buyers sent a joint letter of concern to the Bangladesh authorities with regard to the arrest of Mr. Mehedi Hasan, labour rights investigator at Workers’ Rights Consortium (WRC). Mr. Hasan was released the following day.

Buyers and the Multi-Fibre Arrangement (MFA) Forum in Bangladesh

The MFA Forum¹⁴ is an open and global network of over 70 participants representing brands and retailers, trade unions, NGOs and multi-lateral institutions, which seeks to promote social responsibility and competitiveness in national garment industries that are vulnerable in the post-MFA trading environment. In May 2005, the MFA Forum decided to set up in-country groups to work in Bangladesh and in Lesotho.

The Multi-Stakeholder Forum Bangladesh¹⁵ (MFB) is composed of government, business associations, buyers¹⁶, NGOs and civil society (notably Oxfam UK in Bangladesh and Karmojibi Nari), development partners and trade unions. One representative of each stakeholder sits on the steering committee. It has reportedly been a challenge to get unions on board and their participation is irregular. GTZ¹⁷ has worked with the MFA Forum since 2005 and acts as secretariat for the MFB. It has now developed a 3 year action plan which has 3 main areas of work: social compliance, competitiveness and ethical purchasing practices. The main challenge for the MFB is, reportedly, to tackle the issues of freedom of association and collective bargaining.

The MFA Forum Bangladesh Buyers’ Group was originally convened in 2005 by the MFA Forum. Buyers meet on a regular basis to discuss issues of joint concern and occasionally take joint action¹⁸. They recently commissioned a research on purchasing practices, which was conducted by GTZ in the framework of the MFA Forum. Tesco sits on the Multi-Stakeholder Forum Bangladesh (MFB) steering committee, where it represents buyers. Carrefour’s involvement in the MFA Forum Bangladesh Buyers’ Group is limited. Carrefour participates in certain meetings held by different organisations for information sharing. For example, Carrefour participated in the survey on purchasing practices.

International Labour Organisation (ILO)

The ILO had a first project with BGMEA in 1985 which focused on eradicating child labour. It later tried to develop a training program for factory workers and management with BGMEA but only the first phase of the project was implemented. In 2005, ILO organised 2 high-level meetings on the challenges of the post-MFA era and social compliance. It is currently not active in the RMG sector in Bangladesh. ■

Issues of concern

Major labour rights violations still found

Despite recent improvements described above, the mission, through factory visits and interviews with various actors confirmed that major labour rights violations are still found in Bangladesh factories, including:

- No freedom of association: although unions exist as federations, they are de facto prohibited at the factory level; participation committees, where they exist, consist of workers appointed by the management while they should be chosen by the workers;
- No living wage: the legal minimum wage, where implemented, is insufficient to cover basic needs; wages are paid with delay and overtime is often not paid in accordance with the law;
- No access to remedies;
- Excessive working hours, inappropriate maternity leave and benefits, harassment, blocked exits, etc.

Freedom of association

None of the factories visited had unionized workers. There is no acceptance of the right to unionize at the factory level and owners fear trade unions. The situation has worsened since the state of emergency was declared in January 2007: all union activity is banned. It is felt by unions that factory owners are taking advantage of the political situation and of the fact that the caretaker government is not accountable.

Some factories have established so called participation or social welfare committees. In all factories visited, workers in the participation committees were appointed by the management, as told by the management itself. The participation committee cannot bargain anything, unions say, it can only discuss issues such as cleanliness, leaves, increase of productivity, etc. It can certainly not discuss salary increases. In Export Processing Zones (EPZs), where different regulations

apply,¹⁹ trade unions were not authorized by law.²⁰ In 2004, the government partially lifted these restriction by allowing workers in EPZs to form Workers Representative Welfare Committee (WRWC). Since 2006, workers are allowed to form “Workers Associations”, however formalities to create those committees are reportedly lengthy and complicated.

Unions raised the issue of the difficulty to access information on which buyer sources from which factory. This makes it difficult to resort to buyers’ pressure when a problem is found in a factory. FIDH believes that, by releasing the list of the factories they source from, buyers would in the long run contribute to increased compliance.

Minimum wage and living wage

Set by the Wage Board, the minimum wage was increased for all categories of workers in the garment industry and came into effect on 22 October 2006. It is now set at 1,662.5 Taka per month (about 16 EUR) for a Grade 7 worker (entry-level, unskilled).

