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**The impact of globalisation on workers' rights
in Export Processing Zones (EPZs):
the case of the trade union movement in
Bangladesh**

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By

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Abstract

This research aimed to investigate the impact of globalisation on workers' rights in Export Processing Zones (EPZs) with reference to the trade union movement in Bangladesh. Trade unions were banned in Bangladesh's EPZs until 2004. Caught by international pressures such as the United States, the ILO and local grassroots mobilisation, the government of Bangladesh passed the 'EPZ Workers' Association and Industrial Relations Act 2004' in July. The Act permitted workers to form trade unions termed locally as "Sramik Sangha" in Bangladesh's EPZs. This research asks what role does "Sramik Sangha", as a trade union representing Bangladesh's EPZ workers; play in overcoming precarious employment conditions? Different types of participants, such as officials of the relevant state agencies, employers' associations, trade union federations, EPZ plant level union representatives, senior EPZ enterprise officials and workers, were involved in this research.

These trade unions have helped to achieve some positive results in a number of key areas of workers' rights. For example the trade unions have been able to implement new minimum wage rates, sometimes as a result of labour disputes. However the disputes are in no way always successful and the trade unions are associated with various adversities, fears, risks, harassment and repression during the conflict stage. The research revealed that tight bureaucratic control of the state agents over the EPZ unions imposes some limitations on the independent democratic functions of the unions and presents particular challenges to their traditional organising model.

The state agent Bangladesh Export Processing Zone Authority (BEPZA) has the power to affect trade unions through cancellation of registration of a trade union on account of severe contravention of any of the provisions of the Act of 2004. Thus there is a call from workers and union leaders for complete waiving of bureaucratic control clauses from the "EPZ Workers' Association and Industrial relations Act 2004" and for recognition of full democratic power for the EPZ trade unions by the government. However, it seems a far reaching goal since employers do not normally want to see strong unions in their enterprise.

The research reveals grounds for some optimism. Despite the enormous difficulties that still lie ahead, EPZ trade unions can transform into full democratic trade unions. The process of restructuring trade unions is by no means an easy job. The research concludes by arguing that advocacy from global economic, political, social and other supranational forces such as the International Labour Organisation, the World Trade Organisation, the Organisation of European Community Development, local NGOs and Trade Union Federations could be of vital importance. Future research work focusing upon global solidarity could also make a significant contribution to the field.

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This thesis exemplifies more than just a study, but an era within my life, encompassing many years that have been forged by experiences and influences of family, friends and society in general. This phase of my life, similar to that of many people, has seen its ups and downs. Sacrifice and persistence has brought knowledge and this thesis into existence, but not by independence. Indeed, an endeavour that extends many years takes more than an individual to make it a success. My prayer as I enter the next phase of my life is that I can utilise the knowledge that I have attained to make this world a better place.

Dedication

I dedicate this thesis to all of my well-wishers, with thanks for being the greatest influences and instilling the confidence to pursue my dreams. This dedication includes so many people, particularly, my awesome family. For if it was not for their love, support, and encouragement I would have never accomplished this great task. I also dedicate this thesis to the faculty and staff of the University of Liverpool.

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Abbreviations

ACFTU	All China Federation of Trade Unions
AFL-CIO	American Federation of Labour and Congress of Industrial Organisations
CBA	Collective bargaining agent
CLR	Campaign for Labour Rights
BGMEA	Bangladesh Garment Manufacturers and Exporters Association
BGWF	Bangladesh Garments Workers Federation
BLA	Bangladesh Labour Act
EPZ	Export Processing Zone
BEPZA	Bangladesh Export Processing Zone Authority
ESMA	Essential Services Maintenance Act
ESDS	Economic and Social Data Service
FDI	Foreign Direct Investment
GDP	Gross Domestic Product
GSP	Generalised System of Preference
ILO	International Labour Organisation
ITUC	International Trade Union Confederation
ICFTU	International Confederation of Free Trade Union
MFA	Multi-Fibre Agreement
MNC	Multinational Corporation
NAFTA	North American Free Trade Agreement
OECD	Organisation for Economic Co-operation and Development
RMG	Ready Made Garment
TU	Trade Union
UNICEF	United Nations International Children's Emergency Fund
UNIDO	United Nations Industrial Development Organisation
UNO	United Nations Organisation
UKDA	UK Data Archive
WTO	World Trade Organisation
WB	World Bank
WAIRA	Workers' Association and Industrial Relations Act
WRWC	Workers' Representation and Welfare Committee

Glossary

Arbitration

A means of resolving disputes outside the courts through the involvement of a neutral third party, which can either be a single arbitrator or an arbitration board.

Bargaining agent

A workers' representative authorised to bargain collectively on behalf of workers in a bargaining unit.

Bargaining unit

A group of workers within a particular company, establishment, industry or occupation that constitutes an appropriate unit for the purpose of collective bargaining.

Casualisation

The practice of increasing the flexibility of the workforce by replacing permanent, full-time workers with workers on temporary, irregular contracts.

Collective bargaining

The process of negotiating mutually acceptable terms and conditions of employment as well as regulating industrial relations between workers' representatives, trade unions, or trade union centres on the one hand and an employer, a group of employers or one or more employers' organisations on the other.

Collective bargaining agreement

An agreement, generally in writing, that incorporates the results of collective bargaining between representatives of workers and employers.

Collective dispute

A conflict between workers and employers concerning conditions of work or terms of employment.

Company union

Used to describe either an enterprise union or a yellow union .

Conciliation

An attempt by a neutral third party (Like BEPZA in this research), a conciliator, to aid the settling of an industrial dispute by improving communications, offering advice and interpreting issues to bring the disputing parties to a point where they can reconcile their differences. The conciliator does not take as active a role as a mediator or an arbitrator.

Downsizing

Reduction of a company's workforce generally in an attempt to cut costs and improve efficiency.

Employers' organisation

A body of employers associated for the collective protection and promotion of their interests. Can engage in collective bargaining with trade unions or trade union organizations. Bangladesh Garments Exporters and Manufacturers Association (BGMEA) is one of the Bangladesh EPZ employers' association,

Enterprise union

A union whose membership is limited to workers in one particular enterprise. Sometimes called a company union, but should not be confused with a yellow union.

Export processing zone

A special industrial area in a country where imported materials are processed before being re-exported. Designed to attract mostly foreign investors by offering incentives such as exemptions from certain trade barriers, taxes, business regulations, and/or labour laws.

Freedom of association

The right to form and join the trade union of one's choosing as well as the right of unions to operate freely and carry out their activities without undue interference.

Go-slow

A form of industrial action where by the workers deliberately reduce their pace of work in order to restrict output.

Independent union

A trade union that is not affiliated to a national union. Can also be a union that is not dominated by an employer?

Industrial action

Any form of action taken by a group of workers, a union or an employer during an industrial dispute to gain concessions from the other party, e.g. a strike, go-slow or an overtime ban, or a lock out on the part of the employer.

Industrial dispute

A conflict between workers and employers concerning conditions of work or terms of employment. May result in industrial action.

Industrial relations

The individual and collective relations and dealings between workers and employers at the workplace, as well as the institutional interaction between unions, employers and also the government.

International Labour Organization (ILO)

A tripartite United Nations (UN) agency established in 1919 to promote working and living conditions. The main international body charged with developing and overseeing international labour standards.

International labour standards

Principles and norms related to labour matters, primarily codified in the Conventions and the Recommendations of the International Labour Organisation (ILO). Include core labour rights such as association and the right to organise, the right to bargaining and the right to strike, which are all covered by ILO Conventions 87 and 98.

labour dispute

A conflict between workers and employers concerning conditions of work or terms of employment

Labour inspection

An authority responsible for ensuring compliance with labour laws and legal provisions relating to protection of workers through the inspection of workplaces.

Lockout

A form of action whereby an employer refuses work to its employees or temporarily shuts down operations.

Most representative union

The union which represents the largest number of workers in a bargaining unit. Can be awarded exclusive representation, by which it becomes the sole union authorised to represent the workers for the purpose of collective bargaining.

Non –wage benefits

Non-wage employee benefits received from the employer, for example travel allowance, insurance and paid vacations.

Organising

The process of forming or joining a trade union, or inducing other workers to form or join one.

Overtime ban

A form of action in which workers carry out their normal work but refuse to perform any overtime.

Picketing

Demonstration or patrolling outside a workplace to publicise the existence of an dispute or a strike, and to persuade other workers not to enter the establishment or discourage consumers from patronising the employer. Secondary picketing involves picketing of a neutral establishment with a view to putting indirect pressure on the target employer.

Social Clause

A provision in an international trade agreement that would link trade liberalization and labour standards. Incorporates those basic labour standards on which developed and developing countries agree. These standards apply to the right to organise trade unions, the right to collective bargaining, the banning of forced labour, non-discrimination and the minimum working age.

Social dialogue

Discussion and co-operation between the partners on matters of common interest, such as economic and social policy. Involves participation by the state where tripartism practice.

Social partners

Unions and employers or their representative organisations.

Strike

The most common form of industrial action, a strike is a concerted stoppage of work by employees for a limited period of time. Can assume a wide variety of forms.

Trade union centre

A central organisation at the national, regional or district level consisting of affiliated trade unions. Often denotes a national federation or confederation.

Tripartism

The principle of involvement of and interaction between three parties having equal status, namely the partners and the government.

Union busting

Attempts by an employer to prevent the establishment of a trade union or remove an existing union, e.g. by firing union members, challenging unions in court, or by forming a yellow union.

Wildcat strike

A spontaneous or unannounced work stoppage called by workers without the authorisation of their union.

Yellow union

A union set up and/or controlled by the employer to prevent the establishment of a genuine trade union.

Chapter 1: Introduction

1.1 About the research

This research aims to investigate the impact of globalisation on workers' rights in Export Processing Zones (EPZs) with special reference to the trade union movement in Bangladesh's EPZs. EPZs are defined areas of a country where government regulation, taxes and tariffs are lifted or dramatically reduced in an effort to attract foreign investment. Bangladesh following neo-liberal economic policy adopted industrialisation strategy through EPZs from 1983 (see Bangladesh country profile in Appendix B). Nearly 0.295 million workers, mostly women, work in the Export Processing Zones (BEPZA, 2011).

The reason for considering Bangladesh as a case study can be attributed to the long struggle of Bangladesh's EPZ workers for trade union rights. After long struggles and various forms of movement for mobilisation, EPZ workers in Bangladesh gained trade union rights in July 2004. Initially EPZ employers were hostile toward the trade union movement, and state policy was also against trade unionism in the EPZs. Details of the employers' hostility and anti union state policy are discussed in this thesis.

The background and process of achieving EPZ workers' trade union rights through different forms of mobilisation strategies, along with how the newly emerged trade unions faced challenges in performing emancipatory roles for the EPZ workers, attracted academic interest for empirical research in this field. The International Labour Organisation¹ (ILO, 2006) also wanted Bangladesh as a special case for EPZ trade union study in the sense that it wanted to see Bangladesh ensuring full freedom of association and bargaining rights for EPZ workers. The ILO also urged the Bangladesh government to take all necessary measures to eliminate obstacles to the exercise of trade union rights in the EPZs, and to adopt specific measures, coupled with effective and sufficiently dissuasive sanctions, against acts of interference in trade union

1. The International Labour Organisation is a specialised agency of the United Nations established in 1919. The ILO is the global body responsible for drawing up and overseeing international labour standards. Working with its Member States, the ILO seeks to ensure that labour standards are respected in practice as well as principle.

activities, and to ensure that these aspects are reflected in a new Labour Code as soon as possible.

It is hoped that the study can provide useful findings on the process and implementation of the trade union movement in EPZs and trade unions' performance in the field of improving workers' job security, wages, and work place and conditions, including conflict and dispute settlement and, finally, overcoming the precarious² employment of workers in the EPZs.

This research utilised materials collected from Bangladesh's EPZs in 2009, 2010 and 2011. The data on which the analysis is based were collected by interviewing EPZ company managers, trade union representatives and workers, officials from the Bangladesh Export Processing Zone Authority (BEPZA) – the state agency responsible for administering EPZ affairs - government officials and staff from local trade union federations and other non government organisations which have links with EPZ labour relations.

1.2 Research background

Export Processing Zones (EPZs) are one of many means to attract foreign investment, generate employment, and earn foreign exchange and sometimes to improve the terms of trade for enterprises (Aradhna, 2005). In EPZs, laws, rules and legislation can be altered, depending on which problems are more imminent in the particular setting. The number of Export Processing Zones (EPZs) globally continues to expand. EPZs account for an increasing share of international trade flows, and employ a growing number of workers worldwide. In the global economy, EPZs are viewed as an important second-best policy instrument to promote industrialisation, generate employment, and for regional development (Dicken, 1998; Galle, 2009; Ghose, 2003).

Like other countries, Bangladesh has used Export Processing Zones (EPZs) as a strategy to promote economic development (see Bangladesh country profile

² Precarious work is typically non-permanent, temporary, casual, insecure and contingent. Workers in these jobs are often not covered by labour law and social security protections. Precarious work is caused by employment practices designed to maximise employer profits and flexibility and to shift risks onto workers.

in appendix B and Bangladesh's EPZs profile in appendix C). It has been found that the role of the state in labour management relations, and the type of worker employed in EPZs, are critical variables which affect the state's capability to maximise the economic potential of EPZs (Mayumi and Naboku, 2008).

It has been stated that in the EPZs, government regulation, and other fiscal measures such as taxes and tariffs, are relaxed drastically in an effort to attract foreign investment (Rondinelli, 1987). The lack of regulation in EPZs comes at a great cost to workers' rights, health and safety, environmental standards and social protections. The Government of Bangladesh goes to great lengths to ensure that workers' rights do not interfere with profit (Dowla, 1997). Union organisation in EPZs is extremely difficult and potentially dangerous. In addition, about 70% of workers are precariously employed in the EPZs in Bangladesh; the number could be higher if informal employment is taken into consideration (Kabeer et al. 2004).

About 80% of the industrial units established and in operation in Bangladesh's EPZs consist of export-oriented readymade garment (RMG) units. In Bangladesh, this industrial sector is commonly known as the RMG sector. Most of the entrepreneurs have production units both in and outside the EPZs. This industry started in the late 1970s under the umbrella of the Multi-Fibre Arrangement (MFA) import quotas. Relatively less restrictive import quotas for Bangladesh provide easy access for Bangladeshi textile products to export markets. By the late 1980s, RMG evolved as the main export industry of Bangladesh. For the last two decades the RMG sector has been the main source of export growth and for the formal employment of unskilled workers. At present nearly 1.9 million workers are employed in this industry in Bangladesh and 60% of them are female (Mlachila and Yang, 2004). Around 75% of these female RMG workers are migrants from rural areas who mainly come from the poorest rural households (Afsar, 2001). The industry has undoubtedly been exposed to the challenges of the import quota-free world since 1st January 2005, as the MFA import quotas were abolished on 31 December 2004. Thus, since 1 January 2005, the textile and apparel export trade for the Bangladeshi firms was obliged to follow the free trade rules of the World Trade Organisation (WTO). The international competitiveness of the Bangladesh

RMG sector in the post- Multi Fibre Agreement (MFA) period is a frequently discussed issue in various studies (Ahmed, 2005; Mlachila and Yang, 2004; Lips et al., 2003; Bhattacharya and Rahman, 2000).

Globalisation³ has widely been recognised to have important implications for workers' rights in manufacturing industries, including EPZ industries. The term "globalisation" today is widely used to describe the ever- intensifying network of cross-border human interaction, covering a great variety of social economic and political changes (Hoogvelt, 1997). Brown's (2009) study, detailing manufacturing sector data for the period 1967-97 obtained from UNIDO and data for nine broad sectors obtained from ILO, found globalisation had either no effect or a negative effect on sector employment share. Contrary to this, Gaele (2009) found that wage and non- wage differences that are correlated with measures of globalisation provide evidence supporting the hypothesis that globalisation does affect workers' rights (Gaele, 2009). Several authors have emphasised the dynamic process through which globalisation effects labour market adjustment (Utar, 2009; Robertson and Durkowsky, 2002).

Breitenfellner (1997) showed that trade unions alone have little influence over the forces at work as their bargaining power remains largely circumscribed by national boundaries, whereas business and capital increasingly escape national regulation. He questioned how the socio-economic balance of power can be redressed. Breitenfellner's answer is global unionism, as he believed that unions need to operate and bargain internationally. The real challenge to unions, he argues, is to take advantage of the opportunities of globalisation. Marilyn et al. (2004) examined the employment outcomes of globalization with a special focus on processes and factors of trade unions that affect workers - particularly women employed in export-processing zones and those informally employed or self-employed in global value chains. The authors conclude with a set of specific recommendations for international, national and local-level

³Globalisation describes an ongoing process by which regional economies, societies and cultures have become integrated through a globe-spanning network of exchange.

institutional and regulatory reform aimed at providing different categories of vulnerable workers with more secure and empowering opportunities.

Regarding the impact of globalisation on workers, the ICFTU (1999) at the conference of women trade union leaders widely pronounced that there had been an increase of atypical forms of labour all over the world. Globalisation affects workers through non-wage working conditions such as discrimination in employment, employment security and informal employment. One widespread concern is that globalisation has produced a “race to the bottom” in legal labour protections (Gaelle, 2009). The impact of globalisation on the employment prospects of women is so pronounced in some developing countries that the workforce in the export sectors is becoming feminised. Female workers are disproportionately represented in the export sector in developing countries because these sectors are unskilled and labour intensive. Examples of this phenomenon are reported by Kabeer (2000) regarding young women in the Bangladesh apparel industry. Factors affecting workers’ rights can be divided into two classes: economy-driving decisions at the enterprise level and government regulations. Governments consider effects on enterprise when setting regulations; in particular, governments are motivated to reduce labour protections if they affect comparative advantages. The literature in this regard is immense. Rodrick (1996) acknowledges that globalisation through trade openness leads domestic producers to seek relief from costly labour standards. Workers in a globalising economy face more wage, price and employment volatility. Governments may be pressured to play a risk in reducing the role of labour regulations. Several authors (Gaelle, 2009; Ghose, 2003), however, find that there is a positive relationship between globalisation and labour rights. Countries with more open trade have fewer violations of rights to free association and collective bargaining, therefore more effectively protecting workers’ rights and subsequently resulting in a lower incidence of forced labour (Eric and Soysa, 2005). These results are true for both the global sample and a sub-sample of developing countries. These conclusions are however roundly challenged by conventional wisdom. Critics usually point to China as an example of a country that represses workers’ rights but enjoys

enormous success in exporting and attracting foreign direct investment (FLA, 2005).

The World Trade Organisation (WTO) aims to add core labour standards in a “social clause” to any international trade agreements (Greenfield 2001). In this respect Peck (1996) viewed it as a controversial issue that has emerged: whether or not a social clause should be included in trade agreements. These proposals centre on the proposition that core labour standards should be incorporated into a “social clause” in international trade agreements. With the renewal and intensification of debates around globalisation from the 1990s onwards, this issue of linking labour standards with trade has assumed increasing importance and immediacy. The proponents of a social clause advocate a link between international labour standards and the globalisation through trade liberalisation.

Ghose (2003) argued that a group of developing countries, those who have not participated in the recent wave of globalisation, have experienced a decline in employment and labour standards. Contrary to this, Singh and Zammit (2004) argue that it is unlikely that globalisation is the cause of declining workers’ rights in some regions. Globalisation has widened the gap between the rich and the poor countries and the North-South divide, with distinct Northern bias (Shoesmith, 1986). Transnational corporations (TNCs) and those who control the world’s capital resources are the facilitators and key beneficiaries of the ongoing globalisation process. They disempower and further peripheralise women workers who are already marginalised in both industrialised and developing countries (Sindhu 2000).

In her research work Clay (2001) discusses the operation of the workers’ rights provisions of the US Generalised Systems of Preferences (GSP) and raised questions regarding the efficacy of the United States GSP program in helping the cause of workers’ rights in the developing part of the world. Using the restrictive labour policies in the Export Processing Zones (EPZs) in Bangladesh as an example, the author pointed out the conflicting interests of US investors and workers in the EPZs. Clay (2001) concludes that given the

multiplicity of interests, the United States GSP has not been successful in promoting workers' rights in Bangladesh. Clay argues instead that workers' rights provision should be included in other international trade policies, that the ILO should be given stronger enforcement powers, and the GSP program itself should adopt a clear definition of internationally recognised workers' rights.

In his working paper Martin Rama (2003) points out those stories on the positive and negative effects of globalisation on workers in developing countries abound, but a comprehensive picture is missing and many of the stories are ideologically charged. His paper reviews the academic literature on the subject, including several studies currently under way. The paper concludes that the international community should encourage developing countries to adopt sound labour market policies containing standard workers' rights in the context of globalisation.

Export Processing Zones have grown rapidly over the last 30 years. EPZs are generally found to benefit the host economy through increased foreign exchange and total employment (Bhattacharya, 1998). The issue of challenging working conditions in EPZs rose from longer work hours and the absence of a right to collective bargaining (ILO, 2003).

Global trade union campaigners (ICFTU, 2006) observed that international consensus has been achieved over the decades and expressed the idea that workers' rights protection in any state can no longer be exclusively regarded as its own internal affair, but that the manner in which governments treat workers on their territory is the "legitimate concern" of the international community. The problem is that, all too often, industrialised countries have failed to apply pressure consistently on countries where major workers' rights violations have taken place; in fact, workers' rights issues have at times been cynically ignored when it was perceived to be in the economic interest of industrialised countries.

Literature on workers' rights (Pelzman, 1999; Greenfield, 1999) indicates there are very strong grounds for the standard workers' rights. The arbitrary arrest, torture and murder of trade union organisers, the locking of doors in garment

factories resulting in hundreds of workers burning to death, and many other human rights violations are not matters that should be thought about purely in economic terms.

