

# MFA<sup>+3</sup>

## LABOUR RIGHTS IN A CHANGING GARMENT INDUSTRY

### LOOKING TOWARDS THE FUTURE: PRIORITIES, PREOCCUPATIONS AND PROPOSALS

*MFA+3: Labour Rights in a Changing Industry*  
*September 30 – October 2, 2008*

On September 30 - October 2, 2008, approximately 60 representatives of women's, human rights, trade union, and other non-governmental organizations from 10 countries in the Americas gathered in San Pedro Sula, Honduras to share information and experiences on the impacts of the end of the import quota system three years earlier in January 2005. The seminar, **MFA+3: Labour Rights in a Changing Industry**, was co-sponsored by MSN and the Honduran Independent Monitoring Team (EMIH). It brought together labour and women's rights activists from Honduras, Nicaragua, El Salvador, Guatemala, Costa Rica, the Dominican Republic, Mexico, Peru, Colombia and Argentina.

Discussion at the seminar took place both formally and informally, including questions and comments during the panels, talks over lunch and during coffee breaks, and side meetings between participants. We do not pretend to have captured all of the richness of the questions, comments and ideas raised, however we have tried to summarize the key contributions made by participants throughout the three days.

### THE CONTEXT: WHAT WORKERS IN THE REGION ARE FACING

*Closures are widespread in Mexico and Central America, with the result that many workers have little chance of finding other jobs.* There is agreement on the increased number of factory closures in the region, but not all agreed on the causes of those closures. (Opinions vary widely – participants cited the expiration of specific national advantages like tax exemptions, changes to national legislation and minimum wages, competitive pressures, anti-union sentiments, manufacturer capabilities, and other reasons).

Many continue to connect closures to union busting and to the long-standing practice of maquilas closing after the expiry of their ten-year tax exemptions. Workers are rarely reincorporated into the formal workforce and if they are, they often work under worse conditions and for less compensation. This is especially the case for women and older workers (over 30 or 35).

There was general agreement among seminar participants that the demise of the import quota system in January 2005 has been a major factor behind many factory closures in the region.

***Workers who bear the brunt of restructuring are often not reincorporated into employment in other sectors.*** Repeatedly the big picture was brought into focus through the testimonies of women workers who are losing their jobs and have few if any other options in the formal labour market. Unemployed workers are also not represented through unions in formal spaces like tripartite commissions, and as a result the unemployed have even fewer possibilities to defend their rights.

***Freedom of Association is routinely violated.*** The industry is intensely anti-union. There is also an increased climate of violence and intimidation against human rights promoters and union leaders working on labour issues. Workers are intimidated from organizing and the business sector has been successful in promoting the idea that closures are the unions' fault.

*It's not enough to have a code of conduct posted, it should be mandatory to explain to workers that enter the factory what the union is and how they can become members. There should be penalties for factories that don't meet freedom of association standards, serious penalties. And if a factory closes, the brands should not follow the factory owners to a new location.*

– Freedom of Association working group, October 2.

***Health, safety and compensation for job-related injuries and illnesses are of critical concern.*** Various groups – particularly women's organizations from Central America and in north Mexico – emphasized the need for more work in this area. As factories downsize or close, workers are left with chronic injuries and illnesses and need to know their rights in order to access state entitlements for these work-related disorders. As well, these work-related illnesses and injuries further limit their chances of reincorporation into the workforce. This is especially the case for women and older workers who face discrimination in the labour market. There is a campaign in Honduras to reform the labour law in order to expand the number of illnesses/ injuries considered work-related and increase the rates of compensation.

*Various organizations have been working on this issue since the beginning of this decade. Workers' health is a very important topic, but it has not been on the agenda of the unions or the Labour Ministries. It's a fundamental issue for us, because women are losing not only their quality of life, they're losing years of life.* – Jeanette Urquilla, ORMUSA, El Salvador

***The garment boom in China is not a boom for workers.*** Once thought to be the last stop in the race to the bottom, China is no longer seeing significant growth in apparel investment, as manufacturers and brands shift production to even lower cost regions. Chinese workers are now facing job losses and the threat of closures, as well as a sharp

rise in the cost of living. There have been waves of wildcat strikes and work stoppages demanding better wages and working conditions. Smaller manufacturers are complaining that improvements in national labour laws – particularly with regard to contracts and severance due to workers, as well as local minimum wage increases – are having an impact on their ability to compete.