If compliance figures bordering 100% – as claimed by BGMEA – are realistic for big export factories in Dhaka, they are – according to actors interviewed – unlikely and harder to check for small factories out of Dhaka. Most actors nevertheless agree that compliance with the new minimum wage has increased substantially over the last months. It is reported, however, that the wage increase only really benefited Grade 7 workers (unskilled, helpers) who usually constitute 5-10% of the workers. According to unions and auditors interviewed, Grade 4,5,6 workers are still not paid the wage provided by the law.

How the minimum wage increase was handled by factory owners should be closely monitored. Some have reportedly stopped to give production bonuses (e.g. factory before was giving 1,100 Taka in wage and 300-400 Taka in production bonus, now complies with minimum wage of 1662 Taka but without bonuses). Some have invested in new machines allowing to save on labour cost or relocate helpers to other jobs (e.g. machines to cut threads) as the mission was told by a factory owner. Some buyers, on their end, have accepted to (re)negotiate and increase their prices – it is reported by a supplier that 10-20% of the increase was covered by an increased cost of manufacturing (CM) – but this was usually done progressively and not by all buyers.

Even after its recent revision, the legal minimum wage remains the lowest of the sub-region and insufficient to cover basic needs. Indeed, living wage estimates²¹ vary between 2,500 and 7,000 Taka per month and RMG workers have been campaigning for their basic minimum wage to be set at 3,000 Taka (around 30 EUR), almost twice as much as the current legal minimum wage. This discrepancy is of particular concern in a context of major price hike and considering that, although the wage scale is supposed to be reviewed (which does not necessarily mean increased) every

19. EPZ investors benefit from a 10- year tax exemption, one stop cell to do business, and energy guaranteed 24 hours. Workers are paid in USD and their salary is reportedly higher than in other factories. EPZ are governed by the EPZ workers association and industrial regulations act, 2004, and supervised by the EPZ Authority.

20. According to the ILO, restrictions on labour unions in EPZs were removed in 2004: <http://www.ilo.org/public/english/region/asro/bangkok/arm/bgd.htm>.

21. According to the Ministry of Commerce, 5-10.000 Taka are needed to survive for a family of 4 (figures available in economic survey report, Ministry of Finance).

22. Source UNDP, 18 March 2008, Kemal Dervis discusses global price shocks in Bangladesh.

year and revised at least every 5 years according to the law, it is unclear whether and when this will be done.

According to BGMEA, talking about a living wage is not realistic right now, as the entire industry in Bangladesh relies on cheap labour. Most factory owners recognize that the minimum wage is insufficient to cover living expenses and agree that workers accept overtime systematically because they need the extra income. Some unions say they are unclear on what to fight for – minimum or living wage – in the current price hike context. Most unions interviewed felt that priority should be given to compliance with the minimum wage and its frequent/annual revision based on the price index.

Indeed, rising food prices are a big concern for most people in Bangladesh, where poor households spend nearly 70 percent of their income on food items. In December 2007, annual food inflation in Bangladesh reached 16 percent, and prices of the most important essentials, like rice and oil, increased more than that in the last year²².

Access to remedies

The Arbitration Committee was established in 1997, as a result of a strike, and is the outcome of an agreement that was reached between trade associations and unions. The Arbitration Committee developed as a parallel to the Labour Court system and has no legal basis. It is reported that workers go to the Arbitration Committee because, although they know they will get less, they can get a faster solution. In practice, it results useful in a number of cases but its efficiency and credibility would be enhanced if it were established and regulated by the law.

The Arbitration Committee is not independent but is chaired by BGMEA President, although the original agreement reportedly provided that the chairman be a judge. It does not guarantee equal participation from trade associations and workers representatives, which is also contrary to what is provided for in the original agreement. Twelve trade unions are in the BGMEA Arbitration Committee, where they can submit grievances. Not all unions are members of the Committee, some have chosen not to join because they felt decisions were biased in favour of factory owners.

The Arbitration Committee can only address problems arising at the factory level. Because of the one year time frame allowed to go to the Labour Court, if a worker loses at the Arbitration Committee, he/she cannot go to Court. Many unions are of the opinion that the law should clarify that in case the worker goes to the Arbitration Committee, there is a suspensive effect (i.e. the one year starts on the day the Arbitration Committee renders its decision).