International trade union campaigns to support struggles in other countries represent effective anti-globalisation forces. Trade unions get involved more in these campaigns, and seek to make them more permanent. The 'Clean Clothes Campaign' is a particularly interesting example. The 'Clean Clothes Campaign' (CCC) is the garment industry's largest alliance of labour unions and non-government organisations. Formed in the Netherlands in 1989, the CCC has campaigns in 14 European countries: Austria, Belgium, Denmark, Finland, France, Germany, Italy, the Netherlands, Norway, Spain, Sweden, Switzerland, Poland and the United Kingdom. The CCC works with a partner network of more than 250 organisations around the world. It brings together trade unionists, consumers and sociologists, particularly feminists. The 'Clean Clothes Campaign' provides solidarity support in urgent cases of labour and human rights violations. The CCC communicates with companies and public authorities, requesting positive intervention and resolution. If companies fail to take adequate steps to resolve problems, the CCC mobilises consumers and activists around the world to take action. The CCC has taken up more than 250 cases involving discrimination against union members and officials, unsafe working conditions, withholding of wages and social premiums, violence against workers, and violations of workers' human rights (CCC, 2010).

What strategies help repressed workers build independent trade unions, which can maintain themselves through difficult times, without losing their ability to fight for their members is the central question of the trade union movement. International solidarity can be helpful in this regard but there is no single blueprint for solidarity. Globalisation is not in itself a new phenomenon. But the recent acceleration is undeniable - rapid development of international commerce, spectacular rise in direct foreign investment, evolution of multinationals, deregulating financial markets, and an explosion in the volume of financial transactions. Through international institutions like the International Monetary Fund (IMF), the World Bank, the World Trade

Organisation (WTO), and the Group of Eight (G8), wealthy countries are organising the installation of free-trade areas (EPZ/SEZ) that reinforce the process.

Addressing workers' rights is becoming a crucial factor in exporting products of EPZs to developed country markets. Price competition among countries may induce producers in export-oriented industries to reduce production costs, which may, in turn, induce them not to address workers' rights properly. On the other hand, rising concerns of consumers, trade unions and the International Labour Organisation (ILO) regarding the rights of workers is extending pressure on producers to address workers' rights properly. As such, these two opposing pressures are posing a challenge to the export-oriented EPZ economy in Bangladesh as well.

Many studies have cited different kinds of violation of workers' rights in the EPZs in Bangladesh (Zohir and Paul-Majumder, 1996; Paul-Majumder, 2003; Kabeer et al. 2004). Some employers in the EPZs take advantage of the absence of trade unions to commit violations of international labour standards, such as unpaid overtime, non-compliance with minimum wage regulations and deplorable safety conditions. Employers in the EPZs have been consistently hostile towards trade unions, claiming that many of the companies would be ruined and jobs would be lost if they had to accept a unionised workforce (ILO, 2008). Unions were banned in the Export Processing Zones (EPZs) in Bangladesh until 2004. The 'EPZ Workers' Association and Industrial Relations Act 2004' provided rights for the formation of trade unions in EPZs.

The government of Bangladesh, with its national constitution (GOB 1972) and national labour Laws (such as Bangladesh Labour Law 2006), committed to fairly distribute the benefits of globalization through more and better jobs, by coordinating social policies with systems of collective bargaining based on freedom of association. The effective rights of workers to organize, join trade unions and bargain collectively are thus important for protecting workers' rights. Where unions exist and are allowed to bargain, there is higher pay, more

secure work, more training, more efficient economies, more just societies and less corruption (Salmon 2000).

There is a growing perception that the private sector is using human resource management strategies to hinder the development of the trade union. Human resource management tends to adopt strategies which challenge the trade union and de-emphasize industrial relations. The practices of trade unions thus need to be evaluated in relation to this perception. There is a growing tendency to question the current role and practices of the trade union movement. Some writers (Armstrong 1999, Bronfenbreuner et al 1998, Salmon 2000) view that employers can do a lot for protecting workers' rights without the intervention of the trade union. Employers have been quick to use this development to introduce a level of individualism into industrial relations, particularly through emphasizing the personal contract as against the collective agreement, stressing personal compensation, and using other strategies to destabilize the collectivism which is the basis of trade unionism. On the other hand Bangladesh maintains open door policies to foreign direct investment. The result is that transnationals find a ready acceptance, and in many instances, the government is willing to provide exemptions and derogations from local standards for these investors. Little public information exists about the economic viability of trade unions in EPZs in Bangladesh, but it may be logical to assume that bureaucratic control on trade unions can have a serious impact on the union's ability to service its members. The challenges facing the trade union as a new institution thus demand a new focus on the trade union's role and how it manages its activities.

A comprehensive analysis of issues related to workers' rights in the EPZs in Bangladesh and impacts of globalisation in this connection is missing at the time of writing this thesis. A number of studies have pointed out that addressing workers' rights can increase workers' productivity (Abdou, 1997; Fisk, 1997; Fisk and Rosenfeld, 2000). If increased productivity of workers generates higher income for producers, they will be willing to invest for a better work environment and be willing to ensure workers' rights (Nazneen and Peerlings, 2008). Research is, therefore, required to explore the context of trade

union movement for ensuring workers' rights, as well as to investigate how trade unions have helped to overcome the precarious employment of the EPZ workers in Bangladesh in the context of globalisation.

1.3 Objectives and research question

The research aimed to analyse the impact of globalisation on workers' rights in the EPZs in Bangladesh. It has examined EPZ labour market and policies in Bangladesh in the context of global trade liberation. Though many issues were related to EPZ labour relations, the study addressed those issues with an emphasis on workers' rights. The study provided extensive research that covers implementation procedures for protecting workers' rights in the EPZs by focusing on the role of trade unions ("*Sramik Sangha*"). Thus, the research endeavoured to explore: to what extent have international labour standards influenced the reform of labour relations for Bangladesh's EPZs? Have workers' rights in the EPZs improved? Based on these broad objectives, the main research question around which the research revolved asks: to what extent have trade unions helped to overcome the precarious employment conditions of workers in the EPZs in Bangladesh?

1.4. Structure of the Thesis

This thesis consists of eight chapters. Chapter 2 provides a review of relevant research literature focussing on concepts and features of Export Processing Zones (EPZs), precarious work and employment in EPZs, feminisation and gender discrimination, core labour standards and workers' rights, cross-country evidence on the conditions of EPZ workers, the role of trade unions and theoretical perspectives of the trade union movement. Chapter 3 presents an overview of and rationale for the research methodology and the procedure of data collection and analysis. Chapter 4 concentrates in discussion on "industrial labour relations" and their role toward development of workers' rights. This chapter endeavours to understand the nexus of labour rights, organisations, labour markets, and institutions that exist, and to identify strategic approaches and opportunities for labour-related issues that help to understand the objective areas (such as freedom of association and work conditions) of this research.

The chapter also overviews the political and historical contexts in which Bangladesh's labour relations are situated and analyses Bangladesh's labour relations in terms of legal foundation, labour relations institutions and organisations. Chapter 5 provides an insight into main features of Bangladesh's EPZs, state of affairs of EPZ workers and conditions underlying the need for the trade union movement with an emphasis on mobilisation processes for achieving trade union rights in Bangladesh's EPZs. Chapter 6 introduces work placepower and contemporary labour process theories and discussion on the experiences of the EPZ trade unions in the context of the changed management practices that characterise their organisation. Taking on the labour process analysis, the chapter explores the position of labour in the organisation in explaining workers own strategies through trade unions and how the labour process theories interact with them. Chapter 7 presents an overview of precarious work in the EPZs and discusses how trade unions face the task of representing the interests of diverse groups of workers including atypical precarious workers. This chapter also discusses the mobilisation strategies of the trade unions for them with an evaluation of the trade unions' actions. Some general problems faced by the EPZ trade unions as well as suggestions made by the union activists for strengthening their organisational capability are also presented in this chapter. Chapter 8 is a concluding chapter to overview the changing characteristics and importance of union actions, their implications for mobilisation strategies of the trade unions, authorities and international labour politics for democratisation of trade unions in the Bangladesh's EPZs.

Chapter 2: Literature review: EPZs, workers' rights and unionism

2.1 Introduction

Mark and Roberts (2006) state that there are seven stages in carrying out a sensible literature review: defining the research questions, determining the types of studies that need to be searched, a comprehensive literature search to look at those studies, screening the results of that search, critically appraising the selected studies, synthesising the studies and assessing heterogeneity among the study findings. The afore-mentioned stages have been taken into consideration for this literature review.

One of the main purposes of this literature review is to provide a systematic way to explore the link between globalisation, trade unions and workers' rights in EPZs. To this end, the first step was to review the EPZs both globally and locally; the second step was to review trade unions in the context of globalisation; and the third step was to trace the impact of globalisation on working conditions and workers' rights. The next step was to review working conditions and workers' rights in the context of Bangladesh, focusing on state regulations and institutions affecting workers' rights. This has been done and presented in chapter 4. This chapter has been organised as follows:

Section 2.1 presents a review of concepts and features of Export Processing Zones (EPZs), followed by a review of precarious EPZ employment from a global perspective. Section 2.2 presents a review on the feminisation of EPZ workers and gender discrimination. Section 2.3 contains a review of core labour standards and workers' rights in general in EPZs, workers' rights and political economy, and cross-country evidence of the impact on workers' rights. Section 2.4 reviews trade unions and workers' rights, and the role of the trade union. Section 2.5 reviews theoretical perspectives of the trade union movement, and relates this to violations of trade union rights. Section 2.6 provides a conclusion.

2.2 Export Processing Zones (EPZs): Concepts, features and employment

2.2.1 Concepts and definition

Kusago and Tzannatos (1998) found that no less than 19 different terms are used to describe very similar, often identical conditions of Export Processing Zones (EPZs). According to the types of activities that are most emphasized, the zones have been given various names, ranging from free-trade zones, duty-free zones, free-export zones, free-investment zones, free economic zones, free-enterprise zones, free manufacturing zones, economic and technology development zones and industrial estates to industrial or scientific parks. Bonded warehouses free ports and duty free shops can be regarded as zones of special types, where services are at the centre stage of economic activities. To highlight the underlying economic structure of a zone, specific terms are often added to describe its main characteristics, such as electronics export-processing zones to signify the dominance of electronics manufacturing. In this research the name export-processing zone is used to signify the dominance of export oriented production activities that tend to be most common among the real-world zones.

Descriptive discussions on some of the EPZs are also found in the works of Wall (1976), Ping (1979), Pollack (1981), Jayawardena (1983), Spinanger (1984), Sklair (1986), and Rondinelli (1987). More empirical and institutionally oriented case studies include: Warr's (1984) work relating to EPZs in the Republic of Korea and Malaysia; Kumar (1987) about the zones in India; and Wideman (1976) about the zones in Philippines.

Conceptually, an EPZ may be characterized as a geographic area within the territory of a country where economic activities of certain kinds are promoted by a set of policy instruments that are not generally applicable to the rest of the country. In practice, the types of zone activities vary from bonded warehouse, export processing and assembling, border or port trade, and high-tech R&D, to trade-related transportation or financial services. Despite these variations, export-oriented manufacturing activities have been the main focus of most zones, where production tends to be dominated by foreign invested firms.

The 'Export Processing Zones' (EPZs) is the most common term in use. Warr (1987:226) defines EPZ in the following way: "Export processing zones (EPZs) are economic enclaves within which manufacturing for export occurs under virtual free trade conditions." Thomas (1956) defined them as an isolated, enclosed, and policed area, in or adjacent to a port of entry, without a resident population, furnished with the necessary facilities for loading and unloading, for supplying fuel and ships' stores, for storing goods and for reshipping them by land and water; an area within which goods may be landed, stored, mixed, blended, repacked, manufactured, and reshipped without payment of duties and without the intervention of customs officials.

The history of such economic zones can be traced back at least to the days of Alexander the Great as the Emperor protected the merchants of Tyre after besieging its people, in order to draw trade to the place (Aradhna, 2005). Another example is the judicial special privileges in trade that certain cities would often enjoy; for example the exclusive trade the city of Bergen had in stockfish and other products of Northern Norway (Miyagiwa, 1986). A more recent example incorporates the industrial park and is thus much more similar to the EPZs. Industrial parks were the first full-fledged industrial estates, set up in Manchester in 1896. In the following 50 years copies were spawned all over the western world, especially in the US. They were followed in the developing and transitional nations, starting with a Puerto Rican private venture in 1947. The first public industrial estate was set up in Singapore in 1951. India, the Dominican Republic and Taiwan all started building Export Processing Zones in 1965. Simultaneously, Mexico started the Maquila programme where Maquiladoras could be established with duty-free imports for re-export. In the '70s and into the '80s EPZs flourished, in Southeast Asia, Latin America and, to some extent, in Africa and the Middle East and the rest of Asia. The concept is certainly still alive and well, and employment has surged from 220 000 in 1978 to 374 000 in 1986 and 530 000 in 1990 (World Bank 1992). Using different definitions Rondinelli (1987) estimates the number of EPZ jobs in developing countries to be 3.5 million. This thesis deals with Export Processing Zones since the term is used in Bangladesh as per the "Bangladesh

Export Processing Zones Authority Act, 1980” that provided the foundation and operation of export processing zones in Bangladesh (GOB 1980).

2.2.2 Features of Export Processing Zones

EPZs are one of many means to attract foreign investment, generate employment, earn foreign exchange (Rondinelli, 1987) and, sometimes, to improve the terms of trade for native firms. In EPZs, laws, rules and legislations can be altered, depending on which problems are more imminent in the particular setting. However, EPZs are distinguished by tax relaxation, relaxed legislation, improved infrastructure, reduction of red tape, absence of labour union activity, subsidised land and greatly reduced customs procedures/rates (Rondinelli, 1987).

The number of Export Processing Zones (EPZs) globally continues to expand. EPZs account for an increasing share of international trade flows and employ a growing number of workers worldwide. In the global economy, EPZs are viewed as an important second-best policy instrument to promote industrialisation, generate employment, and regional development (Hess and Prasad, 2007). Trade union activities in EPZs are very limited. The formation of trade unions is still restricted in many ways. There are no trade unions in many EPZs, even though by legislation they are allowed to form (Jauch, 2003).

EPZs are being used as a medium for attracting foreign direct investments (Rondinelli, 1987). Foreign direct investments (FDI) have been steadily on the rise globally since the mid 1980s. Large companies originating from developed countries do business mostly in developed countries, but currently they are investing more and more in developing countries as well. According to a recent United Nations report, developing and transition economies attracted over 50 percent of the world’s foreign direct investments (FDI) in 2010. The ‘Global and Regional FDI Trends in 2010’ published by the United Nations Conference on Trade and Development (UNCTAD) also reveals that global FDI flows to developing economies rose by some 10% amounting to \$525 billion in 2010 (UNCTAD 2011).

Regarding the desirability of actually getting FDI there are mixed opinions. Many (McIntyre et al., 1996) believe that foreign companies are inherently bad, arguing that multinational corporations (MNCs) crowd out domestic firms, treat workers worse, and ship profits abroad. Unemployment rates in developing countries exceed the industrialised world rates by far, even with low wage rates. Kusago and Tzannatos (1998) stated that the aim of EPZs in developing countries is therefore to reduce unemployment by job creation, mostly in labour-intensive industries.

A common criticism of EPZs is that they bring instability to the host economy through public bargaining. Hayter (1997) gives an account of the ways in which MNCs negotiate to make the location better, mentioning briefly those EPZs that are a result of offering a cheaper location (Hayter, 1997). The fear is that since the business is lured by special incentives in the first place, it can be easily persuaded to move to a new location. This could be repeated until all surplus capital has moved with the companies and none is left with the hosts, a “race to the bottom effect”⁴ (Hayter, 1997). It is observed that, with the global push towards free trade in the 1990s, labour is now very susceptible to the race to the bottom model. With an extremely large labour pool to draw from worldwide and a virtually unrestricted ability to move capital, MNCs may now freely move their operations from country to country, following the most affordable labour. This, in turn, affects labour laws, particularly in developing countries, where conditions such as the minimum wage or required overtime pay create a large barrier to lowest-cost labour. The race to the bottom, therefore, dictates that more and more nations, particularly in the developing world, will eliminate their labour laws (Hayter, 1997).

There is a concern that Export Processing Zones will act to keep or even reinforce inequalities between developed and developing countries as the EPZ’ sweatshop⁵ employs unacceptable working conditions, long working hours with

⁴ Globalisation without rules to protect workers who try to improve their wages and working conditions creates a race to the bottom for workers in any industry in any country whose jobs can be moved.

⁵ Factory where workers work long hours under poor conditions and receive low wage

low wages and sometimes also hazardous working conditions (Rodrik 2002). While there is no doubt wages are lower and working conditions worse in EPZ than in the countries where MNCs keep their headquarters (Kusago and Tzannatos, 1998), this is hardly the relevant comparison. Though productivity is lower in the developing countries, lower wages are the main reason for investment in the EPZs. To see if zones are really beneficial, one must compare them to the rest of the economy. This has been done by the World Bank with these findings:

“Wages in the zones tend to be equal to or higher than wages for comparable jobs outside the zones and higher than the opportunity cost of most of those employed. Working conditions in EPZs tend to be distinctly better than those outside the zones⁶. Safety and health conditions in EPZ are generally better than the conditions in plants outside EPZ in the same economies, partly because the EPZ plants are cleaner, better lighted, better ventilated, and more spacious. In simpler industries, such as garments, with inexpensive capital equipment, most EPZ plants work only one shift. However, some EPZ plants, particularly in electronics, work three shifts and others two, so that many EPZ workers are obliged to keep unconventional hours.” (World Bank, 1992: 17)

There is little information available on whether jobs generated by EPZs are of a long-term nature and the real extent of skills transfer. The ILO has found that, in Mauritius over the past 10 years 35 firms were opened in EPZ each year, but the same number of firms closed down simultaneously (ICFTU, 2004). In the Maquiladoras of Mexico, 250,000 jobs were lost between January 2001 and June 2002, with some 15 per cent of the Maquila workforce reduced. The transnational companies simply packed up and moved to where wages were even cheaper (IFTCU, 2004). The transnational corporations chose to invest with a promise to bring infrastructure, skills development and economic growth to the countries; but in reality, there are few lasting benefits and devastation when the corporations leave (Rahman, 1999).

⁶ Relatively better than the condition of plants situated outside of the EPZ. There are more than 4,000 export-oriented enterprises in Bangladesh, locally known as garment factories, whose conditions are worse than EPZ factories and yet have no right to form a trade union in any form (Kabeer, 2004). Experience of trade union movement in EPZs expected to influence movement for trade unions in factories outside EPZs.

There is, however, no firm reason to believe that there are benefits, but these do not last. The debate on the contribution of Export Processing Zones to long lasting economic benefit has been raging for some four decades. The debate touches on every possible aspect of EPZs: labour rights, women's rights, impact of foreign investment and so on. For the World Bank (1992), EPZs are a third best option, to be utilised with parsimony where and when the first best option, that of countrywide liberalisation, and the second best option, that of economy wide duty free import systems (such as duty drawback and in bond schemes) are not available. As the World Bank (1992: 1) report expresses:

“(1) economy wide duty-free import systems should be emphasized over specific EPZ; (2) support to EPZ should be considered individually for each economy, in the context of broader trade policy reforms involving a shift toward outward-oriented development, mainly as a transitional instrument for helping economies enter world markets; and (3) private development and management of EPZ is to be encouraged.”

EPZs are, therefore, a last resort option in the effort to improve efficiency in highly regulated and protected economies. Johansson (1994) argued that the developmental impact of Export Processing Zones resulted from the role of human resources in development. She also expressed that "human capital accumulation has been a significant contributor to the growth miracle in South-East Asia". Johansson proposed that EPZs can play an essential economic role by serving as an instrument designed to attract to an economy catalyst firms and individuals. She defined the catalyst as "a pioneer, which initiates and transmits the export supply response in the host country". As such, to Johansson (1994:395) EPZs can play a role as follows:

- 1) *"Domestic firms lack the "capacity to package" technical, marketing and managerial know-how with the internal and external resources available to them. This packaging is provided by FDI and in the zones".*
- 2) *"Domestic firms seldom have access to international distribution channels on their own. On the other hand, international or joint venture companies do and can show the ropes to fledgling domestic exporters".*
- 3) *"Entry into international markets would be difficult without the inroads created by connection with an established multinational corporation with wide international business dealings."*

Gulhati and Nallari (1990), in their examination of the stabilisation and adjustment process in Mauritius EPZ, recognise that the Export Processing Zone created in 1970 was successful at generating some exports and resolution of the unemployment problem during the 1970s. Gulhati and Nallari (1990) also argued that the Export Processing Zone experienced its most significant long-lasting growth, starting between 1983 and 1984 on the basis of the successful stabilisation and structural reforms undertaken.

EPZs are often set up in economically deprived areas where labour is cheap and workers are more fearful of losing their jobs if they make demands. Many workers in the Maquiladoras of northern Mexico have relocated from even more economically deprived areas and can less afford to put their jobs at risk. (IFTCU, 2004).

A typical characteristic of an EPZ is that trade union rights are restricted there. Whether this is by law or by a lack of enforcement of existing laws, the result for the workers is the same. Since 1998, the number of EPZs has increased significantly. EPZs had been a very important source of employment creation in the countries that had been able to attract foreign direct investment. The research literature on EPZs suggests that zones were most effective when they formed part of an integrated economic strategy that embraced labour market policies among other elements. For example, building networks between trade unions along global production systems and of global value chains, presents some opportunities for workers (Marylyn and Chen, 2004). However, workers' organisations, in particular, continued to express concerns as to the restrictions on workers' rights. Recent ILO work on EPZs (ILO, 1998, 2003, 2006, 2008) supports this. The ILO Governing Body (ILO, 2003) report on Employment and Social Policy in respect of Export Processing Zones documented a number of labour rights' abuses which were important to the EPZs workers. These included discrepancies in labour law and its enforcement, gender-related discrimination, pregnancy tests, excessive working hours, compulsory overtime, failure to make wage payments, lack of toilets and so on (ILO, 2003).