*In China, there are two levels of government: the central government, and the local government. The central government has created new laws that protect the workers. But in practice, the laws are implemented by local government, and in most cases lower level governments don't want to implement them. The Labour Bureaus don't want to support the workers at the local level, because local government officials always have close connections with the owners. They don't want any trouble for the bosses. Enterprises provide basic tax revenues.*  
– May Wong, Globalization Monitor, Hong Kong

*I'd like to differentiate the criticisms that we're directing towards the Chinese government, and the solidarity we have for Chinese workers from the anti-Chinese movement coming from USA that historically has more to do with seeing China as representing communism and the weakening of their own empire. In the long run, we want a balance of political forces that is favourable for women workers.* – Magaly Pineda, CIPAF, Dominican Republic

## **ROLES AND RESPONSIBILITIES: THE STATE AND THE BRANDS**

***The State is still an important actor in labour standards regulation.*** The role of the state came up in various ways. The failures of brand strategies and monitoring to deliver sustainable compliance with labour laws again raised the key question of how to strengthen the state's role in guaranteeing the basic rights of its citizens.

*Brands are now talking about better government regulation. That may sound a bit false to us, but it's not entirely so since there are contradictory demands being made by the brands. On the one hand they tend to shift production to countries with a lower minimum wage, which encourages other countries to repress wages, but they also have an interest in other labour legislation being enforced. What we're hearing from brands is that their own monitoring programs are not working. They know it. It's also extremely expensive to monitor. So they want some kinds of worker rights legislation, more consistent enforcement of labour laws, and less corruption. Even though there are contradictions in the brands' demands on some issues, we should explore possibilities of brands speaking out in favour of some types of regulations.* – Bob Jeffcott, MSN, Canada

***Some national governments do not value the garment sector.*** Some states (China, the Dominican Republic and Costa Rica, for example) have been either ignoring the garment

sector crisis or reducing subsidies and actively discouraging more investment in the sector. These states want to promote more capital-intensive, higher-skilled industries. Unfortunately, they are also generally ignoring the problem of retrenchment: for example, the likelihood that the workers laid off from the garment sector – especially older women workers – will not be reincorporated into new export industries.

*In China the state doesn't want more investment in the textile sector because they want to get into other sectors like electronics. They see textiles as the entry sector for poor countries. Unfortunately, it's not clear that people hired in manufacturing cars and electronics will be the women who lose their jobs in garments. Other countries like Mexico, say the same thing, that they want other industries. But Mexico is a country where every year there are 1 million new entrants to the labour market, so clearly it doesn't make sense to give up on employment in the textile sector. – Jennifer Bair, University of Colorado, USA*

## **The brands**

Different groups have had varied experiences with codes of conduct and these experiences have informed their opinion of the usefulness of brand leverage, codes and monitoring. Everyone could agree that the benefits have been limited at best. In general, participants argued that **codes of conduct are a weak tool -- but a tool nonetheless**. Women's and labour rights groups remain skeptical of "Corporate Social Responsibility" approaches, noting that brands' indifference to closures and their failure to honour commitments to reinstate workers show some of the limits of codes of conduct and social movement strategies that target brands.

*For workers, CSR is a farce. Women lose employment and do not receive severance payments. Factories continue to violate the rights of workers. For many years, we've tried to establish dialogue both with brands and with manufacturers in this country but it's like talking with deaf and dumb people. They don't want to hear. – Maria Luisa Regalado, CODEMUH, Honduras*

*SEDEPAC has participated in four campaigns and we don't feel we made enough use of codes. We used to believe that if we used codes, we'd be abandoning the labour law. Now we realize that codes can be tools, and that they do not replace the law. This is why we started to tell workers to analyze the possibilities to see how the codes could be exploited. This has been a very important learning experience. – Betty Robles, SEDEPAC, Mexico*