The mission did not investigate more on the amount and results of cases brought to the Labour Court, but all actors interviewed agreed it is a too long process.



SUPPLIER CHARTER ON CHILD AND FORCED LABOR

শিশু শ্রম ও বাধ্যতামূলক শ্রম বিষয়ে
“সরবরাহকারীর সনদ”




- IMMEDIATE ABOLITION OF FORCED AND COMPULSORY LABOR:**

This shall refer to any work or service extracted from a person under menace of any penalty, debt bondage and not performed voluntarily.
- ABOLITION OF THE EMPLOYMENT OR WORK OF CHILDREN BELOW 14 YEARS**

In any production, manufacturing or assembly tasks.
- PAYING WAGES SUFFICIENT TO MEET BASIC NEEDS:**

Basic needs of the employees and their direct dependants.
- GUARANTEEING SAFE WORKING CONDITIONS:**

Notably with regards to working hours and overtime, that will not harm health, safety or morals.
- ENSURING EQUAL OPPORTUNITY:**

Equal opportunity of employment and wages, without discrimination of any kind.
- GUARANTEEING WORKERS THE RIGHT TO ORGANIZE TRADE UNIONS:**

In order to promote efficient discussion between the employees and the employers.

শিশু ও বাধ্যতামূলক শ্রম সম্পর্কিত সাগ্রাহীর সনদ। কারফুর এর সরবরাহকারী এর মূল নীতিমালা মেনে চলেবে।

- বাধ্যতামূলক এবং অস্বাভাবিক শ্রমের নিষিদ্ধি ১- কোন ব্যক্তির অধীনে কোন শক্তি, ঋণ, দাসত্ব এবং অনিচ্ছাকৃত যে কোন কাজ বা সেবার ক্ষেত্রে ইহা প্রযোজ্য হবে।
- শিশু শ্রমের নিষিদ্ধি ২- কোন উৎপাদন, উৎপাদন বা সেবা শিল্পের ব্যবহারে শিশুর কাজকে হবে।
- মৌলিক জীবিকা পূরণের উপযোগী মজুরী পরিপ্রেক্ষিত ৩- কর্মী এবং তাদের উপর নির্ভরশীলদের মৌলিক জীবিকা পূরণের উপযোগী পরিপ্রেক্ষিত প্রদান করতে হবে।
- নিরাপত্তা ক্ষেত্রে পরিপ্রেক্ষিত নিশ্চিতকরণ ৪- শ্রমিকের স্বাস্থ্যের সমস্যা বা প্রকারণিত বিষয়গুলি হোক না কেন তা মেনে শ্রমিকের স্বাস্থ্য ও নিরাপত্তার জন্য অসুবিধা না হবে।
- সমান সুযোগ নিশ্চিত করা ৫- কোন ধরনের অবস্থান বা কাজ এবং পরিপ্রেক্ষিত সমান সুযোগ বিত্তে হবে
- শ্রমিকদের ট্রেড ইউনিয়ন গঠনের সুযোগ নিশ্চিত করতে হবে ৬- শ্রমিকের দাবী এবং শ্রমিকের মধ্যকার সু-সম্পর্ক বজায় রাখতে ট্রেড ইউনিয়ন নিশ্চিত করতে হবে।

Carrefour's first supplier charter in Bangla. See the current Charter: www.carrefour.com/docroot/groupe/C4com/Pieces_jointes_Carrefour%20Supplier%20Charter%20EN.pdf

Social auditing weaknesses

Although this section is largely devoted to Carrefour's social auditing system and practices, some of the observations below equally apply to other retailers and brands which source from Bangladesh. Carrefour generally represents 15%-20% of total orders for its suppliers, more rarely 30 to 35%. The three main auditing firms active in Bangladesh are Bureau Veritas, Intertek and SGS.

Carrefour applies 3 charters to its suppliers: an ecological charter, a quality charter, and a social charter. The audits are carried out by external specialised auditing firms and paid for by Carrefour. It was reported that some other international buyers request their suppliers to pay for the audits. Every time a new potential supplier is identified, a social audit is commissioned and paid by Carrefour before the orders are confirmed with this new supplier. When the factory is scored D in the initial audit, it does not become a Carrefour supplier. Technical audits of Carrefour's suppliers take place every 2 years, and social audits at maximum every 2 years. All social audits are unannounced.