2.2.3 Precarious employment: from a global perspective

Precarious work is typically non-permanent, temporary, casual, insecure and contingent. Workers in these jobs are often not covered by labour law and social security protections. Schenk (2006) argued that precarious work is caused by employment practices designed to maximise employer profits and flexibility and to shift risks onto workers. Precarious work is just about the only type of employment available in EPZs, where up to 90% of the female workforce is employed on temporary contracts (Schenk, 2006). EPZs operate either beyond the reach of labour legislation or the legislation is not enforced. Unions are virtually non-existent in EPZs (Kabeer, Naila and Simeen Mahmud, 2004). Precarious employment today is a global problem. Kalleberg (2009) stated that precarious employment is not new, but it does have different expressions in different times. Common definitions, measures of extent, and the impact of precariousness remain elusive despite dramatic increases in the number of workers who are in precarious relationships with employers. Kalleberg indicates that it is possible to build common understandings for analytical purposes, by which he indicates that precariousness refers to, employment that is uncertain, unpredictable, and risky from the point of view of the worker (Kalleberg, 2009).

In line with Kalleberg (2009) an International Labour Organisation publication (ILO, 2008) highlights that workers in precarious situations are less likely to know their rights, may be excluded from legal coverage completely and may be fired for exercising the rights they do have, despite this being illegal, and they have limited or no access to social benefits. Lewchuk et al. (2006) contribute further by adding health and safety risks for the precarious workers. Zeenobiyah and Lamm (2005) identify linkage between non-standard work and precarious employment. In doing so they use Tucker's (2002) model for their research because it encompasses the key indicators of precariousness. Based on the literature review, Tucker (2002) developed an integrated model that incorporates all the key aspects of precarious employment as discussed by Rodgers (1989) and Standing (1999).

There are, however, contrasting views that permanent workers may experience even more precariousness on certain grounds. Using a diagram Vosko (2006) highlights one of the weaknesses of focusing narrowly on one form of employment. Vosko illustrates that workers who maintain full-time permanent employment may be more precarious than full-time temporary or even part-time temporary workers and significantly more precarious than non-standard permanent workers on the grounds of company uncertainty. This is, however, more relevant in developed countries rather than developing countries. Pointing to developing countries, Quinlan et al. (2001), in a massive international review of literature, emphasised that the growth of precarious employment showed that the “presence, or growth of precarious employment commonly leads to more pressured work processes and more disorganized work settings and in so doing creates challenges for which existing regulatory regimes are ill prepared” (Quinlan et al., 2001: 367).

Precarious employment can be reduced through many ways. Baker et al. (2004) expressed the view that there are many cases of successful reduction of precarious employment that do not fit well with the conventional wisdom of regulation⁷. Jackson (2006: 277) offers evidence that “low wages and precarious jobs are not necessary conditions for high levels of employment,” and that there are various paths to reduce precarious employment. He viewed that precarious work is “policy sensitive”, meaning that other policies will impact on the level of precarious work existing at different times. Thus, a larger and wider focus in terms of scale is necessary to deal with the growth of precarious work. Changes to regulatory policy have facilitated the growth of precarious work. Regulatory policy thus needs to be reformed and effected through coalition-building among the participatory agents, workers, employers and responsible state agencies. This is one of the areas that have been addressed under this research.

⁷ Precarious employment is primarily caused by employers trying to circumvent existing labour market regulation, in particular, employment protection legislation. By the same token, it is argued that labour market regulations and related labour market institutions are distorting otherwise efficient markets, making them rigid and causing precarious employment (Baker et.al., 2004).

2.3 Feminisation in EPZs

Economic globalization has resulted in an increasing female participation in the labour force. As described by Jomo (2001), it was originally contended that with increasing trade and foreign direct investment (FDI), the overall status of women in the developing world would improve. Globalisation would be a tool to better women's conditions by providing them with increased economic freedom and an enhanced status in society. However, globalisation has often served to disempower and exploit women workers. The increased trade has resulted in the feminisation of labour, through an increase in female employment in waged work (Mazumdar, 2000).

Many researchers (Charmes and Wieringa, 2003; Sharma, 1997; Bardhan and Klasen, 2000; Dijkstra and Hanmer, 2000; Pyle and Ward, 2003) have focused on the feminisation of labour in developing nations. A review has emerged about the concepts of gender, power and women's empowerment. These writers noted that as international trade increases, strong social policy should concurrently be formulated to safeguard the rights of globalisation's most vulnerable participants.

Some researchers (Jomo, 2001; Standing, 1999; Ghosh, 2001; Moghadam, 1998), have exemplified the importance of highlighting global trends and issues related to the feminisation of labour and its impacts and implications for regional and national economies. Relevant literatures indicate that emerging countries promote EPZs as a concentrated approach to reap benefits from the global economy (Glick and Roubaud, 2006). The establishment of EPZs in the developing world has been a salient feature of contemporary globalisation. According to a recent count, there are over 3,000 zones of various sorts operating round the world, compared with just a handful in the 1960s (ILO, 2002).

The power of capital and employment in EPZs has contributed to the "feminisation of labour" (Standing, 1999). Jenson et al. (1988) argued that the demand for greater flexibility of labour promoted feminisation because the relationship of women to the labour market displayed the characteristics of

flexibility required by these new employers; in other words, women could be hired and fired more easily than men. But there is also a flip side to the desirability of flexible female workers for the employers. Women workers are also disproportionately prone to job loss because of the terms of their employment contracts (Ghosh, 2001). This was evident in the Asian crisis of 1997 that resulted in a sharp decline in the percentage of female workers in EPZs (Ghosh, 2001). Moghadam (1998) also showed loss of female employment in recession times in other parts of the world. For example, in Tunisia, due to stagnation in the manufacturing sector in the late 1980s, the percentage of female labours in EPZs dropped from 55 per cent in 1984 to 43.2 per cent in 1989 (Moghadam, 1998). This demonstrates the irony of the female workers in EPZs: they are desired by employers for their flexibility, but are the first to be fired because of this very characteristic.

Women account for more than two-thirds of the global labour force in the clothing industry; this industry accounts for almost one-fifth of the total world female labour force in manufacturing (Delahanty and Shefali, 1999). The typical female worker is usually young with a basic education, preferred over men because of her “nimble fingers” or dexterity in the manual tasks of manufacturing (e.g. sewing, computer chips, electronics etc.). For example, in the Special Economic Zones of China most workers are between 16 and 25 years old (Davin, 2001). This demographic profile is similar to Bangladesh’s EPZs, with the average age being between 20 and 25 years old (Bhattacharya, 1998).

Ghosh (2001) and Davin (2001) pointed out the few advantages women workers can offer to the employer. To the employer, women accept inferior conditions of work and pay, including long hours and unpleasant and often unhealthy or hazardous factory conditions. Women also typically do not unionise or engage in other forms of collective bargaining to improve conditions. They also do not ask for permanent contracts and are, thus, easier to hire and fire at will according to external demand conditions. Moreover, changes of life cycle such as marriage and childbirth can be used as proximate causes to terminate women’s employment.

A good number of feminist writers (Knox, 1997; Zhang, 1997; Tan, 2000; Davin, 2001; Delahanty, and Shefali, 1999) viewed the advantages that woman workers present to the employer as leading to severe disadvantages for woman workers. The main drawbacks of working in an EPZ are long hours, insufficient wages, and harsh working conditions. To them this adversely affects the health of the worker and results in high levels of injury, as well as a high burnout rate. The hours a woman typically works in an EPZ vary from 10 to 16 hours per day 5 to 7 days a week. In addition to working long hours, many women work in unsafe and unhealthy environments without access to basic utilities and even toilet facilities (Delahanty and Shefali, 2001).

Workers in EPZs are relatively unprotected in the workplace; and often they are subject to specialised national legislation that prevents them from unionisation and security of employment (Kothari, 1996). This encourages foreign direct investment, which seeks to profit by lax minimum wages and employment standards. Evidence shows that export-oriented strategies have exacerbated or perpetuated the gender wage gap and produced employment characterised by hazardous conditions (Blin, 2006). The employment situation in Sri Lankan EPZs, where there is rapid absorption of young women into formal employment, has caused hardships for women in the workplace. Female garment workers generally have low status and are often called “Juki Girls” a derogatory name coming from the popular brand of sewing machine (Lynch, 2007; Jindasa, 2007). Many of the women have moved away from their families to work and live in crowded boarding houses, and have poor nutrition and lack of reliable transportation to work (Jindasa, 2007). Recent research (Gomez and Gomez, 2004; Goonesekere, 2004; Jilani and Ahmed, 2004) analysed the legal systems in Sri Lanka, Pakistan and India, and found unequivocally that, despite legislative changes designed to protect women, the legal systems were commonly manipulated against them. Likewise, the employment feature in the Export Processing Zones of Madagascar highlights the movement of women towards export-oriented industries. Those industries, however, adversely affected female well-being and household responsibility, making long-run EPZ wage employment unsustainable. Madagascar created an EPZ called *Zone Franche* in 1989 to attract foreign non-technical industries.

These industries attracted a disproportionate number of women with lower levels of education previously engaged in low-wage informal sector services (Glick and Roubaud, 2006). From 1995 to 2002 informal wage employment decreased from 24 to 14 per cent of the female workforce, while the formal employment in *Zone Franche* rose from 5 to 15 per cent of total female employment (Glick and Roubaud, 2006). Nominally, this provided relatively well-paid jobs to lower-skilled females and the potential to contribute to improve overall gender equality, especially within urban economies (Glick and Roubaud, 2006). But there were a few spillover effects that lessened gender discrimination in other private sector employment or in the informal wage market, where men are paid substantially more than women with the same education and experience (Glick and Roubaud, 2006). Additionally, in *Zone Franche*, statistics showed men were more likely than women with similar qualifications to receive a promotion (Glick and Roubaud, 2006).

Irrespective of economic remuneration, the industrial sectors in the *Zone Franche* are marked by adversely long working hours and high turnover rates, to the extent that it prevents it from being a foundation of long-term employment and economic advancement for women (Glick and Roubaud, 2006). Despite higher rates of access to paid leave, the protection of unionised labour environments, formalised and legal employment contracts, and employer-sponsored health care, women work strikingly longer hours, often involving intense exertion: an estimated difference of 40 hours a month compared to non-EPZ private sector employment, and 60 hours a month compared to public administration employment (Glick and Roubaud, 2006). Further, the stability of female wage labour is negatively affected by longer hours and a greater intensity of work, leading to one in five *Zone Franche* employees leaving their jobs each year (Glick and Roubaud, 2006).

Gender experience in the EPZ employment sector can also be explored through the workplace atmosphere and environment for women. A 2002 report conducted by the International Labour Rights Fund (ILRC) showed disturbingly high amounts of sexual violence and intimidation in the Kenyan workplace against women (Karega, 2002). The Kenyan workplace environment

that condones sexual harassment as acceptable has had tremendously negative effects on the psychological, economic, and familial stability of women's lives. Many women in the EPZ saw submission to sexual harassment as a method to promotion, though the IRLC study showed that even female supervisors continued to be abused by managers and male colleagues (Karega, 2002). More tellingly, many women reported leaving jobs because of workplace environments where sexual abuse and harassment were prevalent, only to be forced to return because of lack of opportunities and obligations to bring income to the family. When they did report sexual abuse, they were often fired or demoted. Consequently, some 95 per cent of women who suffered abuse were too afraid to report the harassment (Karega, 2002). In both formal and informal channels, Kenyan workplace conditions are often ignored and unregulated, and even more so in the Kenyan EPZs that provides a safe-haven from internal protection mechanisms. In the formal law structure, neither Kenyan law nor international law nor prevalent codes of conduct protect women from violent sexual abuse in the workplace (Musonda, 2003). Trade unions, where women are often underrepresented and, thus, gender issues are safely ignored, seldom attempt to check sexual exploitation and abuse. "The ratio of female to male members in unions is 3 to 7, and at decision-making levels, women comprise only 11.5% of union leadership" (Musonda 2003 p. 5).

The experiences of women in Sri Lanka, Mauritius, Kenya, and Madagascar give enlightenment into the condition of females who enter the labour market in EPZ industries and continue to be mired in structural and normative impediments. For the women of the Export Processing Zones the concept of economic betterment through increased wages has not led to social, political or long-term economic empowerment for women. Instead, EPZ wage labour employment has created longer working hours increased socio-economic vulnerabilities, poorer health and an overall perpetuation of gender-based social and economic imbalances. The way to improve women workers' conditions in EPZs is therefore seen as a difficult issue. It is not a choice between being "exploited" versus being "excluded". Closing EPZs or shutting down "sweatshops" will result in these women losing out on very real benefits. Thus, there is a need for a set of policy recommendations that involve working

in a concerted manner with actors at each level. This research traced some policy recommendations that are grounded in a feminist perspective and based on real world successes.

Some feminist writers, such as Gutierrez (1990), Wedeen and Weiss (1993), Zimmerman and Rappoport (1988) and Stein (1997), held the view that unions can be effective as they enable women to exert group efforts for social change. To them, unionisation involves the organization of workers into a cohesive body. Delahanty and Shefali (1999), however, observed that unions that have been in existence in EPZs have primarily been male domains. They were of the opinion that in order for organising to be effective, unions must make gender equality central to be their mandate and women workers must themselves be empowered to organise on their own behalf. Hertz (2002) holds that trade unions need to think much more creatively about how to increase the level of female participation and increase the power of collective bargaining. Delahanty and Shefali (1999) argued that a female-led union is helpful for women's empowerment in EPZ. They showed one successful example of women organising in EPZs in the San Pedro de Macoris Free Zone Trade Union in the Dominican Republic. This female-led union has been effective in putting women workers' demands on the political agenda and establishing a national union of affiliated trade unions from other zones. The San Pedro Free Trade Union has been able to recruit over 4,000 affiliates through successful organising strategies that include building links in the factory through to the recruitment of upper management such as supervisors. The lessons of the Free Trade Union can be taught to women in other EPZs across the developing world and provide a powerful example of how the unionisation of women workers is a feasible and effective way to formulate demands.

2.4 Workers' rights in EPZs

2.4.1 Core labour standards in EPZs

A review by the Global Union Research Network of ILO (Verena, 2007) highlights that workers have the right to bargain on relatively equal terms for whatever conditions and benefits are appropriate to a given market situation.

The original idea behind the creation of the EPZ was to allow enterprises to import materials for processing and to have the final product re-exported without having to pay duty. However, as the EPZ concept spread around the world more incentives were added, including guarantees of low-cost workers with few or no labour rights. While EPZs have created employment, these are usually badly-paid jobs often carried out under degrading and inhumane conditions. In some countries, the exploitation of workers in EPZs is supported by special legislation restricting freedom of association, collective bargaining and the right to strike. Some examples are presented in Box 1 below:

Box 1: Some examples of special legal restrictions on labour rights in EPZs

Turkey: 'The Free Trade Zone Act' forbids workers to strike during the first 10 years of operation of an EPZ; disagreements must be settled by binding arbitration.

South Korea: Until the advent of democratisation in mid 1987, Korea legally restricted the right to form unions and bargain collectively in its two EPZs. While restrictions were lifted in 1987, the Korean Government re-imposed restrictions on strikes in August 1989 by ruling that EPZ firms are public interest companies. This effectively restricts the right to strike and requires mandatory arbitration in almost all cases.

Pakistan: Section 25 of the 'Export Processing Zones Authority Ordinance 1980' which provides that the Government may exempt EPZs from the application of labour laws. The Government has used this provision to exempt EPZ from the 'Industrial Relations Ordinance' (IRO) of 1989 which includes the right of workers to establish and join trade unions. Furthermore, Section 4 of the Export Processing Zone (Control of Employment) rules of 1982 deprives workers employed in EPZ of the right to strike.

Source: US Department of Labour Bureau of International Labour Affairs (1990), Workers' Rights in Export Processing Zones.

In the majority of cases, despite the applicability of national labour legislation, government officials, zone administrators and employers have been found to collude to prevent trade union activity. Some examples are presented in Box 2 below:

Box 2: Examples of violations of trade union rights in EPZ despite the existence of labour legislation

Philippines: Although labour legislation applies in the country's EPZ, in practice a "non-union, no strike" policy exists in most of the zones. In order to prevent unionisation, employers intimidate workers with threats of dismissal and closure. Local government officials and zone administration prevent group meetings, union organisers are not allowed, and workers are closely monitored.

Sri Lanka: Failure to enforce labour laws and standards is particularly flagrant in the country's EPZ which employ around 95,000 workers, mainly women. Union organisers encounter severe difficulties in gaining access to tightly guarded zones where there are few or no unions.

El Salvador: Although protection against anti-union discrimination exists in law, and employers are obliged to re-hire employees fired for trade union activity, this has not been enforced. Government action against employers for dismissing trade union members and assaulted workers is ineffective because of the inadequacies of the legal system, and a lack of will on the part of the authorities fearful of losing investors.

Source: ICFTU, Annual Survey of Violations of Trade Union Rights, Brussels (1990).

There are a variety of views as to the impact of labour standards on variables such as output, productivity and wages. Does non-observance of core labour standards necessarily imply lower wages and, thus, greater competitiveness? To what extent can the unemployment problems of the developed countries be blamed upon the non-observance of core labour standards in the developing countries? According to an OECD study (OECD, 1996), the relationship between the degree of observance of freedom of association and per capita gross domestic product (GDP) is weak. However, it is interesting to note that the study found that GDP growth increased significantly in a number of countries (Argentina, Panama, Peru, Philippines, Uruguay and Venezuela) after an improvement in freedom of association (trade union rights). On the other hand, in eight countries (Brazil, Ecuador, Fiji, South Korea, Surinam, "Taiwan, China", Thailand and Turkey), GDP growth fell significantly after the improvement; whilst in other countries (Dominican Republic, Guatemala and Honduras) no change was recorded.

On wages and productivity, the study (OECD, 1996) found that there is no empirical evidence that rising core labour standards result in higher real wage growth. At the aggregate level, there appears to be no correlation between real wage growth and freedom of association. On the whole, the OECD study suggests that freedom of association (the indicator used for gauging the level of observance of core labour standards) is not correlated with output, wages or productivity. In part this finding can be explained by the fact that in most developing countries there is practically an unlimited supply of labour. Independent trade unions are thus by themselves unlikely to have a significant effect on wages. The reason is that with an unlimited supply of labour, the ability of trade unions to counter the market power of employers is likely to be limited.

It is important to note the limitations of the OECD study. Firstly, core labour standards are qualitative variables which are by nature difficult to quantify. Secondly, given the lack of information on the enforcement of core labour standards, the empirical investigation was based only on the right to freedom of association. Thirdly, the investigation was also based on macro-economic indicators, such as GDP, which are only able to capture aggregate effects. Finally, the study does not distinguish between the effects of other factors such as technological change, factor accumulation, oil price changes, economic and social policies, and so forth. Given the general uncertainty over the economic and social effects of core labour standards, it is difficult to form a conclusive view on the matter. Nevertheless, at present, the suggestion appears to be that greater observance of core labour standards is unlikely to adversely affect economic growth. The OECD (1996) study contributed to the debate by, amongst other things, concluding that the respect of core labour standards did not have negative consequences for the economies and trade of developing countries.

2.4.2 Standard workers' rights: political economy perspectives

Some analysts (Perlman, 1999; Ahmed 2003; Kucera, 2001) speculate that workers' rights are often difficult to achieve. The problem is that denial of the right to freedom of association and collective bargaining is in some countries

part of the political system. Trade unions can be an important source of opposition to authoritarian regimes. Governments that presently do not allow these rights are not just fearful of the possible wage and cost implications arising from collective bargaining, but are also fearful that the right to exercise trade union power might undermine their authority and directly threaten their very existence.

Perlman (1999) stated that trade unionists have historically been targeted as enemies by repressive regimes. While some countries may eventually be convinced of the merits of a multilateral social clause, it is hard to see any compromise from the more repressive governments without a wider political change in their countries. For this reason, discussions about workers' rights should not be viewed as simply a labour issue. Ultimately, workers' rights are human rights. Repression, discrimination and acts of violence against workers often go beyond the workplace and generally reflect the state of human rights suffered in the country at large.

Countries which are persistent violators of core labour standards tend to argue that this is due to a harsh economic reality. Lee (1997) questioned whether this is really credible. Is a country's Gross Domestic Product (GDP) the factor which determines whether women, men and children are arrested, beaten, tortured, kidnapped and murdered, just because they belong to a trade union, or wish to do so, or because they are struggling for humane conditions? He viewed that economics can only explain so much; it does not explain everything. Similarly, it is a "red-herring" to continue discussing the economic growth versus human rights dilemma. There is, in fact, no dilemma. There is no proof that better observance of human rights adversely affects growth and even if there is some tenuous relationship, it has already been universally accepted by countries which are signatories to the 'UN Universal Declaration of Human Rights (1948)', that economic growth cannot be at the expense of human rights in which workers' rights are also included.

Lee (1997) examines some of the major contending positions in the ongoing debate on the role of international core labour standards in the context of globalisation. The article analyses the impact of core labour standards on

competitiveness and economic development, and the relative merits of alternative instruments for achieving a fuller observance of core labour standards. The article shows that there is a wide gap between contending positions and that of the empirical evidence to resolve some of these differences.