The brand record is mixed. Over the past ten years, brand intervention has helped to raise awareness about labour rights and to change discriminatory and illegal practices like pregnancy tests and the use of child labour, and in some closures brand intervention has helped ensure that Labour Ministries meet their responsibilities and legal severance is paid. ***A recurring problem, however, is that gains won on freedom of association***

***through brand pressure are not sustained because too many unionized factories close down.***

***Demands towards buyers need to be of a more “structural” nature.*** There seemed to be general agreement that the participants wanted brands to make commitments to stable orders, to guarantee severance in the case of a closure and to support freedom of association in the case of a campaign at the factory or national level. Participants commented that regularly shifting production between suppliers and countries can have devastating consequences for workers but brands face no repercussions when their sourcing departments contribute to these negative consequences. Also, it is not helpful if a brand’s CSR department urges a factory to recognize a union and then the brand’s sourcing department subsequently decides to reduce orders or exit the factory altogether.

*Let me give you a case of a factory where there was a union organizing campaign that was still clandestine and there was a remediation plan from company monitoring that was not yet implemented. When the company decided to close down, the brand wanted us to go and verify that legal severance payments were made, but we said no, because we didn’t want to substitute for the role of the Ministry of Labour. The Ministry of Labour said the brand was very good because they were coming back to solve these problems, but when we investigated the factory, we found the company was going to close because the brand was also demanding a reduction in the price of the product. So there is a contradiction between brand demands for social compliance and the price the brand is willing to pay. – Maritza Paredes, EMIH, Honduras*

*This is a problem with many sides. I’m thinking of the men and women that are not organized. I always ask myself, what will these workers think of this strategy? The first thing they’ll wonder is, is there job security? In my country the first concern is whether they’ll keep their job. Secondly, they’ll think of labour rights. This places all of us at a crossroad.*  
– Lourdes Pantaleon, Fundación Laboral, Dominican Republic

*When we look at the cost structure, the profit margin belongs to the brand. The brand gets the big profit. So they have to become flexible and lose something. Otherwise the brands continue demanding compliance from suppliers without paying a price, and then they have to close. – Juan Carlos Vargas, Plades, Peru*

*Can we look at ways to change the conditions under which companies install themselves in the country? – Luciana Malamud, Red Puentes, Argentina*

***Although the “race to the bottom” on wages was of major concern, the conversations and debates focused primarily on national governments and the pressure they are under to lower wages or differentiate minimum wages for specific zones or sectors.***

## CRITICAL ISSUES: IS THERE AGREEMENT?

There seemed to be consensus that the four hurdles highlighted by MSN are critical issues throughout the region:

- a negative climate for union organizing;
- increased flexibilization of labour;
- industry restructuring and closures; and
- a race to the bottom on wages.

However, many participants criticized the lack of gender perspective within the MSN analysis and the demands directed to brands.

Representatives from women's organizations made clear that women's labour health and safety issues are at the forefront of their current priorities. These issues are integrally linked to any serious analysis of the impacts of high production targets, excessive working hours and work intensification.

*The issue of discrimination needs to be addressed in the demands. There should be incentives for companies that have affirmative policies that are not based on reducing labour costs, such as promoting more employment of women and older workers.*

- Ariane Grau Crespo, Campaña Regional (de America Central) contra la Flexibilización, El Salvador

***Flexibilization of work is a multi-dimensional issue.*** While MSN has presented the issue mostly in terms of consecutive short-term employment contracts and outsourced labour, various participants noted that flexibilization can also be related to the organization of production (4 x 4 work shifts for example), efforts to weaken worker protection in national labour laws, and the systematic violation or ignorance of existing legal regulations. It also involves a general shift in the relations of production from paying for labour-time to paying for production. Paying for production is seen as a way to decrease wages and intensify work. Lastly, flexibilization is closely linked to the issue of factory closures. Demands should be made to governments to limit the mobility of factories through transparency of ownership and the requirement of a fund to guarantee severance pay.