If problems are found, a corrective action plan (CAP) is drafted by the auditing firm, which suggests time limits for each corrective measure. The Production and Merchandising departments of Carrefour Bangladesh Sourcing Office are in charge of follow-up. The current system set up by Carrefour has to be adapted



to allow for proper follow-up of CAPs. The external follow-up audit takes place at maximum 2 years after the previous visit. In the mean time, it is left to Carrefour employees to check on the CAP implementation when they go to the factories for other purposes. However, they are not specifically trained to assess social compliance and it is not done in a systematic way. There is no written reporting on these follow-up visits relating to measures taken by the supplier. As a result pressure on the supplier to comply remains insufficient.

Auditors interviewed check social compliance on the basis of a questionnaire referring to national labour law and the buyer's code of conduct. When the code and law tackle the same issue, the most protective standard should in theory prevail and its respect be included in the Corrective Action Plan. This is the case concerning minimum age (child labour), however, Carrefour's provisions on decent wage is not taken into consideration in the questionnaire, which refers only to national legal provisions with regard to wages and benefits. According to a recent study conducted by GTZ which compares Labour Law 2006 with provisions contained in major international codes of conduct, Bangladesh Labour Law covers 85% of most codes of conduct provisions. However, it is insufficient in some areas e.g. child labour, forced labour, discrimination, voluntary overtime, which highlights the importance of bringing the Labour Law in accordance

with international labour standards. Most importantly, the provisions of national law with regard to freedom of association are disregarded.²³

In the opinion of many actors, social auditing is largely insufficient, in particular when it comes to issues such as working hours, living wage and freedom of association. There are also large sections of the RMG sector which remain out of reach: although most suppliers said they don't accept orders beyond capacity or send extra to "sister" factories, actors interviewed agreed that subcontracting is still prevalent. Moreover, the mission notes that the use of importers which source from Bangladesh still exists and it is unclear how social compliance is monitored in such cases by Carrefour.

For all the reasons stated above, constant monitoring by the workers themselves is indispensable to guarantee total compliance, many actors pointed out. Nevertheless, it is clear from the Bangladesh experience that the "scrutiny" and pressure brought by Corporate Social Responsibility programmes of international brands and retailers have brought serious improvements to Bangladeshi workers.

Downward pressure on prices and lead times

Social auditing efforts are largely counteracted by downward pressure on prices and lead times. Many suppliers and unions interviewed said that buyers have a contradictory speech: they say they want their workers to have enough food, appropriate housing, a decent wage, and at the same time keep putting pressure on suppliers to reduce their cost of manufacturing (CM). According to Carrefour Bangladesh, usual lead time is 90 days between when the order is passed and shipping. About 5% of the orders are requested under 90 days and, in such cases, Carrefour

23. It is to be noted that, most international codes of conduct contain provisions such as: "Where the right to freedom of association and collective bargaining is restricted under law, the employer facilitates, and does not hinder, the development of parallel means for independent and free association and bargaining." (ETI code, Source: www.ethicaltrading.org)

calls its suppliers and negotiates with them to see what is possible.

One of the consequences of shorter lead times is excessive working hours. Interview with factory owners showed that recourse to overtime is common although, one of them said, “we try not to go over 12 hours of overtime per week or 2 to 3 extra hours extra per day (...) beyond this limit, workers’ productivity decreases”. Some factories are open to or say they are trying hard to comply with social and environmental standards but this usually results in higher CM. Because of the internal competition between the various sourcing

offices within Carrefour, it is unclear whether the Bangladesh Office can “afford” to supply from some of these factories.