What can codes of conduct do for the effective enforcement of labour standards in the production operation of multinationals? What are their limitations? In seeking answers to these questions, Boiral (2003) begins by examining the role and significance of labour standards in the context of today's economic and trade liberalisation. With particular emphasis on codes of conduct, he holds that maintaining of core labour standard is the main instrument available to multinationals for regaining the confidence of the society. Kucera (2001) viewed that no solid evidence is found in support of what has been referred to as the "conventional wisdom", namely, that foreign investors favour countries with lower labour standards – indeed, all evidence of statistical significance points in the opposite direction. In his work on globalisation and decent work policy Servais (2004) explains that labour markets are becoming more competitive and work is taking on a widening variety of different forms. Based on a classification of international labour standards into three categories - those laying down fundamental rights, those governing technical aspects of work and employment, and those setting guidelines for social policy - Servais considers innovative social approaches that could help to bring about the necessary adjustment. His concluding remarks highlight the roles of the state in maintaining decent work policy, including standard workers' rights. While investigating the practicability of a few indicators that measure decent work deficits (e.g. low hourly wage; excessive hours of work; male-female gap in labour force participation), David Bescond et al., (2003) conclude that promotion of decent work conditions can help improve workers' conditions. They explore the question: how can the promotion of decent work contribute to human development? By comparing the performance of 38 countries in respect of the UNDP's Human Development Index, they showed, inter alia, that surprisingly countries without high incomes can nevertheless achieve lower

levels of decent work deficit and, conversely, countries with high incomes do not automatically achieve lower levels thereof.

The empirical evidence on the impact of labour market reforms both in developed and developing countries suggests that labour regulations have modest effects on economic efficiency and growth (Freeman, 2000; OECD, 1996; Palley, 1999; Tzannatos, 1999), even with reference to the six East Asian “success” countries (China, Hong Kong, Malaysia, Singapore, Korea and Taiwan). Freeman concludes that these countries are not examples of developing countries that succeeded by avoiding labour interventions (Freeman, 1993).

Two recent cross-country studies in this area, by Botero et al. (2004) and Forteza and Rama (2001), however, dictate that differences in labour regulations on economic efficiency and welfare across nations, time and space are difficult to measure. Botero et al. (2004) construct three indicators that capture different aspects of the regulations of labour markets in both developed and developing countries: (1) an employment law index, (2) a collective relations index, and (3) a social security laws index. These are composite indices aggregated from a number of specific variables. The strength of the results varies across specifications and does not lead to strong conclusions.

Empirical evidence on the labour market effects is mixed for industrialised countries and sparse for developing countries. Studies have generally found positive employment effects, although not always significant, in industrialised economies (Gruber, 1994 for the United States and Ruhm, 1998 for Europe). Non-wage benefits had small but positive employment effects as in the case of Taiwan (Rodgers and Zveliglich, 2003) but only when measures to ensure enforcement were put in place.

The wage effect pertaining to core labour standards is more controversial. For example, research on mandated maternity benefits generally finds that wage changes for female workers following the mandate are either negligible or negative, depending on the wage compensation rate, leave duration, and the

degree to which employers bear the costs. The net effects of non-wage benefits are theoretically unclear. Summers' (1989) study finds that when non-wage benefits (such as maternity benefits) are financed by firms rather than the government, firms' demand for married female workers declines in order to compensate for the expected cost of complying with the mandate. On the supply side, those workers who value the benefit will accept a lower wage for a given quantity of labour supplied (Summers, 1989).

Another controversial issue pertaining to the implementation of core labour standards is working-hour restrictions. The most common types of working-hour restrictions are limits on overtime and night work prohibitions. The ILO conventions are very strict on this issue (ILO, 1998). Overtime restrictions require firms to compensate workers with a higher wage for hours worked beyond the legal workday, and many governments constrain the number of overtime hours that workers may work. Night-work prohibitions constrain the time of day when workers can be employed. In the past, many countries introduced working hour restrictions for female workers to protect their health and safety and to allow time for their responsibility as mothers. To adapt to changing conditions, the 'Convention No. 171' adopted by the ILO in 1990 overrides the earlier Conventions on night work, where women alone were singled out for protection, and clearly emphasises the need to provide safety and health protection to all night workers. When working-hour restrictions apply only to women, this causes firms to have less flexibility in their hiring of female workers. EPZs are now experiencing such a situation (Hosmer Martens, 1994). Firms could move away from female workers towards male workers or capital, thereby causing a reduction in women's total hours and employment. The extent of these changes would depend on the substitutability between male and female workers across different working-hour types. On the supply side, both a night-work prohibition and overtime limits reduce women's flexibility in determining the time of day at which they work and, when binding, leads to fewer working hours.

The net effect of working-hour restrictions on women's employment, wages, and hours worked will depend on the relative magnitudes of these demand and supply changes. Night work prohibition is still common in Asia, although the

severity of the legislation varies considerably. For example, Thailand fixes the restricted hours from midnight to 6.00 am., Indonesia requires women to end work by 6:00 pm and not to start again until 6:00 am. Bangladesh, Myanmar, and Pakistan ban entirely night work for women (Nataraj, Rodgers, and Zveglic, 1998). In India, lifting the ban on night work has been recently opposed by women's groups (Sankaran, 2003). Special overtime limits for female workers are less common. Empirical evidence on the labour market impact of working hour restrictions that differ by gender is mixed for industrialised countries and sparse for developing countries. The only available study on a developing country, Taiwan, shows that overtime limits and night-work prohibition led to a reduction in both women's working hours and their employment compared to men, but did not affect their relative wages (Rodgers and Zveglic, 2003).

2.5 State of working conditions in EPZs

2.5.1 Global trends

This section provides a review of labour standards and working conditions in some EPZ-operating countries. The section begins with a discussion of labour law and enforcement in EPZs. The remainder is then organised along salient issues that reoccur in many studies of working conditions in EPZs, namely, 'Workers' Organisations' (trade union), working time, health and safety, and wages and benefits. There remains a broad consensus that many countries simply lack the resources to enforce labour laws in many Export Processing Zones (Graham and Woods, 2006). One recent report from the World Bank summed up the problems in EPZs as follows: "Even in cases where workers' rights are legally mandated, there may be poor enforcement"(Brown,2009: 49). This finding is largely consistent with a recent International Confederation of Free Trade Zone Unions (ICFTU) report that, in a few countries, laws are still different in EPZs than the rest of the country; for example, in Togo, EPZ firms are exempt from regulations on hiring and firing. Despite the consensus that many countries lack the will or ability to enforce laws in EPZs, there are very few studies on government capacity to regulate conditions in EPZs (ILO, 2006).

Some country studies

This section provides reviews of few country studies that focus on a variety of labour conditions in EPZs. The review focus on different aspects of employment, comparing conditions in EPZs to different groups in the broader economy of the country.

Bangladesh

EPZ employment in Bangladesh has grown substantially in the last five years. The number increased from 121,000 in 2005 to 245,000 in 2010 (BEPZA, 2010). The vast majority of workers employed in the Bangladeshi EPZ factory are women. For all workers in Bangladesh inside and outside of EPZs the common problems found are the lack of awareness of workers with regard to their rights, long working hours, mandatory overtime, gender discrimination with relation to wages, employment insecurity, lack of childcare and maternity leave, low levels of health and safety, overcrowding of the workplace and poor working conditions (ILO, 2006).

A survey of over 1,300 women workers in and around Dhaka in 2004 provides a detailed view of the differences between working conditions and wages inside and outside of the EPZs (Kabeer and Mahmud, 2004). The survey breaks women workers down into four categories: workers in the EPZs around Dhaka, workers in the export garment sector of the city of Dhaka (not in EPZs), self-employed workers in the domestic sector, and wage workers in Dhaka. The results of this survey demonstrate significant differences between women workers in the EPZs compared with those in Dhaka in terms of socio-economic status, wages, work hours, formalisation of employment, and overall working conditions.

The survey finds that, like many EPZs throughout the world, workers in the Bangladeshi EPZs are generally young, unmarried, and have relatively fewer children than similar groups.

In relative terms, EPZ wages are higher than other workers. EPZ workers also report having more formal working conditions and enjoying more benefits than

all three comparison groups. Notably, 64 per cent of EPZ workers compared with 1 per cent of Dhaka garment workers received a contract letter (employment letter.) In addition, EPZ workers report receiving benefits at a much higher level than other workers. For example, 76 per cent of EPZ workers compared with 37 per cent of workers in the Dhaka garment sector enjoy paid leave; 91 per cent of EPZ workers compared with 63 per cent of those employed in the Dhaka garment sector enjoy medical care; and 97 per cent of EPZ workers compared with 83 per cent of Dhaka workers report getting overtime pay.

Also, EPZ workers are more likely to know how overtime is calculated and earn wages on a regular basis than the other groups. The survey found little evidence of trade unions in any of the four groups of workers. Moreover, workers report knowing little about labour laws. The results of this survey are congruent with findings from a ICFTU case study of working conditions in Bangladesh's EPZs, which finds that, generally, conditions are better inside the EPZs than outside. However, the ICFTU report argues that this finding does not indicate that EPZ conditions are a great achievement, stating that

“life for workers is generally better in the EPZs compared to conditions elsewhere because many companies outside the zones force their employees to work in dangerous, medieval conditions that lead to many accidents, a situation resulting from a virtually universal violation of Bangladeshi labour legislation” (ICFTU, 2004: 19).

Cambodia

The ILO's Better Factories Cambodia programme provides data on labour conditions in Cambodia's EPZs over time. From virtually no apparel exports in 1994, exports had grown to almost half a billion dollars in value by 1998. (Polaski, 2006). In 1999, the Governments of Cambodia and the United States signed a three-year trade agreement on textile and apparel (Polaski, 2006). The agreement awarded Cambodia higher garment export quotas into the United States market in return for improved working conditions and labour regulations. ILO monitors perform a first visit to a sample of factories, during which they assess 156 compliance items .In the six-month period before the 2007 report, there were a number of areas that demonstrated significant

improvement. The top areas of improvement were: (1) adopting grievance handling procedures, (2) notifying authorities in the case of accidents, (3) increasing awareness of employee's rights to paid time-off for breast feeding, (4) paying workers during normal working hours, and (5) paying workers who had work-related accidents. In all of these areas, there were between 18 per cent and 28 per cent improvements in compliance rates over a six-month period (Polaski, 2006).

Madagascar

Two recent studies of Madagascar (Cling, Razafindrakoto and Roubaud, 2005; Glick and Roubaud, 2006) also provide comparative empirical accounts of labour conditions in EPZs, as well as data on the effects of EPZ employment on women. EPZ employment in Madagascar is largely similar to EPZ employment in other parts of the world—employees tend to be younger, predominantly female, and less educated when compared with other formal sectors (Cling, Razafindrakoto and Roubaud, 2005; Glick and Roubaud, 2006). Compared with other sectors for female workers, EPZ employment pays better than private informal employment, about the same as private sector formal employment outside the EPZ (industrial and non-industrial). Overall, the results of this study find that one's assessment of the quality of EPZ employment depends on what one compares it with. In all indicators besides working hours, EPZ employment compares favourably with the informal sector; at times it is better than the rest of the private sector, and is generally on the same level as the public sector.

Specifically regarding women, however, there is evidence that the informal sector may be the most relevant comparative group. This is because the growth in EPZ employment was largely among women who would have been employed in the informal sector. This is evidenced by the drop in female informal employment from 24 per cent to 14 per cent in the same period during which EPZ employment increased from 5 per cent to 15 per cent of all female employment. The authors argue that: "In light of the under-representation of women in other kinds of formal employment, export processing appears to

provide women with opportunities for formal employment not available to them in other sectors.” (Glick and Roubaud, 2006: 740).

Sri Lanka

Employment in the EPZs of Sri Lanka has risen dramatically in the past five years, from 111,000 to 410,000 workers (ILO, 2002a; ILO, 2007b). The contrasts between work conditions inside of the Sri Lanka’s free trade zones and those outside are not as pronounced as in other countries discussed above. A survey of 370 women and 75 men conducted in 2001 provides a basis for analysis of working conditions in Sri Lanka’s EPZs (Jayaweera, 2003). For some issues, working conditions in the EPZs were as good as or better than the conditions experienced by workers outside the EPZ. For example, wages that workers report in the EPZs conformed with, or exceeded, minimum wage laws. Nearly 90 per cent of workers, both in the EPZ and in other factories, received wages just above the official poverty line.

In contrast with other countries, in Sri Lanka the vast majority of workers do not have contracts and believed that they could be dismissed without formal notice. Employment is unstable in the EPZs, with over 70 per cent of employees being employed for less than five years in their workplace. The survey found the lack of contracts to be common inside and outside the EPZs. Also, the report found that “the majority of workers in the EPZ factories and a smaller proportion in the rural factories claimed exposure to occupational health hazards such as dust pollution, continuously standing for long hours and hand injuries, and many complained of the absence of safeguards and compensation”(Jayaweera, 2003:34). Similar to many other countries discussed above, this study found extensive overtime in violation with Sri Lanka's labour legislation – with 41 per cent of women and 37 per cent of men in the EPZ reporting mandatory work more than nine hours per day.

2.5 .2 Violation of workers’ rights

According to Burawoy (1985), the violation of workers’ rights in EPZs should be understood as part of a process of governments’ undercutting of standards for specific locations to become the most attractive sites for international

capital. Localities are encouraged to compete for the location of economic activities. This race is especially fuelled by the neo-liberal state, in which governments are becoming increasingly labour hostile and, in the western world, aim to dismantle the welfare state. Analysing the development of the 1990s, Peck (1996) concludes that we are living in a world characterised by hegemonic despotism in which workers' rights are deteriorating. An indicator is that the responsibility of unemployment is placed on the unemployed all in the name of a more flexible labour market. Furthermore, during the post-war period, capital has become increasingly more mobile, whereas labour faces mobility restrictions. This, among other factors, increases the propensity of labour and capital to play against each other.

There is no uniform pattern of trade union and workers' rights in EPZs. While EPZ workers are generally covered by national labour laws in some countries, labour laws are suspended - partly or totally - in others, as it is as appears in Table 2.5.1 below.

Table 2.5.1 : Labour law application in EPZs

Country	Labour Standards fully applied	Labour Standards partially applied	Labour Standards suspended
Mauritius		√	
Kenya		√	
India			√
Bangladesh			√
Sri Lanka			√
Dominican Republic	√		
Jamaica	√		
Mexico	√		
Malaysia		√	
Philippines		√	
Mozambique	√		
Zimbabwe			√

Source: US Department of Labour 1989-1990, in Jauch and Keet (1996)

An ICFTU survey in 1991 on trade union rights in EPZs noted that only a minority of countries had enacted specific laws to explicitly restrict trade union rights. This, however, does not take into consideration violations of trade union

rights that result from the nature of EPZs. Monitoring and enforcing national legislation regarding working conditions in EPZs are difficult. The physical demarcation of EPZs, coupled with security guards and entry permit requirements into such areas, are major obstacles for trade unions in their efforts to reach and organise EPZ workers (ICFTU, 1991). In the Dominican Republic, the Philippines and Sri Lanka, trade unionists are not allowed to enter EPZs. South Korea restricted the right to form unions in their EPZs. Bangladesh suspended trade unions altogether in EPZs in 1986 (Chinyangarara and Loewenson, 1995).

Transnational investors are often hostile towards trade unions and express strong opposition to international labour standards. Transnational companies also played a major role in maintaining abusive legislation in Malaysia in 1991. In countries such as the Dominican Republic and Sri Lanka, EPZ companies made it clear that a union-free environment is crucial for their continued investment (ICFTU, 1991). The ICFTU pointed out that: “the danger facing the free trade union movement is that EPZs became established as links in a global chain used by internationally mobile capital to set off a competitive downward spiral in the observance of international labour standards” (ICFTU, 1991: 36). Competition for foreign investment between EPZ host countries and their willingness to compromise on workers’ rights and working conditions poses a threat to the achievements of trade unions. Host governments are often not willing to monitor and enforce national labour legislation within EPZs for fear of frightening off foreign investors (Knight and Well, 2007).

The ICFTU annual survey of violations of trade union rights notes that in Africa: “the governments are still all too keen to attract foreign investors, and either exempt the zones from labour legislation, such as in Zimbabwe, or simply don’t provide the human resources to enforce it” (ICFTU, 1999). Regarding the Americas, the report notes that Export Processing Zones remain a union black spot; inhumane working conditions, long hours and low pay still prevail; and the authorities do nothing to change that. Likewise, in Asia, the report notes that organising and bargaining rights are mostly limited in Export Processing Zones.

Such patterns indicate that EPZs are a potential threat to the achievements made by workers and their trade unions worldwide. Competition between developing countries for foreign investment not only puts pressure on the standards set within such zones but affects labour standards outside EPZs as well. The bargaining power of trade unions is undermined in the process and this is likely to contribute to a downward spiral of labour standards. This is why some analysts have argued that workers and their unions are the major losers in a development strategy based on EPZs (Lindeke, 1992).

EPZ policies have been heavily criticised. Dicken (1998) is particularly harsh in his description of some developing countries' attempts at attracting foreign investments:

“The basic question is: to what extent do international differences in labour standards and regulations (such as the use of child labour, poor health and safety conditions, repression of labour unions and workers' rights) and in the environmental standards and regulations distort the trading system and create unfair advantages? In both cases, the basic argument is that firms - as well as individual countries may be able to undercut their competitors by capitalising on cheap and exploited labour and lax environmental standards. Much of the focus of this concern is on the export processing zones which ... have proliferated throughout the developing world” (Dicken, 1998: 464).

Trade unions arguably provide their members with important services, negotiating on their behalf for better working conditions, protecting them from unfair treatment, and dividing the cost of obtaining information among a large number of workers. Recent analysis of the relationship between trade unions and productivity on Malaysian EPZs showed that trade unions can enhance productivity and efficiency (Hoe Lim, 1994). Unionised Malaysian firms tended to train their workers more and to use job rotation to enhance flexibility and efficiency. They were also more likely to adopt productivity-raising innovations relating to technological change, changing product mix and the reorganisation of work.

Hoe Lim's (1994) study stated that,

"In the Republic of Korea in 1988-90 found that unions there placed great value on wage equalisation and that the degree of wage dispersion in the unionised sector was 5.2% lower than in the non-unionised sector. In Mexico, union action appears to have helped reduce discrimination." (Hoe Lim, 1994: 4.4).

Pointing to criticism of the trade unions Hoe (1994) also viewed that,

"Trade unions are often criticised for improving wages and working conditions for their members at the expense of capital holders, consumers and non-union labour. For example the actions of trade unions in South Africa helped increase the wages of unionised black workers and bring them closer to those of white workers; thus union action helped to improve the distribution of income." (Hoe Lim, 1994: 4.4).

2.6 Unionism in EPZs

2.6.1 Theoretical perspective of unionism

Many writers (Fox et al., 1995; Deery et al, 2001) believe that Marx's view of industrial capitalism provided a basis for unionism among workers. Further, from a Marxist perspective, the capitalist system is based on antagonistic class interests between capitalists and workers. Capitalism had created a class of workers without property, who produced the wealth but shared few returns (Sykes, 1988).

Some labour historians and social reformists (Deery, Plowman, Walsh and Brown, 2001) believe that unions are agents of industrial reform. Unions seek to protect workers through the establishment of rules governing employment arrangements. In addition, these reformers (Fox, Howard and Pittard, 1995) argue that trade unionists could do a good deal to improve their lot through collective bargaining, which could ease employer pressure on wages, hours and working conditions.

Some writers (Deery, Plowman, Walsh and Brown, 2001) have concluded that unions emerged in response to the psychological needs of workers. They also argued that different groups of workers had different psychological needs and outlooks, which, in turn, led to the formation of unions with widely varying functions. Further, the foundation of this theory is that the development of

unions was a response to the alienation and loss of community associated with industrial work. Believers in economic self-interest theory (Deery, Plowman, Walsh and Brown, 2001) argued that most individual workers are forced to deal with their employer from a position of unequal bargaining power and unions were formed as an instrument to protect members' job rights and improve the terms and conditions of employment. According to Perlman (Perlman, 1999), trade unions were constantly struggling against a poor intellectual approach, which would frame its programs and shape its policies. He also added that trade unions were primarily concerned with basic economic and job-related issues. In addition to the above theoretical explanations for the founding of trade union movements around the globe, some authors argue that trade unions are the result of the State and the institutional requirements of the conciliation and arbitration system (Deery, Plowman, Walsh and Brown, 2001). According to Harod (2001), trade unions in the nineteenth century may have emerged in response to conventional stimuli, but those of the twentieth century emerged out of the needs of the arbitration system which had then become law.

The above theories concerning trade unions have separate assumptions about the motivations of workers and the nature of economic and political systems. Each of the theories seeks to explain the behavioural pattern of the union movement from a particular viewpoint.

Trade unions have traditionally been the principal agency of representation for workers. Representation empowers workers and enables them to bargain effectively and negotiate to their advantage, with the result that their income, employment and working conditions improve (Freeman, 1980; Booth, 1995). The role of unions as a collective voice reinforces the "positive economic, political and social effects of unionization in pluralist democracies" (Bhattacharjee, 2002: 308), and forms the basis of good-quality, dignified employment (Standing, 1999; Rodgers, 2001).

Since labour markets have become more flexible in industrialised countries, there has been a shift from "standard" full-time, regular employment to atypical forms of employment. In recent years non-standard employment which deviates from traditional working conditions is sometimes termed as atypical

forms of employment. In this research atypical employment is treated as a form of precarious employment. In developing countries, despite moderate economic growth unregistered and unprotected employment has continued to increase. Trade unions in countries across the world thus face the challenge of reaching out to many workers whose contractual situations are less well defined than those elaborated within the standard framework. However, it is generally agreed that the trade union movement has fallen on hard times (Sukti, 2002).