***Freedom of association remains a key concern.*** This was raised by several presenters, who emphasized the need for an organizational base from which to take on a range of issues. But in different contexts, the key issues related to freedom of association might be different. In Mexico, for example, participants described a campaign against "protection contracts" which ensconce party-affiliated "official" unions or corrupt labour lawyers without worker participation or knowledge. A number of participants noted that factory-specific struggles to win representation by independent unions have been undermined by the pattern of closures.

*Freedom of association is a key issue, both in this sector and in other sectors. This allows us to establish a sustainable mechanism, a channel to address other issues. We should not just suggest, but demand from companies to establish supply relationships with factories that are organized. This is an intervention that will have effects on consolidation and restructuring of the sector.*

– Juan Carlos Vargas, Plades, Peru

***Occupational health and safety (OHS) seemed to be a unifying campaign issue for women's groups in Central America and Mexico.*** OHS issues are closely linked to long working hours, work organization and work intensification. Women's groups had clear proposals for how to coordinate regionally on OHS. OHS is differentiated by gender and age and is therefore not just an issue that can be addressed by a union alone. Tripartite approaches are also limited because they don't include civil society and women's organizations.

*We have a proposal for MSN -- that you should be a link between Mexico and Central America in the area of workers' health. MSN could help to circulate case studies on health. There are cases from brands like Hanesbrands that we have in common. If the organizations can share the case studies we can use them as a tool to pressure the brands and manufacturers.* – Betty Robles, SEDEPAC, Mexico

## QUESTIONS AND PROPOSALS

### **Key points:**

- There is a need to form new alliances and to consider the broader picture;
- Can the region reposition itself in a competitive apparel market?
- There are small openings and opportunities for state regulation within a general context of institutional weakness;
- Can we build coordination of labour regulation on a regional basis, similar to the Pacto del Conosur (Argentina, Chile, Uruguay, Brazil)?;
- Continuing dialogue between unions and women's groups is an important strength we need to build on; and
- We have to address and challenge this pressure to weaken national laws.

### ***There is a need to form new alliances and to consider the broader picture***

Various speakers mentioned that the situation has led them to consider what the possibilities are for forming new alliances and how to articulate a broader set of demands around fundamental economic and social rights. The wave of factory closures raises the question of strategies to demand rights for the unemployed. Demands for state regulation and accountability extend far beyond the garment sector and the violations of law committed in that sector. Many of the organizations in the region are working across sectors and looking at regulatory changes that affect the whole range of industries.

*Although the White Book<sup>1</sup> recommendations and implementation process are limited, it has opened up opportunities in Guatemala to get the key parties together in a tripartite commission to discuss pressing issues. It has also provided reliable statistical information and public disclosure which allows us to identify problems and address them. – Homero Fuentes, COVERCO, Guatemala*

***Can the region reposition itself in a competitive apparel market?*** Price remains the major determining factor in sourcing, which in part explains the movement of orders to and from different countries and regions. Are there ways for the region to take advantage of cost savings from proximity to US markets when oil costs are high (keeping in mind that we also have to reduce the cost of transporting inputs)? Will the failure of consumer spending in the US have impacts on labour rights? There is already a crisis in the apparel industry for higher-price brands losing out to low-cost discounters like Wal-Mart. This may make the industry even more price-competitive, which will impact on labour rights.

***There are small openings and opportunities for state regulation within a general context of institutional weakness.*** This varies depending on the political context of each country. There are large donor projects being dedicated to state labour institutions but the results are not yet felt. In Mexico and Central America, with the exception of Nicaragua, there is consensus that the state apparatus for labour issues (inspection, labour ministries and judicial branch) is very weak. In Nicaragua, participants noted, the Ortega government has been strengthening inspection capacity and the Ministry of Labour. In Argentina, there is a process to rebuild labour inspection. In Colombia, the labour movement has found some support from the judicial branch. The ministry also played a key role in Peru in the TopyTop case.

*But what space is there for workers to participate? I worry about the manipulation that can be made around the role of the state. Companies are now focusing on role of the state, but how are the rights of workers going to be dealt with there, given uneven power relations? – Maritza Paredes, EMIH, Honduras*

***Can we build coordination of labour regulation on a regional basis, similar to the Pacto del Conosur (Argentina, Chile, Uruguay, Brazil)?*** There is an effort on the part of these four countries to coordinate their labour legislation and set common standards and enforcement mechanisms in order to foreclose unfair competition as the countries integrate their markets. What are the benefits of this approach? Is it replicable?