In FIDH’s view, it is highly problematic that social auditing performance (scores obtained in audits) is not adequately taken into account by Carrefour when making sourcing decisions. Price being the determining factor, a factory performing better than another on the social front is not favoured in any way. This questions the relevance of the social auditing effort as a whole. ■

Assessment of the training project

Description

A 3-year “fundamental rights at work” training programme for workers, mid-level management and top-level management covering all Carrefour supplying factories was launched in 2006, after the conclusion of a pilot project in 2004. The trainings are designed and implemented by local NGO Karmojibi Nari. Trainings sessions target three different groups, in the following order:

- **Top-level management:** The involvement of Carrefour’s Global Sourcing office in Bangladesh is key. A discussion with the factory owners takes place first, to present the objectives and content of the trainings. This requires considerable involvement on the side of Carrefour to get acceptance from factory owners. A 2-hour discussion takes place at Carrefour’s office which focuses on the content of the leaflets, the trainings schedule and other compliance-related issues that may arise. It is held between three or four factory owners, Karmojibi Nari and Carrefour;
- **Mid-level management training:** This session consists of a one-day training, on site. A lot of time is spent on gender discrimination and Karmojibi Nari trainers try to have an open discussion on its causes;

- **Workers training:** This training is composed of a 1 day training on site + ½ day refresher one month later. The group is composed of 20 workers (15 are selected by the management and 5 at random by Karmojibi Nari, a condition being that workers selected can read). The selection is supposed to reflect the proportion of male and female workers in the factory (usually around 60-80% female). Each worker receives 5 copies of the leaflets to distribute to other workers and is assigned the task to disseminate what he/she has learned.

Materials used in the training sessions include a video realised by Karmojibi Nari (which focuses on maternity leave and benefits) and leaflets presenting different aspects of the Labour Law. The 6 leaflets cover: (1) the right to an appointment letter (contract), the service book and ID card, (2) wage, when it should be paid, how much it should be, (3) working hours, (4) occupational health and safety, (5) leaves for sickness, maternity, vacation and festivals, and (6) duties and responsibilities – to be on time, discipline, good behavior, keeping facilities clean, reaching the target, reading the factory handbook, increasing skills, attitude towards women. Leaflets are based on the 2006 Bangladesh Labour Law, not on Carrefour’s social charter. It is felt by Karmojibi Nari that the fact that the content of the trainings is based on the “law of the land” makes them easier to accept by factory owners.

Positive aspects

Trainings take place at the factory level, during working hours, and bring the factory under increased scrutiny. Trainings give local NGO Karmojibi Nari access to factories, which would otherwise be impossible. There seems to be a good level of involvement from Carrefour Bangladesh to facilitate access to the factories and ensure trainings take place smoothly (e.g. a representative of Carrefour Bangladesh accompanies

Karmojibi Nari trainers during the first hours of training, Carrefour insists on the importance of social compliance during the dialogue that is established with factory owners at Carrefour's office).

Training sessions are very interactive and participation is high. They create opportunities for increased communication between all actors at the factory level, with peers and with superiors. Trainers have a good understanding of the position top-level and mid-level managers find themselves in, and in particular of the pressure and competition factory owners face. They try to be collaborative rather than confrontational. Trainings targeting not only management but also workers are relatively innovative in Bangladesh.

Practical difficulties encountered

Most factory owners fear that NGO activities will agitate workers, and resistance from factory management is high. As a result, the presence of factory management during workers' training is hard to avoid: top and mid-level management usually come to "check" or observe the workers' training, which is not ideal for the proper conduct of the training. Karmojibi Nari usually invites managers to leave after a couple of hours and tries to balance its message and make the link between social compliance and increased productivity, between rights and responsibilities of each actor. Practical difficulties are also encountered, such as delays in implementation. The programme was suspended for some time during social unrest in 2006, and it is reported that some trainings for workers and mid-level management had to be cancelled at the last minute, probably because of the workload or because of Ramadan. This makes it difficult for Karmojibi Nari to stick to its planning.

Trainings may need to be adapted from factory to factory. Some discussions indicated a level of awareness

on the side of workers that was quite high. If workers have a good knowledge of the legal provisions covered in the training, there might be a need to reorientate the training session towards less widely known aspects or to find ways to invite other workers to participate. Also, EPZ workers are covered by a different regulation and training sessions need to be adapted.

Today, trainings do not sufficiently address freedom of association. There is no leaflet on freedom of association, on the right to unionize or on profit sharing for employees, although these provisions are covered by the law. It appears that factory owners were consulted and that some reacted negatively (vetoed) the integration of these issues in the trainings. Karmojibi Nari said it decided not to publish leaflets on these issues, because it felt it was too confrontational. Getting approval from the NGO bureau may also have played a role. It is a slow process, according to Karmojibi Nari, and the issue of freedom of association will hopefully be addressed in future work.