Sukti's proposition is supported by an ITUC (2009) annual survey on violations of trade union rights. The survey states that despite formal recognition by the government for trade union rights, widespread and grave anti-union practices have unfortunately continued in many countries, such as Colombia, Burma, Belarus, Sudan, Zimbabwe, Swaziland, Iran, Pakistan and the Philippines. Moreover, companies continued to take advantage of poor legislation and weak implementation to undermine workers' rights. Worldwide in 2008 at least 76 labour activists were killed as a result of their actions for workers' rights (ITUC 2009). In a few countries, trade unions continue to be banned, or their establishment restricted, and several thousand trade unionists and workers were dismissed for participating in strike actions or protests. Workers continue to be threatened by employers with relocation, outsourcing and downsizing, with inevitable negative consequences for the effective exercise of their trade union rights. The report concluded with the fear that next year's survey will paint a worsening picture (ITUC, 2009). Other writers have also claimed that the erosion of public support for unions has accompanied a decline in union power to bargain and organise (Milton, 1986).

The practice of global trade unionism began to grow in the early 1970s. This work has focused on historical analyses of the main global trade union bodies, such as the International Confederation of Free Trade Union (Wedin, 1974), national case studies (Sturmthal and Scoville, 1973) and the role of the trade union movements of the imperialist countries in the colonies (Harrod, 1972). Windmuller (1969) suggested that the activities of multinational companies produce their counterpart in a resurgence of global trade union activity.

Munck and Waterman (1999), in their *Labour World Wide in the Era of Globalisation*, included contributions covering surveys of the state of the working class in the neo-liberal world order and national case studies of the

experience of workers' movements in countries that have suffered the consequences of the most rapid introduction of neo-liberalism. Munck and Waterman (1999), eschewing economic analysis, stress the importance of the interaction between workers' movements and political movements, and conclude with an optimistic assessment of the potential of the trade union movement to create a new era of opposition and resistance to capitalism. Herod (2001), for example, strongly emphasises the active role that workers themselves play within the processes of globalisation.

Burgess (2004) has, however, focused less on the sociological and economic aspects of globalisation on position of organised labour, than upon its traditional political arrangements in countries around the world. In *Globalisation and Labour*, Munck (2002) stresses the instabilities and insecurities created for workers by trends within modern capitalism. The new flexibilisation of work is providing new challenges to the global trade union movement:

“Trade unions at the start of the twenty-first century are facing a different reality due to globalisation, and 'flexibilisation' of work in particular, which demands a 'cultural revolution' if they are to meet the challenge”. (Munck, 2002: 190)

Many working in the field of labour studies have emphasised the newly emerging models of cross-border networking and activism within contemporary social movements. This is a body of literature which, with occasional exceptions, provides accounts of globalisation that fit clearly into a labour movement frame of analysis. Some of the authors working in this area of labour studies have seen in the new movements, mobilisation around issues of globalisation, and workers' rights and the emergence of new transnational actors, of which labour is one amongst many, that are finding commonalities upon which to unite (Drainville, 2000).

Another branch of labour studies has grown through the interest of political and economic geographers. Some (Cox, 1996; Herod, 2001) of those writing within this area combine a focus on the global economy with a scepticism regarding 'globalisation' and an upbeat assessment of the prospects for

organised labour. Herod is distinctive for his emphasis on organised labour as an actor that can shape the domain of industrial relations as much as capital (Herod, 1997) and for his focus on local sites of production within a more globalised economic domain (Herod, 1998; Herod, 2001).

It is evident from the literature review presented here that there has been a dramatic expansion of research and publication in the area of labour movements since the early 1970s. This work has produced some empirical studies, as well as attempts to provide a theoretical understanding of how organised labour is responding to the economic, political, social and cultural changes in its environment. Those who have offered theoretical perspectives on the contemporary labour movement fall into different, though overlapping, camps. Some have emphasised the interaction between organised labour and social movements of various kinds (Waterman, 1998; Munck and Waterman, 1999). Others have emphasised the significance of new formulations of purpose and organisational style within global trade unionism (Drainville, 2002) as well as that of reformulations of the meaning of solidarity (Hyman, 1997, 1999). Still others have found the time opportune to call for new horizons of assertive and radical global trade unionism (Panitch and Leys, 2001). Commenting on the different modes of labour movement practice itself, Hyman (2005) has called for a new synthesis that combines 'from below' approaches (the 'agitational' model) with 'from above' approaches (the 'bureaucratic-diplomatic' model) to create a model of practice that can be effective for the future. (This has been further explicated in chapter 5 of this thesis while discussing the processes of mobilisation for trade unions in Bangladesh's EPZs).

The Maquiladora strike of the EPZ workers in 1999, the strike inside the Cavite Export Processing Zone in the Phillipine in 2006, strikes and riots in the Export Processing Zones in Vietnam and Bangladesh between 2000 and 2006 also gave new meaning to the notion of labour mobilisation for standard workers' rights (Muktada et al., 2002).

2.6. 2 Union obstructions: roles of state and EPZ employers

As mentioned earlier, EPZs were developed in many countries as part of a switch to an economic policy featured by trade liberalisation and a focus on export-oriented production. In state-sponsored EPZs, the State started to use direct means, such as legislative restrictions and administrative practices, to govern EPZ labour (Caspersz, 1995). In fact, there is legislative restriction in many countries such as Sri Lanka, Malaysia and Bangladesh. For example, when creating EPZ in Sri Lanka, the government enacted legislation to establish a statutory body responsible for the establishment and management of EPZs. Under the initial legislation it was proposed that EPZs be exempted from all the labour laws. But as a result of a challenge in the Constitutional Court, these sections of the Bill were excluded from the final legislation, which was passed as law in January 1978 (Caspersz, 1998). In Malaysia, the state also imposed a general ban on the formation of trade unions in the export sector for approximately fifteen years on the plea that the electronics industry in their EPZ was “too sensitive” and that the owners of the electronics companies would leave Malaysia if unions were allowed (Caspersz, 1998). On the other hand, while the right for workers to freely organise exists in theory, in some countries such as Sri Lanka, and Malaysia, this has been violated in practice by various administrative arrangements. Firstly, employers were under no obligation to recognise unions (Caspersz, 1998). Workers in Sri Lanka revealed that state disapproval towards unions may affect workers’ willingness to participate in union activities. Likewise, in Malaysia, the Director General of Trade Unions under the Trade Union Act, and in Bangladesh, the Executive Chairman of BEPZA, has the direct power to refuse union registration on certain grounds (Caspersz, 1998). This power can be used to prevent unions from forming, especially in the EPZs.

Some researchers (Caspersz, 1998; Sewel et al., 1996) have argued that the state and capital govern EPZ labour by using direct and indirect means. Direct means are available through legislation and administrative techniques, and indirect means involved the manipulation of the subjectivities (individual responses) of workers (Sewel et al., 1996). Understanding these dynamics is vital for the future of trade unions in EPZs for any host countries. EPZ labour

is part of an overall “package” of incentives, such as lower taxes, public utility costs, and employment schemes, usually offered by EPZ host states to attract capital interests into EPZ. This has led states to directly interfere with the role of unions in an effort to increase the attractiveness of labour management in the zones. There is also a ‘race to the bottom’ effect due to countries competing with each other in trying to attract investment as a result of the emergence of the global economy (Brecher and Costello, 1994). Another consideration, and arguably the most important, is the tendency of workers to mount resistance activities against state-capital actions, subdued in many cases, not only because workers are coerced into compliance by various direct means practised by this coalition of interests, but some workers have also become confused about issues of class conflicts (Casparz, 1998). Regarding indirect means, literature (Caspersz, 1998) shows that “gender” has been used to construct a certain type of workforce amenable to the economic interests of state and capital that is mainly female, rural in origin and young. Caspersz (1997) has shown in his study in Sri Lanka that employers prefer women workers on the grounds that females are less capable of creating troubles to production the working environment.

By combining direct means of governance with indirect means such as manipulating the subjectivity of workers, Caspersz (1997) argued that the forces of government have been able to fracture the interests of EPZ workers and prevent them from forming into class-based coalitions. The challenge for trade unions is to face the effect on workers by the intersection of these factors and to build their own strategy. Caspersz (1997) provides an interesting trajectory by comparing the process and outcomes of two workers’ resistance movements in Malaysia. He showed that factors like gender and ethnicity were highly influential in the success of a workers’ movement in one factory because the leaders were mostly female; as such, they were able to harness the majority of the workforce and maintain the support of the movement.

Employer’s technique

Many employers seek diversification of the workforce, hiring different ethnic groups and even communities that speak different languages, in order to inhibit worker solidarity (Melvyn, 2000) Martin Jay Levitt (1993) argued that

sometimes company management use favouritism and division by establishing "Vote No" committees of pro-company workers charged with the responsibility of rewarding loyal workers. Such workers may receive special favours, extra time off, and other bonuses. Pro-union workers are forced to undergo ever-tighter scrutiny, and are confronted with scurrilous rumours spread by the anti-union campaign. Whenever the union attempts to hold constructive meetings of potential union members, a group of anti-union employees may be sent by union-busting management with instructions to disrupt the meeting and put the union on the defensive. The anti-union employees might shout and sneer, or ask hostile, misleading questions. Some of them may be tasked with jotting down profuse notes whenever someone speaks to make pro-union workers uncomfortable. The company gains from any divisions or animosity created by such tactics, for the union can be blamed for driving a wedge of hate into a once unified work force (Martin Jay Levitt, 1993).

2.6. 3 Violation of trade union rights: country experiences

The available literature on workers' rights has given different degrees of attention to relevant international and national laws. In the era of globalisation, different forces are extending many interactions on the rights of workers. As a result of the varied natures of motivation behind addressing workers' rights countries differ in addressing them. In their report ILO (2008) held the view that while in most EPZ-operating countries national labour and industrial legislation is applicable in the zones, it is not equally applied in some countries.

The ILO (2008) report stated that in **Singapore** the national labour laws apply to domestic and foreign firms alike, and EPZ enterprises in **Mauritius** are covered by the labour laws and labour relations system. **Barbados, Jamaica, Trinidad and Tobago** all ensure that those rights provided to workers nationally apply in the zones as well (ILO, 2008). The **Philippines** provides an excellent example of a zone-operating country which has established a stable system of labour-management relations (ILO, 2008). EPZs in **Costa Rica** are covered by the national labour laws. The Board of Investment (BOI) of **Sri Lanka** informs incoming investors that the labour laws of the country apply to all EPZ (ILO, 2008). There are very few countries which openly and officially

exclude zones from the national labour legislation and system of labour-management relations. Bangladesh, Pakistan, Panama and Zimbabwe are a few of these (ILO, 2008).

The 2007 edition of the survey published by the International Trade Union Confederation (ITUC, 2007) covering 138 countries shows an alarming rise in the number of people killed as a result of their trade union activities, from 115 in 2005 to 144 in 2006 (ITUC, 2007). Many more trade unionists around the world were abducted or “disappeared.” Thousands were arrested during the year for their part in strike action and protests, while thousands of others were fired in retaliation for organising. Growing numbers of trade union activists in Africa, the Americas, Europe, Asia, and the Pacific are facing police brutality and murder as unions are viewed as opponents of corporatist governments. Colombia is still the deadliest country in the world for trade unionists. In 2006, seventy-eight people were murdered because of their union activities, an increase of eight from the previous year. Mass dismissals were also reported at a diamond mine in Botswana and at a road-construction site in Cameroon (ITUC, 2007). In Egypt, Libya, and Sudan, the single trade union system prohibits effective bargaining or representation, while in Equatorial Guinea the dictatorship is too absolute to allow organising (ITUC, 2007).

In the Middle East, some governments took steps towards the recognition of trade union rights, but, overall, workers in the region still have fewer rights than anywhere in the world. For example, in Jordan, Kuwait, Yemen and Syria, laws impose an ineffective single trade union system (ITUC, 2007). In Saudi Arabia, the total lack of workers’ rights and protection means that migrant workers, particularly women, are frequently subjected to blatant abuse, such as nonpayment of wages, forced confinement, rape, and other physical violence (ITUC, 2007). There were more mass dismissals and arrests in response to collective action in Asia than in any other region in the world in 2007 (ITUC, 2007). In Bangladesh, the phased introduction of trade union rights in EPZs got off to a poor start, as employers routinely harassed, suspended, and fired leaders of ‘Workers’ Representation and Welfare Committees’ during the year (phase 1 period 2004-2006). In one incident, police opened fire on strikers at an EPZ garment factory, killing one worker and injuring some others (ITUC,

2007). In Malaysia, police used batons, dogs, and water cannons to disperse a workers' protest (ITUC, 2007). The Philippines stand out as the most violent country in the region (ITUC, 2007). There was no change in China where the law does not allow for any independent trade union activity. Over one hundred workers were arrested and detained for involvement in collective protests, while the official "trade union" did nothing to protect them (ITUC, 2007). A recent report published by the social audit company Vigeo,⁸ based on a study of 511 enterprises in seventeen European countries, shows that less than 10 per cent of European companies are committed to freedom of association and the promotion of collective bargaining. Changes in labour legislation in several countries added to existing restrictions on trade union rights. Despite all these difficulties, millions of women and men remain firm in their commitment to discover the benefits of the trade union actions (Vigeo, 2009).

The experiences of EPZs mainly in East and Southeast Asia, Latin America and African regions have been reviewed over a wide range of issues such as the level of employment creation, technology up-grading and foreign exchange earnings, wages and working conditions and industrial relations. These reviews have taken place in the context of global industrial relations and labour market functioning in the EPZs. A concern here is that many of the literatures are unavoidably dated due to the surge of EPZs across the world. However, a valid observation is that EPZs are not a static phenomenon, in the sense that the economic conditions in which they operate change over time and this affects their characteristics. More generally, many findings are country and time specific as is often the case in the economic literature. The way forward thus seems to be for specific country research to use a multi-disciplinary approach. Therefore, a clear research agenda lies ahead that needs to be policy focused: what are the lessons from the experiences of EPZs that policy makers can utilize to improve the workers' conditions that globalization has set in force so that economic growth in the EPZ can be associated with gains for workers within EPZs.

⁸ European leading supplier of extra-financial analysis, the **Vigeo** Group measures companies' performance in the field of sustainable development & social cause.

2.7 Conclusion

This above review has covered the contemporary issues of globalisation, workers' rights and conditions of trade unions in the EPZs, and suggests that the research gap should be filled by further evidence. The review has identified concerns that Export Processing Zones will need to act to keep or reinforce efforts to prevent violation of workers' rights as the EPZ sweatshops continue to employ unacceptable working conditions, long working hours with low wages and sometimes hazardous working conditions. The literature review shows that precarious employment represents significant employment characteristics in EPZs. The importance of global trends and issues related to the feminisation of labour and its implications for regional and national economies have also been extensively exemplified in the literature.

It is evident that EPZs operate either beyond the reach of labour legislation or the legislation is not enforced. Unions are virtually non-existent in many EPZs. This literature review also shows that globalisation has significant impacts on workers' rights in developing countries. The literature also clearly indicates that though in some countries' national labour laws are equally applicable to EPZs, for many there is still a gap between labour laws and the way they are implemented in the EPZ industry. Some analysts also suggest that workers' rights are often difficult to achieve. The problem is that denial of the right to freedom of association and collective bargaining is in some countries part of the political system. Trade unions in such a situation can be an important source of opposition to authoritarian regimes. Countries which are persistent violators of core labour standards tend to argue that this is due to a harsh economic reality. But there is no citable proof that better observance of human rights adversely affects growth and even if there was some tenuous relationship, it has already been universally accepted by countries which are signatories to the 'UN Universal Declaration of Human Rights that economic growth cannot be at the expense of human rights in which workers' rights are included.

The literature review could not find any uniform pattern of workers' mobilisation strategies for achieving trade union rights in the EPZs. Many working in the field of labour studies have emphasised the emerging models of cross-border networking and activism within contemporary social movements. Some of the authors working in the area of labour studies have seen in the new movements, mobilisation around issues of globalisation and workers' rights and the emergence of new transnational actors, of which labour is one amongst many. Finding commonalities upon which to unite for resistance is thus important for any labour studies.

The review shows that globalization has intensified economic competition among nations. To increase the competitiveness of their products in the global market, many countries have adopted the so-called neo-liberal policy, with one of its key parts being legal restrictions on workers' rights for the sake of higher economic efficiency. As a consequence, workers in many countries are struggling to protect their standard worker's rights. At the same time, neo-liberal policies strongly advocate labour market flexibility, namely, deregulating the labour market and empowering employers in areas of hiring, firing, wages, and use of labour. As a result, atypical precarious workers have become prevalent over the past few years. These atypical, that is, precarious workers have not enjoyed adequate protection for their employment, are getting lower wages, and lack social security, occupational health and safety.

Globalization has expedited the internationalisation of trade union work. Trade unions gain their legitimacy through national legislation and other means, and protect their members' rights within their jurisdiction. Due to economic globalization, capital has become global rapidly, which challenges the traditional means of worker protection by trade unions. The literature on the trade union movement has attached great importance to formulating and improving laws and regulations and protecting the legitimate rights and interests of workers in the EPZs. In this process, the Bangladesh's EPZs trade union movement had strongly demanded the policy of reform and has ultimately succeeded. But labour studies related to trade union activities in

EPZs only peripherally touch upon issues of trade unions and do not provide any detailed information about the process of labour mobilisation.

Based on the literature, it can legitimately be argued that although there are few studies available regarding Bangladesh's EPZs' context, none of the studies address the impacts of globalisation on workers' rights, the process of labour mobilisation for trade unions and the roles played by the state and global capital. There is also no qualitative research in Bangladesh on the role of trade unions in overcoming precarious employment conditions in the EPZs. Little information is available on forms or precarious type works that take place in Bangladesh's EPZs. Information is lacking on many other relevant questions such as how does precarious work differ in nature from permanent employment in terms of rights, protections and entitlements? How does the content or enforcement of relevant labour laws contribute to the problem of precarious work? How can precarious employment be reduced by trade unions? What strategies can unions take to organise or otherwise improve conditions for precarious workers? What role can other actors such as the ILO, NGOs, national trade union centres and employers play in addressing precarious work? Answers are not available from the available literature. The above mentioned gaps or questions constitute the main areas of investigation which this thesis seeks to address.

Chapter 3: Research methodology

3.1 Introduction: Research method and theory

This chapter gives an overview and rationale of the methodology and the research procedure. Initially, a number of different approaches were considered and it was finally decided to use qualitative research methods for the reasons described below.

The main purpose of the research was to explore the role of trade unions in overcoming workers' precariousness in the Export Processing Zones. The main areas of investigation and analysis were to study the background and process of the trade union movement in EPZs in protecting workers' rights and the role of trade unions in overcoming EPZ workers' precariousness. This research aspires to fill a gap in the literature and knowledge about the impact of globalisation on workers' rights in the Export Processing Zones in Bangladesh. There is no published research on the topic to date. Qualitative research methods seemed to be appropriate since there are non quantifiable aspects of trade union behaviour, such as the emotions and attitudes of the worker.

Thus, considering a general research framework, analytical objectives, question format, data format and flexibility in study design, the qualitative research method as described below has been found to be more useful for this research. From the viewpoint of the research framework, it needs to be mentioned here that this research did not seek to confirm any hypotheses about phenomena, but to ask the research question. It was intended to use flexible research instruments with an iterative style of eliciting and categorising responses to questions and use of semi-structured methods such as in-depth interviews, focus groups, and participant observation. The research does not involve a rigid style of eliciting and categorising responses to questions and use of highly structured methods such as questionnaires, surveys, and structured observation.

From the viewpoint of the analytic objective, it was not intended to quantify variation, but rather to describe variation; it was not the aim to predict causal relationships, but rather to understand and analyse relationships, and it was not the intention to describe the characteristics of a population, but rather to

describe individual experiences and group norms, as evident in a qualitative research method (Denzin, 2000). The research intended to use open-ended questions instead of close ended questions as is used in quantitative methods (Russell, 2005). The desired data format of the research is textual (obtained from audiotapes, and field notes rather than numerical (obtained by assigning numerical values to responses).

Finally, since the research involves human and organisational behaviour over a period of time, maintaining a stable study design was thought to be problematic, so a qualitative study method with flexibility in some aspects of the study, such as the addition, exclusion, or wording of particular interview questions as are permissible under the qualitative research method (Huberman et al., 2002) was necessary. Furthermore, it was anticipated that participants' responses would affect how and which questions researchers would ask next, so the study design needed to be iterative; that is, data collection and research questions needed to be adjusted according to what was learned (Jean Lee, 1992).

3.1.1 Choosing the theory for qualitative research: grounded theory

Grounded theory, an established qualitative research method introduced by Glaser and Strauss in 1967, has been employed in this study. Later, Strauss and Corbin (1990) claimed that grounded theory can be used to understand any chosen phenomenon better, about which little is yet known. According to Byrne (2001), grounded theory provides the researcher with strategies that can be used to explore areas previously unexplored or under explored. Thus, grounded theory has experienced application and discussion in wider fields over subsequent years, for example: gender and power (Connell, 1987); community studies (Bowlin and Brahma, 2002); trade unions (O'Brien, 2002; Peter and Shawchuk, 2001).

3.1.2 Grounded theory (GT): procedure for using

Like all other research, GT is guided by a research question that tends to be concerned with actions or interactions and processes. One of the main elements of grounded theory is coding: the process of analysing data. Coding can be of open coding (what?), constant comparison (grounding), axial coding (when,

where, why, how, what follows?), and selective coding (telling the story). The outcome of coding provides elements of theoretical concepts and their relationships. Anything can be a concept; abstractions, actions/events, attributes, relationships. Concepts are then grouped into categories and subcategories. A category represents a set of related concepts and a subcategory is a class of similar concepts (category names can be the researcher's own invention, common terms from the field (literature) or taken directly from the data e.g. interview responses (Straus and Corbin, 1990). The way GT achieves its grounding in the data is by continual comparison during the theory building. Analysis of a word, phrase, or sentence by extensively listing all of its possible meanings (likely or not) and trying to validate these meanings from the data are the techniques of theoretical sensitivity.

Data gathering

Data gathering involves deciding when, what and how much to observe for analysis and finding or creating the context in which to observe e.g. field observations, interviews, or other ways of making and recording the actual observations.