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<sup>1</sup> “Labor Dimension in Central America and the Dominican Republic: Compliance Reinforcement and Capacity Improvement”, commonly known as the “White Book”. The White Book was drafted by the deputy ministers of trade of the DR-CAFTA country members. It contains information and recommendations regarding: freedom of association, unions and collective bargaining; strengthening of the DR-CAFTA member states’ institutional capacity; training of labour tribunals; gender discrimination in the workplace; child labour; and compliance issues.



*We talked about labour regulation at the regional level through the Central American Parliament, but we should be careful because there's every possibility they would harmonize downwards.*

– Gabriel Zelada, Centro de Estudios y Apoyo al Desarrollo Local (CEADEL), Guatemala

***Continuing dialogue between unions and women's groups is an important strength we need to build on.*** There is a real diversity amongst both women's groups and unions on this issue. In general, women's groups argued that tripartite structures exclude them both in terms of representation and issues that are addressed. Unions can also reproduce sexual hierarchies that undermine women's leadership and the structural incorporation of women's issues as fundamental to the union agenda. In general, union representatives argued that these issues can be resolved within the existing structures of trade unionism. The FAT was highlighted as an example of a union that is integrating gender as substantive to its structure. To further women's labour rights, groups identified diverse approaches: women labour leaders fighting for space within unions, women's groups working with unions, or working largely separately or even in opposition to them.

*Many unions consider that the matter of women's work is their territory. Any other organizations that work on this are considered their competition. This has to stop. Decent Work is not just a workplace problem. It's something that has to do with the whole of society.* – Magaly Pineda, CIPAF, Dominican Republic

*We place the largest responsibility on the union as the organized expression of workers, and we from the NGOs become the juncture that focuses on maximizing the alliance of the unions with us as NGOs in communities where workers live, with all social forces that organize workers, both employed and unemployed.* – Lourdes Pantaleon, Fundación Laboral, Dominican Republic

*The kind of work you do [in the FAT, Mexico] is what we are saying needs to happen in the labour movement, any part of it, the right, the left, whichever. I was a founder of the Sandinista Labour Central and I've always been a union leader. The only thing we propose is that we should grow more than where we are. If we can all contribute together, we can improve the lives for men and women in the country.* – Sandra Ramos, MEC, Nicaragua

*If we are against neoliberalism, then we have to be attacking patriarchy. When there are mixed groups, the issue is not just to be there but to participate.* – Maria Luisa Regalado, CODEMUH, Honduras

***We have to address and challenge this pressure to weaken national laws.*** The international demands presented by MSN are generally oriented towards pressuring brands and making use of brand leverage. While agreeing that brand leverage can sometime be a useful tool for workers, many seminar participants emphasized the importance of also pressuring the state to carry out its responsibilities to workers. At the

same time, some participants questioned demands that are oriented exclusively towards ensuring legal compliance when there are proposals under discussion to “flexibilize” the law itself – in which case legal compliance will not be enough.

## **NEXT STEPS**

Participants agreed that seminars of this sort provide a much needed space for women’s, trade union and human and labour rights organizations to share information, analysis and strategies. While it is sometime difficult, in the midst of important local and national struggles, to think beyond the local and develop regional and international alliances and strategies, opportunities for these kinds of discussions and debates are very much needed. Such gatherings also provide opportunities for women’s organizations, trade unions and NGOs to discuss their differences in a non-confrontational setting and to seek common ground.

Based on the discussions that took place at the seminar, issues that would benefit from greater regional coordination and sharing of information among seminar participants and other organizations include:

- Factory closures by companies operating at a regional level;
- Impacts of work intensification and excessive working hours on workers’ health;
- Competition between governments to flexibilize labour laws and regulations; and
- Regional competition on wages and government efforts to reduce the minimum wage and/or create differential minimum wages for specific geographic regions, zones or industries.

In 2009, MSN will be following up with the seminar participants and other organizations to discuss how to improve information sharing and regional collaboration on these issues.