Follow-up and assessing the impacts of trainings is a complicated exercise due to a high turnover of workers and lack of measurable criteria. Karmojibi Nari hopes that increased access to factories will prove to help the conduct of other activities in the future and is interested in strengthening follow-up, not only through "refreshers" for workers after the initial training as planned in the program. This will be discussed again in 1 year.

Measures envisaged to overcome difficulties encountered

In order to improve the quality and impacts of the trainings and address the above mentioned difficulties, FIDH and Karmojibi Nari have agreed to find ways to:

- If possible, provide oral information on freedom of association, right to unionize and participation committees (although there is no leaflet on this issue);
- Provide oral information on discrimination, not restricted to gender discrimination but also political, racial, ethnic, religious, etc. (although there is no leaflet on this issue);
- Provide concrete information to workers on remedies available to them (labour court, BGMEA arbitration committee);
- Over the course of the project, increase the number of workers selected by Karmojibi Nari vs appointed by the management;
- Continue to meet regularly with Carrefour Global Sourcing Office in Dhaka to discuss implementation of the project, planning of trainings and potential problems that need to be solved;
- Conduct research and develop one extra sheet for training in EPZ on labour regulations that apply to EPZ workers; adapt training sessions when conducted in EPZs. ■



Recom- mendations

To the Government of Bangladesh

- Immediately lift the state of emergency and restore fundamental rights guaranteed in the Constitution;
- Ensure adequate implementation of international covenants ratified by Bangladesh, and submit initial report to the UN Committee on Economic, Social and Cultural Rights (CESCR);
- Ratify ILO conventions, among which the following deserve to be recognized a high level of priority: ILO (n°155) Occupational Safety and Health Convention, 1981; ILO (n°161) Occupational Health Services Convention, 1985, and ILO (n°187) Promotional Framework for Occupational Safety and Health Convention, 2006;
- Ensure effective and impartial labour administration; increase effectiveness of Labour inspections and Labour courts, notably by allocating adequate resources for their proper functioning;
- Revise and increase the minimum wage so as to ensure it covers basic needs;
- Ensure that garment villages projects do not have adverse impacts on the enjoyment of human rights and in particular on women's rights;
- Ensure that investment agreements do not contain provisions that may have a negative impact on the enjoyment of human rights in Bangladesh.

To Factory owners and industry associations (BGMEA and BKMEA)

- Respect and promote fundamental rights at work in factories, including freedom of association and the right to collective bargaining.

To Multinational corporations sourcing from Bangladesh

- Assign Board level responsibility for social compliance; commit sufficient internal resources so as to ensure the effective implementation of the company's social commitments;
- Report on audit results and methodology; ensure adequate follow-up of audits and corrective action plans;
- Establish stable and long term relationships with suppliers, find ways to give incentives to suppliers

- who are socially compliant and integrate social performance criteria in sourcing decisions;
- Ensure your purchasing practices and orders management do not induce labour rights abuses on the side of producers trying to meet unrealistic deadlines and prices;
- Use the company influence in order to help promote and ensure respect for human rights: call on the authorities to revise and increase the minimum wage so as to ensure it covers basic needs; alert the Bangladesh government when trade unionists are being threatened, or if Labour Law provisions are not in accordance with international standards;
- Find ways to encourage and support the right of workers to unionize and bargain collectively, for example through trainings for factory workers and management;
- Engage with Human rights organisations and/or trade unions relating to labour rights in the supply chain; get involved in multi-stakeholder initiatives in which brands and retailers work with trade unions and other workers' rights organisations in order to improve respect for human rights;
- Publicly disclose manufacturing sites list of suppliers; put an end to using importers and trading firms which cannot be held accountable for respecting labour rights;
- Support demands for global norms on the Human Rights responsibilities of corporate actors.

To Carrefour specifically

- Assign clear responsibility for social compliance at the Bangladesh office. This could be done through a Social Compliance Officer, as recommended by FIDH in 2006 and 2005. The person in charge of social compliance would supervise audits, follow-up on Corrective Action Plans and coordinate Infans related activities (including trainings), and participate to multistakeholder initiatives on social compliance in Bangladesh; Request follow-up audit within 3-6 months maximum after Corrective Action Plan (CAP) was established. Establish a reporting procedure for CAP follow-up;
- Continue to meet regularly with Karmojibi Nari to discuss implementation of the project, planning of trainings and potential problems that need to be solved. Discuss ways to tackle the issue of freedom of association, in the trainings or in a separate project;
- Make efforts to hire women at the Bangladesh Sourcing Office so as to improve the gender balance;
- Improve and increase public communication on the efforts undertaken to improve social compliance in Bangladesh.