In utilising GT, some typical (preferred) modes of observation occur. In principle, the richest and most reliable form is the interview (unstructured or loosely structured). However, GT accepts any kind of data that is available as potentially valid data for the study such as written documents, third-party literature from other studies, and previously existing audio and video material (Straus and Corbin, 1990).

Theoretical sampling (TS) refers to the merging of data gathering and analysis. Initially, some data is gathered (open sampling) and then analysis begins very broadly. When particular areas of interest have been identified, more data is gathered (open sampling) and analysed with greater focus. During axial coding further data gathering is done to maximise the differences at the dimensional level. During selective coding further data gathering is done to verify the story line and fill in poorly developed categories. (Straus and Corbin, 1990). Theoretical sampling ends when each category is theoretically saturated so no new or relevant data seems to emerge, all paradigm elements are accounted for

along with variation and process conditions (causal, context, intervening), action/interaction, consequences, for category relationships are well established and validated . Grounded theories without theoretical saturation are inadequate (Straus and Corbin, 1990).

Quality criteria for grounded theory studies

According to Straus and Corbin (1990) the criteria of good research are: significance, relevance, theory/observation, compatibility, generalisability, consistency, reproducibility, precision and verification. Regarding generalisability, the GT is applicable whenever the conditions described by the GT hold, but even then differences are possible because the situation may involve additional conditions not considered in the GT (Straus and Corbin, 1990).

The nature of social phenomena means it is impossible to reproduce exactly equivalent data gathering. Because of the subjective and creative nature of the GT analysis process, it is also impossible to exactly reproduce the analysis, given the data. Still, a GT study should be reproducible in these senses: given the same study focus but gathering new data, a new researcher should arrive at similar findings insofar as the same conditions are present in the new data. Given the same data and a description of the analysis process, a second researcher should, however, agree with the analysis (Straus and Corbin, 1990).

3.2 Data collection methodology

The study concentrates on the trade union movement in EPZs in Bangladesh, thus data collection methodology evolved around Bangladeshi contexts .In Bangladesh, there is a legal obligation for organisations and associations to register and to communicate certain basic statistics, such as the number of members or workers covered when a union or collective agreement is registered. This information also forms part of their regular statistical inquiry system. The central authority processes the national-level statistics and government and researchers use these official figures.

Data from workers or employer organisations themselves however, are difficult to obtain and suffer from the same problems as administrative data on other

subjects. Unions preserve a certain prerogative over their records or they are unable to maintain up-to-date information. Some official statistics (particularly unionisation or density rates) are compiled at the national level, but different criteria are used, so comparison is complicated. Thus data was collected from both primary and secondary sources.

3.2.1 Secondary data source

Published secondary sources were used to identify material for the literature review in chapter 2. Materials for the literature review were also collected through online web searching. Library research threw up substantial amounts of secondary data, including useful databases. Thus, the Library of the University of Liverpool provides access to some databases. The service provides access and support for a range of social science qualitative datasets, promoting and facilitating increased and more effective use of data in research. The Labour and Global Change Database also provides bibliographies, citation information and (where available) web links to the full text of research exploring connections between labour and globalisation. The database is run and continually updated by the Labour and Global Change Program of the University of Michigan.

3.3 Sampling and participants for primary data source

One of the great advantages of qualitative research method is that the number of respondents could be small and the researcher is able to use his/her research wisdom or anticipation in selecting respondents (Bauer and Gaskell, 2000). As such, sampling techniques are adopted depending on the research areas and research questions. Robson (1993), David and Sutton (2004) also argue that a sample could be built up that allows the researcher to address specific research needs. Care has been taken, so that selected samples are not biased by misrepresenting different sections of the study population.

The data collection procedures include interviewing various segments of the study population. Six different types of participants were involved in this research. The first group contains 2 interviewees from state agencies responsible for policy formulation and execution; the second group contains 1 interviewee from national employers' associations, consisting of employers of

EPZ enterprises; the third group contains 4 interviewees from national trade union organisations, which extended solidarity to EPZ workers; the fourth group contains 4 EPZ enterprise level trade union activists; the fifth group contains 4 interviewees from management level officials of EPZ enterprises; and the sixth group contains 36 EPZ workers. The distribution of number of interviewees along with reasons for interviewing has been presented in Table 3.3.1 below.

Table 3.3.1 Number of interviewees and reasons for interviewing

Organisation	How related to EPZ affairs	Number of interviewees	Reasons for Interviewing
Bangladesh Export Processing Zone Authority (BEPZA)	Execution of labour laws in EPZs	2	For collection of information on research areas.
Bangladesh Garment Manufacturers' and Employers' Association (BGMEA)	Look after interests of EPZ employers and labour affairs	1	For open in-depth discussion and free comments on the research question.
Bangladesh Garments Workers' Federation (BGWF)	Extended solidarity to EPZ workers movement for trade union.	3	For open in-depth discussion and free comments on the research question.
National Labour Federation of Bangladesh		1	
Management level officials of EPZ enterprise	Directly involved with the EPZ labour relations	4	For collection of information on role of employer and their attitude toward trade union.
Trade union representatives from EPZ Enterprise	Directly involved with the EPZ trade union	4	For collection of information on the role of trade union.
Workers of the EPZ enterprise	Directly involved with the EPZ trade union	36	For collection of information on work condition and their experience with trade union.
Total		51	

The criterion for selecting the sample from the population is as follows. The first criterion for the sample was that each person had to be involved with the affairs of EPZ workers. The second criterion for selecting non-workers were that each participant had to be knowledgeable about trade unions. The third criterion for the selection of workers was that each worker had to have been employed for a minimum of two years, so they would have a feel and understanding of the employee and trade union culture .

Regarding the number of participants from trade unions, it needs to be mentioned here that initially it was intended to interview about 10 to 12 trade union officials to gather primary data for this research. As mentioned above, it was also designed to gather primary data from two types of trade unions i) trade union federations and ii) EPZ enterprise level trade unions. In-depth interviews with four trade union officials from two concerned trade union federations, namely Bangladesh Garment Workers Federation and National Labour Federation of Bangladesh, yielded theoretical saturation since they provided almost similar information about their experience, supports extended to the EPZ worker's movement and views about future mobilisation strategies for full democratic trade union culture in the EPZs. This led to limiting the number of participants from trade union federations. On the other hand, the researcher had managed to access in four EPZ enterprises (where trade unions were already formed) for in-depth interviews with the management level officials of the enterprises, trade union representatives and workers. Initially it was intended to have a comparative picture with and without trade union conditions. Accordingly, attempts were made to include enterprises where there was no trade union at the time of data collection or which were under the process of forming trade unions. But the researcher's access to such enterprises was denied by the EPZ employers. Two EPZ employers denied the researcher access into their production sites saying that some human rights activists in the past had provoked EPZ workers for the organisation of violence and protests in the guise of research work. Thus due to this compelling circumstance, the method of before and after trade union situation in the same EPZ enterprises had followed to know the direction of changes.

For the sake of cross verification of information or views of one group of participants with other groups such as workers' views over employers' activities or trade unions' role toward the workers interest, it was felt useful to interview trade union representatives from the same enterprises. For this reason, trade union representatives from the same four EPZ enterprises (from where workers participated in this research) were selected for this research. Theoretical saturation around the research questions were achieved after interviewing four enterprise level union representatives. As such, primary information gathered from eight union officials (four from trade union federations and four from EPZ enterprise level trade unions) yielded theoretical saturation for the research questions about the processes of the trade union movement, union activists' experience and unions' mobilisation strategy for protecting workers' rights as well as democratisation of their trade unions.

The sampling strategy sought "to capture depth and richness" (Padgett, 1998: 50). A non-probability sampling⁹ strategy was utilised. Purposive or judgmental sampling is based on the researcher's judgment and the purpose of the study (Rubin and Babbie, 1997). An initial list of available contacts guided the selection of participants during early stages of the sampling and snowball sampling occurred in the later stage. Initial contact with potential participants was made over telephone. Meeting some workers at the EPZ gate was another way in which appointments for in- depth interviews were made. It was made clear to participants that the researcher was working on PhD research at the University of Liverpool and was interested in learning more about workers' experiences within the trade unions or workers' organisations. Sometimes, the researcher requested well informed participants in gaining access or to contact with another participant. Most of the approached participants were interested and agreed to take part in interviews.

Only two workers refused: a female factory worker said she knew little about the trade union and another stated that he was "too busy" to be interviewed. Many other participants initially demurred; most often reporting little

⁹ A sampling procedure in which the selection of population element is based in part on the judgment of the researcher as a field interviewer.

experience with trade unions. However, all agreed with the two previous exceptions.

The researcher utilised a snowball sampling technique to identify potential interviewees. The snowball sampling technique relies on previously identified group members identifying other members of the population when a population list is incomplete or unavailable (Henry, 1990). In some instances, the researcher was personally introduced to some potential participants while visiting an EPZ factory official. As potential interviewees were contacted, some referred the researcher to other potential participants.

In some cases, the researcher contacted the participants by telephone to schedule an introductory meeting to discuss the research project. Seidman (1998: 40) states, "Telephoning is often a necessary first step in making contact, but if possible it should consist of only a brief introduction, an explanation of how the interviewer gained access to the person's name, and a decision on when to meet". Thus, initial contact was made over the telephone with the prospective interviewee to determine if they fitted the required selection criteria and to discuss the study in depth to avoid confusion and avoid any surprises during the interview, such as signing a consent form. Seidman (1998) proclaims the rationale for an initial visit with potential interviewees. "By taking the time to make a separate contact visit to introduce him/herself and the study, an interviewer is saying implicitly to the potential participants, you are important. I take my work seriously. I respect my work and you enough to want to make a separate trip to meet with you to explain the project" (Seidman, 1998: 40).

Each participant was informed of the voluntary and confidential nature of the research. Informed consent forms were presented to each participant. The participants seemed unfamiliar with an informed consent form and approached the document cautiously. Occasionally, there was a voiced concern about being misquoted or having words taken out of context, but the confidential nature of the interviews reassured most participants.

Interviews were conducted with participants in Adamjee and Dhaka Export Processing Zone and occurred in the place of the participant's choice. These occurred in multiple sites across the Dhaka city where EPZ workers live. Interviews were also conducted face-to-face in an area of privacy.

The method of phenomenological interviewing applied to a sample of participants who all experienced similar structural and social conditions. This gives enormous power to the stories of a relatively few participants. Interviews were conducted until a point of saturation, that is, when no new information seemed to be emerging from the respondents (Strauss and Corbin, 1998). The initial projected goal for the number of interviews was between 50 and 56 and that goal was met. Saturation on the descriptive details was quickly reached, as soon as after 30 interviews. EPZ workers in this study seemed to think very similarly and their answers were often echoes of previous respondents. Interviewing continued beyond 30 interviews in order to look for negative cases, seek out diversity among the participants, and then to narrow in and interview more selectively around the core categories that were identified during the process of theory development.

3.4 Data Collection

The data was collected through qualitative interviews, which Padgett (1998: 9) describes as a "goal-directed" conversation. The doctoral candidate conducted all of the interviews. No assistants were used in conducting the interviews.

Merriam (1998) states data collection in qualitative research using grounded theory involves three strategies: interviewing, observing, and analysing documents. However, usually one or two methods of data collection predominate over the others. For this study, the primary procedure for data collection was personal interviews. An interview instrument was developed by the researcher. The interview guide was aligned with the research questions and presented to supervisors for approval. The purpose was to get suggestions for improving the quality of the interview guide. This reduced researcher bias by implementing the expertise of professionals and not the researcher's opinions unitarily. The questions were designed in an unstructured and a semi structured format with open-ended questions. This allowed for the interview to

be guided by a list of questions or issues to be explored, and neither the exact wording nor the order of the questions was determined previously (Merriam, 1998). According to Dillman (1978), open-ended questions allow for a precise piece of information that participants can recall without difficulty.

Interviews

This study was conducted in the Dhaka Export Processing Zone (DEPZ) and Adamjee EPZ in Bangladesh with a view to collect primary data. In this research, in- depth interviewing was conducted with a total of 51 participants. The list of interviewees is presented at Appendix A.

Pilot study

To collect primary data, the fieldwork was conducted in two stages: a) pilot study, and b) in-depth interviews. The pilot study was conducted on two EPZ workers under the same conditions and environment anticipated in the actual study and served as an exploratory tool to test the interview guide and gave the researcher experience in interviewing and transcribing cases. This stage identified the weakness and potential of this research in regard to instrument clarity, wording and formatting interview guides. Vogt (1999) has emphasised the essence for questionnaire testing before using it for the entire sample. After testing the interview guide/instrument, the researcher collected data from the EPZ workers.

In-depth Interviews

The second stage of the research was the in-depth interviews with 51 participants. The objectives of the interviews were to investigate personal, sensitive and confidential information related to industrial relation management practices and their implications for the research question.

It has already been stated in section 3.2.2 of this chapter that six different types of participants were involved in this research. As such six different interview guides were used for conversation during interviews with the participants. Conversation topics and interview guides have been given in appendix E.

Permission was sought to record the voices of interviewees. About 45 per cent of the respondents did not agree to record their voices. They seemed cautious about having their words recorded. This subgroup included workers and trade

union officials and bureaucrats. When permission was not granted, the researcher took copious handwritten field notes during the interviews. The participants who were willing to be audio recorded appeared to speak frankly about their work and their opinions. The voice recording of interviews was discontinued as selective coding ensued and more attention was paid to the core categories. In these cases field notes were utilised instead of transcripts.

The method of data collection used in this research required the development of a brief formal interaction, particularly when the interview was progressing and the interviewer needed to ask the participants some specific questions from a limited range of topics to a variety of issues. During this process the researcher allowed the respondents to develop points to answer. The personality and social dignity of the interviewer may have allowed the interviewees to develop confidence and respect towards the researcher. I believe these factors have influenced the interview results to be more accurate and practical.

Attempts were also taken to avoid any possible annoyance to interviewees by interviewing on a limited number of topics; however some topics were covered in great detail to ensure that the results collected were sufficient and relevant. I also allowed the interviewees to ask further questions to eliminate any doubts about the research topics.

Instead of using set wording to questions, I explained the question quite fully. Sometimes the researcher decided questions to ask and framed further questions on the basis of the information provided by the interviewees. When the answers to the first question came to an end, further questions were asked to obtain clarification of some points. Such natural conversation produces richer, fuller, more genuine and more realistic information on interviewees' own terms (interviewees allowed to talk in their own terms), not constrained by fixed-answer to avoid narrow information. Interview questions were also adapted to context, interviewee's style, thoughts and the general flow of answers. Thus as argued by Foddy (1993), much more flexible approach of interviewing with relaxed, more informed and involved respondents helped to avoid interviewer bias. Limitations of unstructured interviewing such as lack

of the skills necessary to conduct interviews successfully was overcome with the researcher's past experience and awareness of the unstructured interview and conversation techniques.

The experience as an interviewer was crucial here not simply for the interviewing skills of keeping the conversation going on a topic but also in acquiring sensitivity to those things my respondents told me which are especially relevant to the theoretical topics I was pursuing. This means that unstructured interviews were carried out using the researcher's past experience.

In this regard it would be worthwhile to mention that I have experience in primary data collection through interviewing respondents using both structured and unstructured interview guides. It can be mentioned that as a former Research Associate of a public sector social science research organisation in Bangladesh, I have conducted a World Bank sponsored research project "Impact of deep tube well irrigation in North West Bangladesh" for which it was needed to collect primary data from the village level farmers for years together. This gave me the opportunity to learn the technique of gaining the growing confidence of the respondents and understanding the reliability and genuineness of the reply/answers of the respondents. Likewise, I have extensive experience in collecting primary data from industrial workers (handloom weavers) as I have worked in the capacity of research and planning officer under Bangladesh Handloom Board, a public sector organisation responsible for welfare of half a million handloom weavers living in the rural areas of Bangladesh. By briefly introducing my previous involvement in social science research aimed at the well-being of rural agricultural as well as industrial workers I helped the EPZ workers (participants of the present study) in growing confidence to my genuine need and fair motive for data collection. A brief introduction about me and informal contacts was found useful in motivating participants to be free and frank in conversation and answering my questions, based on the interview guides. The topic was mainly focusing on the current situation of Bangladesh's EPZ workers and how the trade unions help to protect worker's rights. Issues about precarious employment conditions provided another important topic to discuss in the interview. The topics of the

interview were solely related to the sufferings, aspirations and hopes of the EPZ workers, which inspired them to get involved in the research for the betterment of the current conditions. A large part of the interviewees were women, which could raise some problems being a male interviewer. However, I tried to show an approachable manner to all the interviewees regardless of their gender. This made the female workers feel more open and receptive.

3.5 Data analysis

Glaser and Strauss (1967) emphasise that grounded theory requires the construction of theory. To formulate a theory, the researcher used a systematic coding approach. Merriam (1998) defines coding as assigning some sort of shorthand designation to various aspects of the researcher's data, so that he/she can easily retrieve specific pieces of the data. Strauss and Corbin (1990) describe three different types of coding as mentioned by Borgatti (1997):

1. Open coding: identifying, naming, categorising and describing instances found within the interview transcripts, field notes from observations, or other documents. The researcher actually reads each line and determines "What exactly does it mean?"
2. Axial coding: the process of relating codes (categories and properties) to each other, via a combination of inductive and deductive thinking. To simplify this process, grounded theorists emphasise causal relationships by fitting things into a basic frame of generic relationships.
3. Selective coding: process of choosing one category to be the core category, and relating all other categories to that category. The essential idea is to develop a single storyline around which everything else is draped.

The researcher employed the constant comparative method to code the interview transcripts. Merriam (1998) supports the constant comparative method that was developed by Glaser and Strauss (1967) as a means to develop grounded theory. The researcher's strategy follows the lead of Merriam (1998):

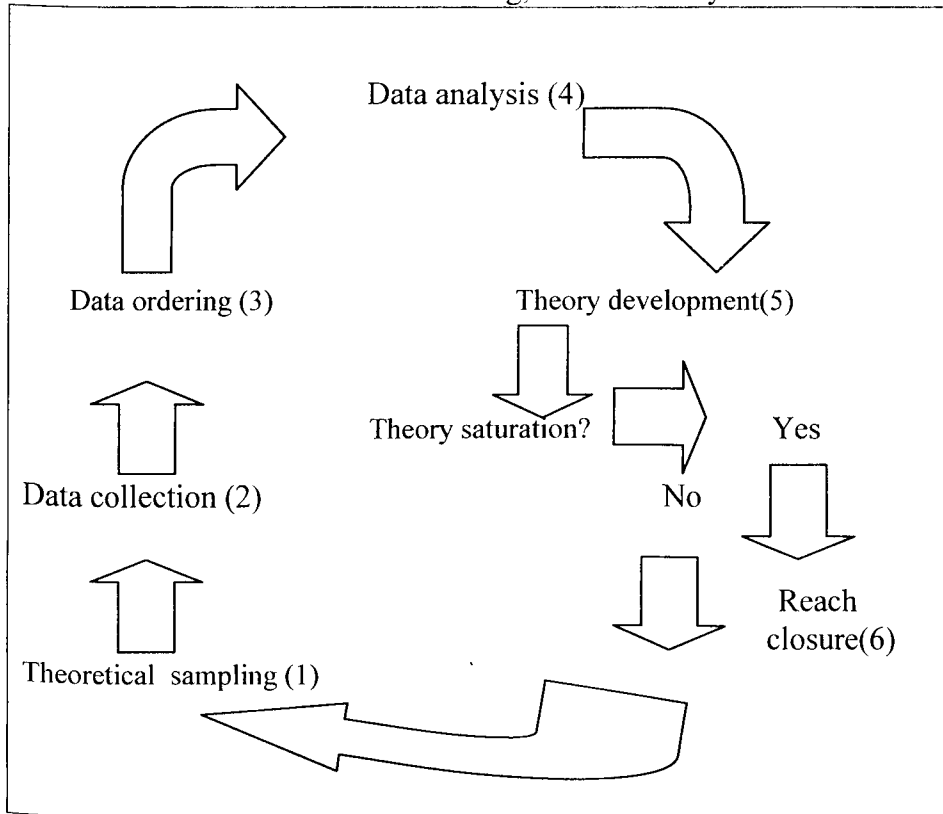
"The researcher begins with a particular occurrence from an interview, field notes, or document and compares it with another occurrence in the same set of data or in another set. These comparisons lead to tentative categories that are then compared to each other and to other occurrences. Comparisons are constantly made within and between levels of conceptualization until a theory can be formulated" (Merriam, 1998: 159).

The researcher followed Merriam's recommendations by analysing the transcripts of the interviews for similarities of occurrences. This process was characterised by axial coding where the researcher relates codes (categories and properties) to each other through a combination of inductive and deductive reasoning. This enabled the researcher to determine what psychological and sociological influences persuaded the EPZ workers to participate in the trade union movement and union activities.

To analyse the data each line was read and codes were given for each sentence. At this stage coding was unfocused and open. For the sake of constant comparison of subsequent data, codes were reduced to: **globalisation, EPZ, precarious worker, workers' rights, trade union, workers' organisations, resistance movement, mobilisation strategy, solidarity, union strategy, labour process, employment security, payment of wages, overtime calculation, casual leave, sick leave, union membership, EPZ employer, BEPZA (Bangladesh Export Processing Zone Authority), EPZ law, WAIRA Act 2004, work conditions, protection of workers' rights, empowerment, democratisation** and grouped into meaningful categories for theoretical analysis. Core categories were developed to show the relationship of concepts that would provide a theoretically integrated explanation of trade union behaviour in this particular research.

Lastly, it can be said that, for the study as a whole, data collection, data ordering, and data analysis were interrelated as depicted in Diagram 3.1 (the attached numbers indicate the analytic sequence of activities).