These recommendations and follow-up are discussed in the framework of the FIDH / Carrefour cooperation. ■

List of people met by the mission

Auditing firm

- SGS auditors

Bangladesh Government

- Ministry of Commerce – Mr. Mohiuddin, Joint Secretary Export
- Ministry of Labour – Dr. Seraj Uddin, Chief Inspector, Department of Inspection

Buyers

- Carrefour Bangladesh
 - Arif Razzaque, Manager Bangladesh & Pakistan
 - Bibek Majumder, Production Manager Bangladesh & Pakistan
 - Hasan Imam, Bangladesh Department Manager
 - Salim Uddin, Production Engineer
 - The entire team of the Global Sourcing Office Bangladesh & Pakistan
- Tesco
 - Jacqui Gray, Country Manager

Donors

- GTZ – Aameena Chowdury, Senior Business Advisor, PROGRESS (Promotion of social environmental and production standards in the RMG sector)

Factory owners

- Babylon factory – Mr. Emdadul Islam, Director
- Biswas Garments factory – Md. Abdul Mabud, Director Apparel Division
- Creative – Md. Giash Uddin, Director
- DBL Group (factory) – Md. Mahfuzur Rahman, Manager (Compliance)
- Hoplun – Nirupam Barua, Assistant General Manager
- Manta Apparels factory – Md. Manzur Morshed, Manager
- NAZ – Nasir Uddin Ahmed, Managing Director
- Need dress – Md. Jabed, Director Marketing, Jafar Ullah Jhan, Managing Director
- Sonia Sweaters factory – Mahabubur Rahaman, Director

International organisations

- International Labour Organisation – Mr Jamil

Media

- New Age Newspaper – Zayd Almer Khan, Deputy Editor

NGOs

- ASK – Mrs. Sultana Kamal
- Bangladesh Institute of Labour Studies (BILS) – Syed Sultan Uddin Ahmmmed, Asst. Exec. Director
- Bangladesh Legal Aid and Services Trust (BLAST) – Taslimur Rahman, Executive Director
- FNB - Mr. Abul Hasseb Khan, Vice-President (Director, Resource Integration Center)
- Friendship – Mrs. Runa Khan, Founder
- INCIDIN – Nasimul Ahsan, Advocacy Chief
- Karmojibi Nari
 - Shirin Akther, President
 - Rokeya Rafique, Executive Director
 - Shahid Ullah, Director of Policy and Research
 - Lipika Biswas, Trainer
- Odhikar – Adilur Rahman Khan, Secretary, Nasiruddin Elan, Acting Director
- UBINIG – Policy Research for Development Alternative, Muzharul Huq, Managing Director

Trade Associations - BGMEA

- Mr. Ferdous Perves Bivon, Vice-President
- Mr. Mohammed A. Salam, First Vice-President
- Inamul Haq Khan, Director Compliance Cell
- Mrs. Jenefa K. Jabbar, Advocate, Consultant

Unions

- Bangladesh Garments & Industrial Workers Federation (BGIWF)/BCWS, Babul Akhter, General Secretary
- Bangladesh Independent Garment Workers Union Federation (BIGUF), Rabeya Akter, General Secretary (affiliated with ITGLWF)
- National Garment Workers Federation (NGWF), Amirul Haque Amin

FIDH represents 155 human rights organisations on 5 continents

Constant mobilisation

Establishing the facts:

investigative and trial observation missions

Through activities ranging from sending trial observers to organising international investigative missions, FIDH has developed, rigorous and impartial procedures to establish facts and responsibility. Experts sent to the field give their time to FIDH on a voluntary basis.

FIDH has conducted more than 1 500 missions in over 100 countries in the past 25 years. These activities reinforce FIDH's alert and advocacy campaigns.

Supporting civil society:

training and exchange

FIDH organises numerous activities in partnership with its member organisations, in the countries in which they are based. The core aim is to strengthen the influence and capacity of human rights activists to boost changes at the local level.