Diagram 3.1 The interrelated processes of data collection, data ordering, and data analysis



The final step is to compare the emerged theory with the extant literature and examine what is similar, what is different, and why. Eisenhardt (1989) states:

“Overall, tying the emergent theory to existing literature enhances the internal validity, generalisability,..... from case study research ... because the findings often rest on a very limited number of cases” (Eisenhardt, 1989: 545).

The emergent theory of the research was thus compared with the extant theories in the broader field of trade union movement

Strategies for Rigour

As in all research, building rigour into the process was important. Although Padgett (1998) notes that a number of qualitative researchers claim reliability and validity are irrelevant in qualitative research, this researcher sought to address these issues, albeit using different terminology and concepts. Glaser (1978) does not explicitly address rigour, seeming to imply that rigour is achieved if the method is carefully followed.

3.6 Ethical Considerations

Before the research process was conducted, ethical considerations were the foremost concern of the researcher. The researcher's intention was to promote a trusting relationship with all participants in order to be able to produce precise, rich information without any negative impacts on the interviewees. Prior to the interviews, a statement of ethical concerns was read to each of the interviewees which required their signatures in order to verify their understanding. The protocol of ethics assured them that participation of the interviewee was entirely voluntary and their names would not be revealed. Participants were also informed that they could refuse to answer any question, and were free to withdraw from the interview at anytime. If a participant withdrew from the interview, the researcher interviewed another participant to replace the incomplete interview. All data collected became the property of the researcher, and excerpts from the interviews were part of the final research study. However, no transcripts were produced that would connect the participants to their comments. Participants were also reassured that they would be able to preview the transcripts of their interviews for accuracy. Additionally, the researcher received permission from the University of Liverpool Ethics Committee to conduct research on human subjects.

Researchers' personal statement

My research career has involved working in the public sector organisations in Bangladesh. I have worked in a range of different functions, including research and management. My present research interest was initially born out of personal experience with the trade union challenges in public and private sector enterprises. Given my high level of personal involvement with this research, I have not hesitated to use the first person and to write in a personal and reflexive style when appropriate. I have started my career as a Research Associate in the Bangladesh Institute of Development Studies (BIDS). I also have considerable length of experience (more than 12 years) working in the Ministry of Textiles and its subsidiary corporations in a senior management position. While working as Coordination Officer to the Chief Executive of a public sector organisation under the Ministry of Textiles, I had the opportunity

to gather practical experience in dealing with the trade union affairs such as negotiation of conflicts, dispute settlement and collective bargaining processes.

The experiences, particularly the activities and attitudes of the parties during the negotiation and collective bargaining process, were my reason for undertaking an evaluative study on the impact of trade unions and the role of different parties. Over many years of my experience in social science research and issues relating to industrial labour relations I have obtained knowledge of the principles, theories and methods of social and behavioural aspects of the working class. I have performed a variety of assignments designed to apply principles, theories and techniques to a wide range of problems and issues associated with aspects of social science research. My previous experience and techniques of approaching the participants, administering questionnaires and conducting structured and unstructured interviews proved helpful in conducting my present field study.

3.7 Conclusion

The impact of trade unions on the precariousness of workers in Export Processing Zones is a dilemma that researchers will continue to study for generations. Few studies have approached this dilemma from a qualitative perspective. According to scholars (i.e. Glaser and Strauss, 1967; Merriam, 1998; Seidman, 1998), qualitative research seizes the opportunity to understand the experiences of people and the meaning they make of that experience. Grounded theory is a qualitative methodology that derives theory through the experiences and perceptions of human subjects. The researcher interviewed 51 participants, 36 of whom were EPZ workers, and discovered how they experienced their precarious work life and how they struggled to move from precarious to better work conditions. Interviews were the main source of data collection, and the data was analysed using grounded theory. The results of the analysis produced a rich description of EPZ workers' experiences and rationale for their decisions to participate in the trade union movement.

Chapter 4: Industrial labour relations in Bangladesh

4.1 Introduction

Understanding of “industrial labour relations” and the role it plays towards development of workers’ rights are important for this research. Industrial labour relations¹⁰, are in fact, an integrated system which when combined with global and national labour relations brings several important aspects into consideration. Working with labour unions and business and employers’ associations, communicating social and political messages through such labour organisations, and strategising workers’ welfare by focusing on employment levels and conditions can provide valuable traction to achieve goals towards workers’ rights (Budd, 2008). In addition, working with trade unions may allow closer proximity to the workers, broader coverage and a more comprehensive program outreach. Labour relations development programmes are implemented by many actors such as international organisations like the ILO, and implementing partners (host country government, employers and workers’ organisations). To date, labour relations programmes involving global forces have generally addressed four main areas: labour rights, markets, the roles of labour sector government institutions and civil society organisations in promoting the goal of workers’ rights (USAID, 2008).

This chapter thus endeavours to understand the nexus of labour rights, organisations, labour markets, and institutions that exist and identify strategic approaches and opportunities for labour-related issues that may help to understand the other objective areas (such as freedom of association and work conditions) of this research. Section 4.2 presents an overview of the political and historical contexts in which Bangladesh’s labour relations are situated and section 4.3 analyses Bangladesh’s labour relations in terms of its legal instruments, labour relation institutions and organisations.

¹⁰ Labour relations may be viewed generally as the relationship between workers and employers or, more specifically, as a system for striking a balance between the employment relationship goals of efficiency, equity, and voice, and between the rights of labour and management as a whole (Budd, 2008).

4.2 Industrial labour relations, political and historical context

With the development of trade and industries, Bangladesh is becoming more integrated into the global economy. This section outlines the historical, political, and economic contexts that have shaped and are being shaped by labour issues in Bangladesh.

About 40 years after its independence, Bangladesh, with its 142 million people, continues to struggle to reach its development potential (UNDP, 2010). Bangladesh lags behind most countries in terms of social development indicators, ranking 129th out of 169 in the Human Development Index (UNDP, 2010). However, Bangladesh has made noticeable development progress since its independence in 1971. Prudent macroeconomic policies and a focus on exports have helped the country maintain an average economic growth rate of 6 per cent over the last few years, 6.2 per cent in 2008, and 5.78 per cent in 2009 (IMF 2010).

Labour is a highly sensitive issue in Bangladesh partly due to the country's deeply politicised environment and the significant economic and political implications for the country. The "rules of the game"¹¹ in the larger political arena influence labour issues (ILO, 2005). Thus, labour issues in Bangladesh are not necessarily solely about core labour standards, but also about complex power struggles between groups. The labour movement has been somewhat successful in advancing labour interests. With the rise of Bangladesh's export industries and the involvement of new international and domestic advocates, labour has found new and important drivers that are trade unions for change. Markets (buyers, consumers) and foreign entities (donors, governments, ILO, etc.) are also introducing new incentives and influencing the power dynamics between major domestic actors. By using economic and political imperatives, they are helping to change the rules of the game.

¹¹ As a third party in the labour relation system the state lays down the "rules of the game" by which employer and worker have to abide in their mutual interplay, supervises the implementation of these rules through labour inspections, and establishes the system of labour disputes, settlements through mediation, conciliation, arbitration and judiciary procedure (ILO, 1994).

4.3 Legal instruments for labour relations

This section focus on Bangladesh's legal instruments for labour relations and workers rights.

4.3.1 International legal instruments

Bangladesh is a member of the International Labour Organization (ILO) and is bound by a number of international legal instruments governing labour. It has ratified seven of the eight conventions considered to constitute the Core Labour Standards as specified in the Fundamental Declaration on Principles and Rights at Work (USAID, 2008). These include: C.29- Forced Labour Convention; C.87- Conventions on Freedom of Association and Protection of the Right to Organise; C.98- Right to Organise and Collective Bargaining; C.100- Equal Remuneration; C.111- Abolition of Forced Labour; C.105- Discrimination; and C.182- Worst Forms of Child Labour Conventions. In addition to the Core Labour Standards, Bangladesh has ratified a number of other ILO labour conventions. These include, notably, the Labour Inspection Convention (No.81) which provides, inter alia, that the signatory shall maintain a well-functioning and adequately staffed labour inspectorate in industrial workplaces. Bangladesh has also ratified the Weekly Rest (Industry) Convention No.14, and the Tripartite Consultation (International Labour Standards) Convention C.144. In total, Bangladesh has ratified 33 ILO conventions (USAID, 2008). Besides the ILO conventions described above, Bangladesh has ratified a number of international human rights treaties. Some of the most relevant of these include the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); the International Convention on the Rights of All Migrant Workers and Members of their Families (1990); and the International Covenant on Social Economic and Cultural Rights (ICESCR). The ICESCR provides a right to work, which includes a responsibility of the state to provide a range of training and other services to achieve full and productive employment. It also includes rights to just and favourable conditions at work, which ensure fair wages and equal pay for equal work; a right to a decent living; rights to safe working conditions; equal opportunity for employment; and rest and reasonable limitation of working hours. Finally, it

provides for the right to organise and form trade unions, as well as the right to strike.

4.3.2 Domestic labour laws

The history of Bangladesh's labour law and industrial relations system is rooted in the development of labour law and industrial relations generally in Colonial British India. The basis of the labour system is grounded in the evolution of the first labour law instituted by the British, the 'Factories Act of 1881', which was initially implemented to help protect British textile interests that feared competition by lower cost producers in British India (USAID, 2008). The British colonial ruler introduced the Indian Trade Union Act, 1926 which has been considered as a key piece of legislation in the evolution of Bangladeshi labour law (USAID 2008). Before the legislation workers in the sub continent were denied the fundamental rights of freedom of association. The Indian Trade Union Act, 1926 was enacted with a view to provide for the registration of Trade Unions and in certain respects to define the law relating to registered trade unions. The right to strike and lock-out were ultimately recognised in the Indian sub continent indirectly under the provisions of the Indian Trade Dispute Act, 1929. The Act prohibited strikes and lock-outs in public utility services and general strikes affecting the community as a whole (Amjad 2001).

In the Eastern Pakistan era (1947-71) there were three main national centres - East Pakistan Federation of Labour, Mazdoor (Labour) Federation and the communist led Purbo Pakistan Sramik Federation (East Pakistan Labour Federation). Ever since the creation of Pakistan, quite a number of Labour Policies were announced by successive Governments – the most democratic one was the Industrial Relations Ordinance 1969 that was created after amalgamating the Trade Unions Act and Industrial Disputes Act. For the first time a Minimum Wages Ordinance 1969 was created fixing minimum wages for unskilled workers (Amjad 2001). At the final phase of the struggle for liberation of Bangladesh in 1971, workers and the trade union movement played an important role. Thus in March 1971 the civil disobedience movement against the Pakistani Military ruler saw trade unions playing a crucial role (Faruque 2009).

In 1972, Bangladesh adopted the Industrial Relations Ordinance 1969 with a view to regulating labour relations and disputes in the country. An Industrial Worker's Wage Commission was constituted in 1973 to fix wage levels and other benefits for the industrial workers in the public sector (Faruque 2009).

Restriction and ban on Trade Union Activities:

After liberation of Bangladesh workers have enjoyed a great deal of freedom and trade union rights. Most of the plant level trade unions had joined with the ruling party trade union centre Jatiyo Sramik League (National Labour League). The trade union was a powerful force in the administrative control of factories, mills and establishments abandoned by previous owners (abandoned when the owners left Bangladesh for Pakistan after independence and subsequently taken over by the government of Bangladesh). The political local elite in the guise of worker had joined in trade unions to control and enjoy the benefits of the taken over industries and establishments. Traditionally most of the workers came from outside of the locality and from different districts but after liberation local people wanted to have jobs there as industrial workers. There were many riots between locals and non-locals in different industrial estates. With the successful acquisition of control over trade unions, the local elite (local ruling party people) enjoyed manifold gains. The first is could buy the products at the mill rate and sell in the market at a higher rate , second they can supply raw materials to the mill at a high rate and third by inducting their own people as workers and management officials occupy control over the establishment and its business operation. One could become millionaire overnight by having a dealership or have an allotment of quota as distributor of products (Ahmed 2010). Thus the 'soft' nature of the state that allowed local ruling political party people damaged the good sides of trade unions. After the assassination of the popular political leader and President of Bangladesh (Sheik Mujibur Rahaman) in 15 August 1975, the country experienced the military rule. Military dictators implemented the neo-liberal agendas by introducing structural adjustment policy, patronised the powerful business elites while repressing and suppressing the workers' rights either by banning the activities of trade unions or by introducing the 'politics of cooption' and all

these have undermined the trade union movement in Bangladesh (Rahman 2009).

Agenda and issues of Trade Union Movement

With the change of government in August 1975, the country experienced a shift in economic policy as well as privatisation with disinvestment and denationalisation of state owned enterprises (SOE). The leading sectors like jute and textiles where traditionally the trade union movement was strong became weaker due to the loss of jobs among their members. To protect jobs and trade union rights, workers were united and formed ‘Sramik Karmachari Oikya Parishad (United Workers organisation) in 1983 and launched a series of action programmes to press their demands including job security, higher wages, trade union rights and others (Ahmed 2010).

From the beginning of the 1980s EPZ Industries (comprised of mostly apparel manufacturing units /factories) has emerged in Bangladesh. And now the growth of employment is nearly 0.3 million, and the work force comprises mostly women. These workers were not organised under any trade unions. The employers did not allow the workers to form trade unions. The government also forbade trade union activities in EPZ (Faruque 2009). However, the government was under pressure from USA, ILO and the grassroot level workers for allowing trade unions in the EPZs. These situations compelled the government of Bangladesh to allow trade union activities in the EPZs. The process of materialisation of trade union rights in Bangladesh’s EPZs is discussed in chapter 5.

Trade unions in Bangladesh may be divided into three categories: first, the basic trade union - a primary organisation of workers at the working place. Usually, the trade unions at plant level are termed basic unions. Trade union federations are the bodies of unions from the same industrial sector. Again, federations of trade unions can be two types: industrial federations and national federations. Industrial federations can be composed of a number of basic trade unions related to the same type of industry, such as the jute workers’ federation, textile workers’ federation, and garments workers’ federations.

Compared to the total 76 million labour force in the country, the number of trade union members is however very small. From 1,160 trade unions with a membership of 450,606 in 1971, trade unions had risen to a number of 6777 with a membership of 2,112,929 in 2009. Trade union density is 2.78 per cent of the total labour force. The structure along with the number of trade unions and members has been presented in table 4.1 below.

Table 4.1 Total number of registered trade unions in Bangladesh
(Cumulative figure up to June, 2009)

Categories	Total number of Unions/ Federations	No. of unions included	Total no. of members
1. National Federation	32	1 264	1 263 665
2. Industrial Federation	108	721	640 221
3. Garments Federation	15	80	50 149
4. Basic Union	6777	-	2112929

Source: Department of Labour and Bangladesh Institute of labour studies 2009.

The presence of trade unions in the private export-oriented sectors is very weak. A combination of factors such as lack of enforcement of labour laws, inhibiting legal provisions, and system of contract temporary labour are responsible for poor trade union membership.

From the period of the British colonial rule, till now Bangladesh has had many labour laws, rules and resolutions, legislated and declared by governments in different periods. In 1965, the Pakistan government (before independence, Bangladesh was a province of Pakistan) passed a revision of the 'Factories Act 1934' (ELA, 1965), creating the 'Factories Act 1965'. Then in 1969, it promulgated the 'Industrial Relations Ordinance 1969', which consolidated several laws (IRO, 1969). Despite this consolidation Bangladeshi labour law has, until recently, been constituted by a large number of disparate laws and regulations regulating different aspects of labour law and industries. It was not until the passage of the current labour law, the 'Bangladesh Labour Act, 2006' (BLA, 2006), that many of these laws were consolidated.

4.3.3 Labour laws and industrial relations environment

The 'Bangladesh Labour Act 2006' and Constitutional Labour Rights

The BLA 2006 is the latest and most comprehensive national law regarding labour in place, and was enacted in September 2006. The 'Bangladesh labour

Act 2006' represents both an achievement and a failure of labour law reform (USAID, 2008). By and large it is in compliance with many of the fundamental requirements of international labour law and, if enforced, could provide for a robust industrial relations system (USAID, 2008). In addition to labour legislation, the Bangladesh Constitution also guarantees specific labour-related rights, and delineates certain fundamental principles of state policy that are related to labour and social policy. The fundamental rights include the rights to freedom of association; freedom from discrimination on the basis of religion, race, and sex; equality of opportunity in public employment; prohibition against forced labour; and freedom to choose an occupation. The constitution also states as fundamental principles that it shall be a fundamental responsibility of the state to provide citizens guaranteed employment at a reasonable wage, with reasonable rest, recreation and leisure, and social security [Constitution of the People's Republic of Bangladesh (GOB, 1972)].

4.3.4 The 'EPZ Workers' Association and Industrial Relations Act 2004'

The second key piece of labour legislation is the 'EPZ Workers' Association and Industrial Relations Act 2004' (WAIRA Act, 2004). This act was promulgated under intense international pressure, particularly from the USA, in order to permit forms of freedom of association and worker's organisation in the EPZs. This is also the result of long struggle of EPZ workers for the trade union rights. The process of EPZ workers' struggle for trade union rights has been elaborately explained in chapter 5.

The WAIRA Act 2004 permits forms of worker representation and provided the right to negotiate with the employer on working conditions, remuneration or payment for productivity enhancements, and worker education programmes. Starting in 2006, The WAIRA Act 2004 provides for the institution of 'Workers' Welfare Organisation' (For common understanding, the term trade union has been used in this thesis to mean 'Workers Welfare Organisation' wherever applicable) to act as the official collective bargaining agents for the industrial unit with the right to negotiate over wages, hours, and other terms and conditions of employment as well as to represent workers in any proceedings.

4.3.5 Government institutions

The country has some government institutions to enforce the law. The labour courts are considered strong within government institutions. The main government institutions responsible to handle labour laws along with their roles are presented below.

a. Ministry of Labour and Employment

The Ministry of Labour and Employment maintains primary legal responsibility for the administration of the labour law and the industrial relations institutions contained therein.

b. Ministry of Commerce

The Ministry of Commerce is also extensively involved in labour governance in the export sector. While the primary function of the Ministry of Commerce is to deal with trade and commerce, both externally and internally, compliance issues have also become an important part of the Ministry's portfolio due to its potential impact on exports.

c. Bangladesh Export Processing Zone Authority

The Bangladesh Export Processing Zone Authority (BEPZA) is another government entity that has taken on significant labour governance responsibilities, albeit solely in the EPZs. The primary reason for this is due to the essentially parallel labour governance structure that has been set up in the EPZs.

d. The Judiciary: Courts and Arbitration Councils

The Labour Courts serve as the primary legal adjudication mechanism. These courts are separate from the general judiciary system; The Labour Appellate Tribunal hears labour appeal cases. In addition to the labour courts, other industrial relations machinery is available to resolve industrial and collective disputes. This includes systems of voluntary conciliation and arbitration.

e. Tripartite Structures

Another vital organ of the industrial relations system and legal regime is the presence of tripartite structures that can engage in what the ILO describes as social dialogue. The Bangladesh Government has several institutions of tripartism. First, the Wage Board (within Ministry of Labour) has tripartite representation. Second, the labour courts have tripartite characteristics, as each

court and Chairman have advisors representing workers and employers (USAID, 2008).

4.3. 6 Labour-related organisations

Well-functioning labour relations requires not just government to perform certain regulatory and enabling functions, but it also needs non-governmental private associations and workers' organisations to represent the range of interests in the labour relations and to advocate for these interests in relevant policy dialogues as well as their proper implementation. This section thus focuses some attention on the relevant labour related organisations in Bangladesh.

a) Worker's organisations/trade unions

Workers organisation(s) mainly trade union(s) play an important role in well-developed and sustainable industrial relations systems, and the right to form a trade union is identified in international law as a core human right. The history of the trade union movement in Bangladesh, however, is a tumultuous one. Trade unions first developed in British Colonial India in the late 1800s. Following partition in 1947, the first trade union centre in East Pakistan (now Bangladesh) - the Eastern Pakistan Trade Union Federation (EPTUF) - was formed (USAID, 2008). Over the decades, the number of trade union federations grew, and they were actively involved with labour issues. However, despite the international interest in labour issues in Bangladesh, only 3 per cent of the labour force belongs to unions (USAID, 2008). According to the records of the Register of Trade Unions, there are 32 national union federations, 108 industrial federations, 28 garment federations, and 6,268 plant-level unions (USAID, 2008).

The 'Industrial Relations Ordinance, 1969' explains that any worker or employer has the right to form a union without previous authorisation. But such a union cannot function as a trade union without being registered under the law. In any industrial and commercial establishment a trade union may be formed with 30 per cent of the total number of workers employed. If there is more than one union in any establishment a Collective Bargaining Agent (CBA) is determined by the Registrar of the Trade Union through a secret ballot for a term of two years. Only the CBA is authorised to raise industrial

disputes and negotiate with the management. The Director of Labour of the government acts as the Registrar of Trade Unions in Bangladesh. But even with the state policy and constitutional rights, freedom of association and trade union were totally banned in the EPZs in Bangladesh until 2004 (Kabeer and Mahmud, 2004).