Mobilising the international community:

permanent lobbying before intergovernmental bodies

FIDH supports its member organisations and local partners in their efforts before intergovernmental organisations. FIDH alerts international bodies to violations of human rights and refers individual cases to them. FIDH also takes part in the development of international legal instruments.

Informing and reporting:

mobilising public opinion

FIDH informs and mobilises public opinion. Press releases, press conferences, open letters to authorities, mission reports, urgent appeals, petitions, campaigns, website... FIDH makes full use of all means of communication to raise awareness of human rights violations.

FIDH

17, passage de la Main-d'Or - 75011 Paris - France

CCP Paris: 76 76 Z

Tel: (33-1) 43 55 25 18 / Fax: (33-1) 43 55 18 80

www.fidh.org

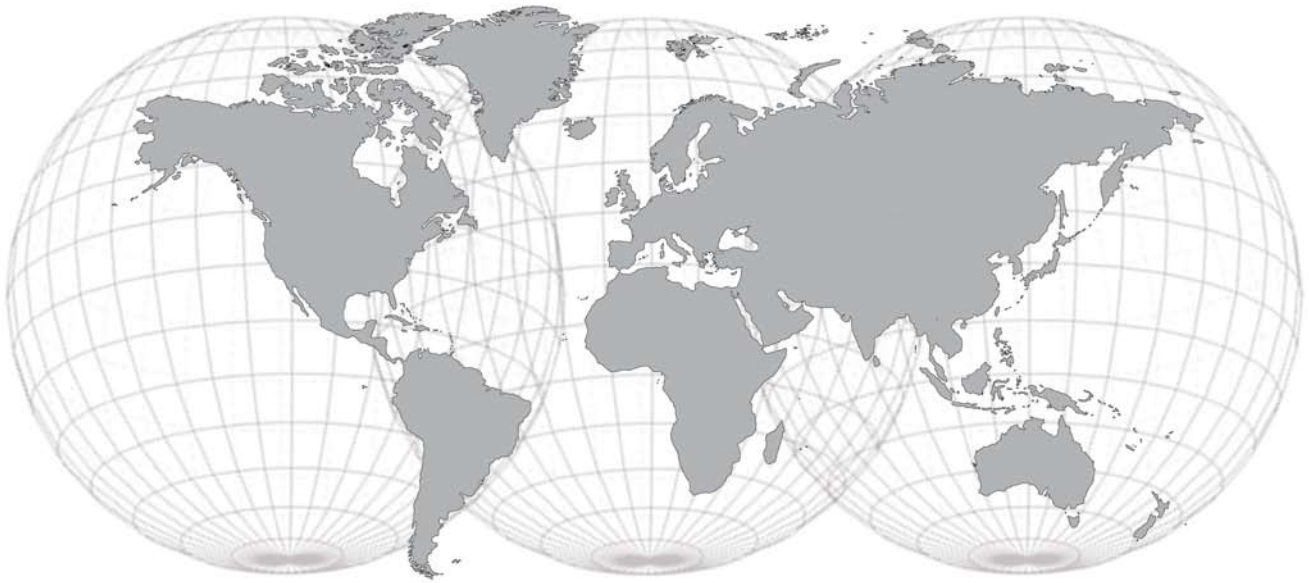
Director of the publication: Souhayr Belhassen

Editor: Antoine Bernard

Authors: Priscilla Claeys, Isabelle Brachet

Assistant of publication: Bruce Pleiser

FIDH represents 155 human rights organisations on 5 continents



person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty. Article III: Everyone has the right to life, liberty and security of person. Article III: No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms. Article IV: No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms. Article V: No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. Article VI: Everyone has the right to recognition every- where as a person be-

About Fidh

- FIDH takes action for the protection of victims of human rights violations, for the prevention of violations and to bring perpetrators to justice.
- A broad mandate:
FIDH works for the respect of all the rights set out in the Universal Declaration of Human Rights : civil and political rights, as well as economic, social and cultural rights.
- An international network:
FIDH was established in 1922, and today unites 155 member organisations in more than 100 countries around the world. FIDH coordinates and supports their activities and provides them with a voice at the international level.
- An independent organisation:
Like its member organisations, FIDH is not linked to any party or religion and is independent of all governments.

www.fidh.org
React: blog.gardonslesyeuxouverts.org