According to the Constitution of Bangladesh, workers are entitled to enjoy full freedom to choose their own sector of work, and they have the choice to be a member of any trade union, federation of trade unions or to constitute a new trade union. Thus, under the national law as well as United Nations covenants and ILO fundamental conventions, workers are provided with all kinds of rights by the employers and state. However, the reality in EPZs is different as will become apparent in the subsequent chapters of this thesis.

b) Employers' organisations

Bangladesh civil society enjoys an active group of employers' associations, some of which have taken an active role in addressing the labour challenges that face Bangladesh's economy. The employers' associations are clearly sensitive to international pressure and to the demands of buyers in the area of labour compliance. There are two main garment and textile manufacturers' associations, BGMEA and BKMEA, comprising members from EPZ enterprises. They both have undertaken a range of initiatives to address the gap in governmental capacity to create non-state labour governance mechanisms. BGMEA first became seriously involved in labour governance questions when, according to interviews with BGMEA officials, they began to work closely with the ILO to move children out of work in the garment factories, signing a MoU with ILO and UNICEF (SM see list of interviewees in appendix A).

c) Non-government organisations (NGOs) and labour rights

Some NGOs also play a significant role in Bangladesh's labour relations in some ways, more significant than even the mainstream unions. One reason for the impact of NGOs is because it is primarily through them that transnational advocacy networks function. Few NGOs, like the Bangladesh 'Centre for Worker Solidarity' , have worked directly with Western activist networks to raise issues publicly about working conditions, and this has created mistrust among the employers' associations, which often noted the NGOs as causing

problems (USAID 2008). Bangladesh's civil society is rich with organisations working on labour issues and labour rights. Some of the notable ones include the Bangladesh 'Centre for Worker Solidarity', which was established in 2000 to provide leadership training and advocacy for women in the garment sector. The 'AWAJ Foundation' is another prominent NGO that works closely with Western NGOs and development organisations for the welfare of workers.

4.3.7 The Care-Taker Government and Emergency Power Rules

The overview of Bangladesh's trade union activities would be incomplete without consideration of the care-taker government (CTG) of Bangladesh that existed during the early period of this research. The CTG in fact was an interim government during 2006-2008 and was tasked to set the conditions for "free and fair" elections and administer the government in Bangladesh (NDI 2006). CTG's Emergency Power Ordinance gave authority to pass Emergency Power Rules (EPR) that forbids any kind of association, procession, demonstration or rally without authorization from the government and imposes severe restrictions on press freedom by prohibiting any criticism of government deemed 'provocative' (ICG 2008). Bangladesh has struggled over the years to comply with a number of international labour rights standards and norms, most notably in the areas of freedom of association (US Country Report 2008).

During the state of emergency,¹² the care-taker government also suspended all trade union and collective bargaining activity, and all explicit organizing activities were stopped. On September 4, 2008, however, the government issued a Gazette Notification relaxing some of the restrictions on the election of collective bargaining agents. Accordingly, trade union activities in Bangladesh's industrial sectors have been affected during this emergency period. The inability to secure the labour rights has had important

¹² The president of Bangladesh declared a state of emergency on 11 January 2007 suspending certain fundamental rights, imposing a night time curfew, and effectively postponing general elections that were scheduled to be held on 22 January 2011. The main reason for declaration of state of emergency was that an alliance of political parties had promised to boycott the elections, scheduled for January 22, and as the nation of 140 million people sank deeper into political violence, virtually all international backing for the vote fell away. Emergency rule paves the way for the army to take control of law and order and imposes restrictions on all political activities (The New York times 2007)

ramifications, not only for the intrinsic development objective of protecting workers' rights and well-being, but also because it marked a spike in violence, imprisonment, and criminal cases brought against trade unionists, labour NGOs, and workers engaged in labour activism (US Country Report 2008). It is within this context that this research faced some limitations in examining Bangladesh's trade unions performance. The main limitations rose due to restricted access to EPZ factories for collection of information on trade union activities and EPZ officials not being cooperative to disclose any information on trade union activities.

4.4 Conclusion

Law, government institutions, civil society, markets and workers' organisations are the key components that constitute a given labour environment, and this chapter has described each of these components in Bangladesh. But even with the existence of these labour relations components, Bangladesh has struggled over the years to comply with a number of international labour rights standards and norms, most notably in the area of workers' rights in the EPZs. With the influence of international and domestic labour laws, workers in the EPZ have founded new and important workers' organisations, that is, trade unions for protecting their rights. The new labour law for EPZ workers that has promulgated in 2004 (actual implementation started in 2006) has provided opportunities for some significant advances, but the new labour law for EPZ workers, allowing them the right to form trade unions, was not achieved easily. There is a long history of struggle of workers and international pressures for allowing trade union rights in the EPZ. The process of achieving trade union rights in the EPZ is an important component of this research. The noteworthy events and processes of the trade union movement are presented in chapter 5.

Chapter 5: Mobilisation for trade unions in Bangladesh's EPZs

5.1 Introduction

Trade unionism in Bangladesh's EPZs was absent until the implementation of 'EPZ Industrial Relations and Workers Association Act 2004'. The necessity of trade unions in the EPZs in Bangladesh was grounded in the workers' conditions and global pressure. The conditions underlying the need for trade unions in the EPZs and the process of achieving trade union rights are discussed in this chapter. In order to understand the forms and process of workers' resistance through trade unions, a brief discussion on the history of the trade union movement in Bangladesh and the actual nature, form, and process of the workers' movement for achieving trade union rights is presented in this chapter. Discussion on how discourses of management in different situations at work in the EPZs is resisted, and how the workers' movement get supports from outside the workplace is important. This research revealed that EPZ workers' movement for trade union rights had taken place in civil society as well as the workplace. This means that instead of privileging one kind of resistance movement, it was necessary to consider how discourses of management were resisted by multiple form of resistance in both the workplace and civil society. To address this, various forms of workers' resistance to the discourses of management in the EPZs is taken care off. This allows the researcher, first, to identify the various forms of movements which were used to resist the discourses of management; second, analyse the characteristics of these movements, and, third, to examine the conditions of how they were arose. Further it was revealed that collective struggles against management involved a number of different local and international actors. By investigating the local and international solidarity toward the EPZ trade union movement, it was aimed to show how the capitalist class was resisted through building alliances of anti-capitalist discourses which were articulated by a number of different local, national and international actors.

The focal point of this research also concerns the relationship between Bangladesh's EPZs labour movement and the influence of globalisation; in

particular, to what extent the trade union movement gained momentum through network building at the national and international levels. The central issue in this connection was why and how the trade union movement took shape in alliance with local and international forces.

This chapter consists of 6 sections. Section 5.2 presents the main features of Bangladesh's EPZs and the state of workers' conditions. This section attempts to justify the need and grounds for trade unions for Bangladesh's EPZ workers. The first part of the section presents some important features of EPZs emphasising their contribution to the national economy followed by a brief description of workers' conditions with particular attention to the feminisation of employment in the EPZs. Section 5.3 presents the mobilisation trend of industrial relation in the Bangladesh EPZs with the workers' fights for trade union right. Section 5.4 presents discussion on the nature, form, and process of the workers' movement for achieving trade union rights in the workplace. First part of this section presents a brief overview indicating acute scarcity of research literature on EPZ trade union movement in Bangladesh. Some other relevant issues such as the state of employers' control over workers and challenges confronting the trade union movement, the role of global and national institutional forces, lack of accountability of EPZ employers, process of international network building along with mobilisation strategies from grassroots workplace level. The grassroots workers' level cohesive mobilisation is discussed with reflection to the process of growing capacity to mobilise through individual protests and collective resistance over time. Section 5.5 presents a brief narration of events highlighting mechanisms and implementation phases of trade union right in Bangladesh's EPZs. Section 5.6 provides a conclusion to the chapter.

5.2 EPZs and workers' conditions

5.2.1 Importance of EPZs in Bangladesh Economy

As special industrial parks, EPZs in Bangladesh are located in areas with advantages in terms of communication and access to raw materials and industrial labour. The manifest objectives of EPZs are to attract foreign capital

investment and mobilise investment for capital formation for rapid industrialisation, in order to create employment opportunities for the country's labour and to earn foreign exchange by boosting exports (a brief Bangladesh's EPZ profile is given at appendix C). Following an 'Act of Parliament in 1980', the first EPZ of the country was established in Chittagong in 1983. The second one started operation in 1993 at Savar near the capital city, Dhaka. Later, eight more EPZs were implemented in different areas of the country. The government has signed an agreement with the Republic of Korea to establish a private sector Korean EPZ in Chittagong (BEPZA, 2009).

As of December 2010, some 311 units were located in EPZs. As for the performance of EPZs, different studies have shown that in the light of stated objectives, namely, foreign exchange earnings, employment generation and technology transfer EPZs were successful (Bhattacharya, 1998; Dowla, 1997). Available statistics on EPZ performance show that despite some fluctuations, investment and employment in EPZs expanded substantially throughout the 1990s and have continued to grow up to the present time (Kabeer et al. 2004).

Management and monitoring of EPZs in the country lies with the Bangladesh Export Processing Zones Authority (BEPZA). Functions of BEPZA in EPZs include creation of infrastructure (buildings, utilities, warehouses, roads etc.), processing applications for setting up industries, allotment of land or building space, provision of space for local and foreign banks, insurance companies, clearing and forwarding houses, courier services, and post offices and so on. The government also provides financial help and support to investors, ensures smooth manufacturing and commercial operations of the firms, and remains vigilant about labour management relations within EPZs.

EPZs are considered as good and secure venues for foreign private investment in Bangladesh. During interview with the BEPZA official at Dhaka (MA)¹³, it was revealed that some more foreign investors are in the process of investing in EPZs such as Multiline, a Taiwanese company which has started building one of the world's largest textile factories in the north of Dhaka with an

investment of \$200 million. According to one BEPZA official (MA)¹³, Bangladesh will play a dominant role in the textile business for years to come. Taiwanese entrepreneurs who played a key role in transforming China into the world's top performing economy are now rushing to Bangladesh to look for land to build footwear and textile factories. To them Bangladesh is the place which is still profitable due to the availability of cheap labour (BEPZA, 2010). Taiwanese investors have set up more than two dozen footwear, textile and furniture factories in Bangladesh with the firm Pao Chen looking to build the world's largest footwear factory which would employ 40,000 workers . Such has been the rush of investors that Bangladesh's Export Processing Zones have been running short of plots to allocate to the incoming foreign investors (MA)¹⁴.

EPZs in Bangladesh thus play a significant role in attracting foreign direct investment as well as in involving local investment, which jointly contributes to an overall increase in the country's volume of exports and in its earnings of foreign exchange. Foreign exchange earned through exports by EPZ enterprises reduces deficits in the country's balance of payments. A part of it is converted into local currency to be spent on the procurement of goods and services from the local economy. EPZ's contribution to national export was 1978.79 million USD in 2011 and the cumulative export was 24,332.28 million USD as of March 2011 (BEPZA, 2011).

The EPZs provide employment to about 295,238 (as on March 2011) Bangladeshi workers (BEPZA 2011). Areas where EPZ have been established have become special growth centres in the economy of Bangladesh as a result of organised and fast development of infrastructure, including roads and motorways, electricity, gas, water supply, telecommunication, fire brigade, post office and so on. The private sectors around the EPZ areas have come up with support investments in shopping centres and markets, transport agencies, accommodation and recreation facilities which have accelerated the pace of economic activities. In addition to provision of services to the community associated with EPZs, the private sector has also set up linkage industries nearby EPZs to cater to the needs of industries within them. Many EPZ

¹³ MA- Member (Investment Promotion) BEPZA

¹⁴ MA- Member (Investment Promotion) BEPZA

enterprises have shifted their manufacturing processes or part of a process outside EPZ under subcontracting (BEPZA, 2009).

The majority of the workers in the EPZs are women and its increasing rate of growth indicates feminisation trends in the EPZ employment in Bangladesh.

5.2.2 Some empirical evidence of feminisation in Bangladesh EPZ

The rise of the export-oriented readymade garment industry has given Bangladesh women a predominant position in the economic and social space opened up by globalisation (Hossain et al., 1990). According to the latest Census of Manufacturing Industries, females accounted for 64.5 percent of EPZ industry employment in 1999/2000 in Bangladesh (Table 5.2.2). According to the census report the female concentration in the EPZ industry is much higher than the 35 percent average for manufacturing industries as a whole (BBS 2004). Although the EPZ industry is generally considered to be a female-intensive industry, in the historical and cultural context of Bangladesh, the massive entries of female workers into the formal industrial sector was a totally new phenomenon and bears important social, cultural and political implications.

Table 5.2.2. Gender-wise employment status in EPZ industry

Years/ Particulars	Employment as administration, clerical and sales worker (% in bracket)		Employment as Production operatives (% in bracket)		Total number employed in EPZ industries (% in bracket)		
	Male	Female	Male	Female	Male	Female	Total
Employment in EPZ industries in 2000*	6437 (5.85)	1703 (1.59)	32607 (29.65)	69237 (62.95)	39044 (35.50)	70940 (64.50)	109984 (100.00)
Employment in EPZ industries in 2011**	NA	NA	NA	NA	101799 (34.48)	193439 (65.52)	295238 (100.00)

Source: *BBS (2004) Compiled from Bangladesh Census of Manufacturing Industries 1999-2000. ** BEPZA (2011), Bangladesh Export Processing Zone Authority.

The gender-based difference implies that participation in production related work is increasing more for women than men. The number of women workers

increased more than the rate of male labour participation. For instance, between 2000 and 2011 the employment of women rose from 64.50 per cent to 65.52 per cent, whereas although the number of male workers increased from 39044 to 101799, their percentage share dropped from 35.50 percent in 2000 to 34.48 percent in 2011 as on March 2011 (BEPZA 2011).

Types of production and workers' adaptability to the production process in the EPZ industry have played an instrumental role in the increase of women's employment (Afsar 2000). The predominant position that the EPZ industry occupies in urban female employment is indicated by the fact that more than 70 percent of female employment in the EPZ sector is provided by the Apparel industry alone (Census of Manufacturing Industries 1999/2000). Needless to say, the EPZ industry has brought significant economic benefits to poor women who were previously deprived of any means of income generation or had only limited choices with low economic and social remuneration, for instance, as domestic servants, construction workers and sex-workers (Zohir and Paul-Majumder 1996; Kabeer 2000). The relatively high rate of employment of female workers is generally attributed to various reasons. Some of the economic reasons are the attraction of higher wages and better facilities in EPZ factories, and employer's preference for women workers.

Paul-Majumder and Begum (2000) explained this preference arguing that employers are encouraged to employ more women than men in their firms since women are perceived to be (a) more patient and nimble; (b) more controllable than men; and (c) less mobile and less likely to join a trade union. My research also found that economic reasons largely influenced female workers to prefer EPZ jobs. Regarding preference for job in the EPZ factory a female worker expressed her views,

“Wages are higher in the EPZ factories than non EPZ factories and payment is more regular than non EPZ factories.” (SO)¹⁵

¹⁵ SO Worker, Beximco Fashion Ltd.

5.2.3 Workers' condition

Various studies (Shoesmith, 1986; Nesuradai, 1991; Ahmed, 2005; Razzaque, 2005; Sternberg Institute, 1989) have shown that workers' rights were widely violated in EPZs.

My research has also revealed violation of workers' rights in the EPZs in Bangladesh. In this regard the president of BGWF expressed,

“Some employers in the zones take advantage of the absence of trade unions to commit violations of international labour standards, such as sexual harassment, physical violence, unpaid overtime, non-compliance with minimum wage regulations and deplorable safety conditions. Most employers operated with total impunity and without regard for legal protections for trade union rights” (AH)¹⁶

At the same time, international buyers (importers from consuming countries) are increasingly asking the producers to address workers' rights (Razzaque, 2005). The employers are facing new labour standard requirements from buyers (importers) of EPZ products (ZA)¹⁷. The workers also feel that pressure from buyers is effective in ensuring their rights (Ahmed, 2005). My research also identified practices that shorter time pressure for shipment of products, changes to orders, and cancellation of export orders had the most impact on violations of workers' rights. Each of these behaviours is encompassed in the purchasing practices of a company. Interview results with the EPZ Workers and trade union leaders (MU, AI, FA, TS)¹⁸, indicate that improving purchasing practices makes it easier for EPZ employers to comply with codes of conduct and, hence, creates more favourable conditions for factory workers. Advocacy from some international corners to buyers was also evident from the report of an USA-based consumer-reporting news agency, 'Temple Arizona'. The report submitted by Temple Arizona to the Chief Executive Officer (CEO) of the United States' multinational Wal-Mart (who import large quantities of clothing from a Bangladeshi EPZ company) in September 2000, has been summarised below to show an example of reporting patterns about the EPZ

¹⁶ AH- President, Bangladesh Garment Workers Federation (BGWF).

¹⁷ ZA - CEO Hy-Lan Sweater International Ltd.

¹⁸ MU-Worker Grameen Knitwear, FA - President, trade union, Hy-lan Int. Ltd. AI- Worker, Ilki Textile Ltd., TS – Secretary, trade union Grameen Knitwear Ltd.

sweatshop, as well as to highlight some of the pre- trade union period workers' conditions in the Export Processing Zones:

- At a Sweatshop factory in the Dhaka Export Processing Zone in Bangladesh, there are 1,000 workers; at least 80 per cent of them are young women. In December 1998, twenty workers were illegally fired and denied their legal severance pay for refusing to work an all-night shift.
- The factory systematically violated labour laws.
- The legal maternity leave is denied and is not paid.
- Maltreatment/cursing/yelling: There is constant pressure to meet the high daily production goal; the workers are yelled at and cursed at to work faster.
- No worker has seen the Code of Conduct which guarantees human and workers' rights. There has been no serious attempt to implement the code.
- No right to organise: In Bangladesh's EPZs, unions and collective contracts are prohibited by law. The workers have no rights; the government authorities do nothing to implement labour law. The workers are fired for daring to protest and forced into 24-hour shifts. Denied their right to organise, the workers are isolated and vulnerable -- easily cheated of their legal wages and benefits.(Rip-off Report, 2000).

5.3 Governance of labour relations in Bangladesh's EPZs

Working conditions and labour relations in Bangladesh's EPZs are governed by the EPZ laws rather than national labour law. In the initial years of EPZ operation, there was no official ban on trade unions, and it was not until a dispute in an EPZ factory, in 1986, that the government declared the inapplicability of the labour laws to EPZs (Bhattacharya, 1998). After this there were no significant developments in industrial relations for EPZ workers.

The Bangladesh Export Processing Zone Authority (BEPZA), however, issued 'Instruction Number: 1 (A code of conduct for employers, see details in appendix F) on 14 June 1989 to all EPZ enterprises, giving directives to employers on service matters concerning workers and officers employed in the enterprises operating within the Export Processing Zones in Bangladesh (BEPZA, 1989). Further to this, BEPZA issued 'Instruction Number 2' on 23

August 1989 on matters concerning the fixing of minimum wages and other related benefits in respect of workers/employers engaged in different companies operating within EPZs in Bangladesh (BEPZA, 1989a). But the soft nature of the state toward the employer, absolute profit-seeking motives of the employer, the irresistibility of capital in terms of power of the multinational corporations and the international organisations such as the World Bank, the International Monetary Fund and the World Trade Organisations have all undermined EPZ labour relations and demands for trade union rights (Mayumi, 2008; Kabeer and Mahmud, 2004). Rahman (2009) stated that although Bangladesh ratified various ILO conventions and labour rights that are conceded in the constitution and other labour rules, violations of labour law and ILO conventions on workers' rights was very common, and the state of monitoring applications of labour laws and the ILO conventions was very poor (Rahman, 2009).

It need to be mentioned here that BEPZA officials were very cautious in passing detailed information on any topics and they didn't want anything published which would have other effect on international trade and give a bad image to investors. Trade union representative and workers wanted everything disclosed but requested to maintain confidentiality, as such initials of their name have been used in this thesis.

Regarding violation of workers' rights in the EPZ Enterprises in general, one EPZ trade union representative under this study expresses,

“There was no job security, gratuity or provident fund for the workers. In many cases the management did not provide appointment letters or contract letters, identity cards and service books. According to the labour law, the maximum working hour per day is 10 hours including 2 hours overtime. But in most of the cases workers are forced to work 12 to 14 hours per day. According to law, women work is prohibited after 8 pm. But sometimes women workers were bound to work until 10 pm or 11 pm. Most of the cases of maternity leaves were absent”. (TS)¹⁹

The EPZ workers have been struggling to establish their trade union rights. Kabeer and Mahmud (2004) argue that due to global capital and the

¹⁹ TS- Secretary, Trade union
Grameen Knitwear Ltd.

exploitative tendency of competitors through price competition by controlling labour costs, the employers were threatening the trade union movement through creation of fear of job loss. On the other end, Nazneen (2009) stated that ratification of ILO convention number 87 (Convention concerning freedom of association and protection of the right to organise) by the government, has helped to achieve a trend improvement in respect of the trade union movement in the EPZs. In these contexts, the role of global forces seemed crucial for those who are concerned about employment, working conditions and workers' rights.

One interviewee trade union official also expressed firm views about the positive role of global forces,

"We are aware that the Government of USA , the AFL-CIO and the ILO has played an important role to create pressure on government for allowing trade unions in the Bangladesh's EPZs ".(SA)²⁰

The landmark development took place in the labour legislation for EPZ workers through the enactment of the 'EPZ Workers Associations and Industrial Relations Act 2004', which allowed trade union rights in EPZs. It brought significant changes in the industrial relations system for EPZ workers, but this success was achieved only after a comprehensive mobilisation both globally and locally. The process of mobilisation for establishing trade union rights in Bangladesh's EPZ is presented below.

5.4 Movements for trade union rights in the EPZs

This research has found that achieving trade union rights in Bangladesh's EPZs has been the outcome of interaction of combined global, national and local grassroots level forces. Research on trade union and workers' rights in Bangladesh has been scarce particularly in the EPZ sector. A few studies are available on labour relations (Mondal, 2002; Khan, 1997; Khan, 2001; Kabeer, 2004; Nazneen, 2008; Rahman, 2009) but they mainly concentrated on the export-oriented, readymade garments sector in Bangladesh (mostly situated outside EPZ); they did not investigate the issues pertaining either to the

²⁰ SA – General secretary, National Labour Federation .

process of trade union movement in EPZs, or the impact of trade unions ('Workers' Associations') on the EPZ workers in detail.

This research attempts to explore the process of mobilisation for trade union rights in EPZs and the roles played by different actors. The exploration of the process mobilisation of EPZ workers draws upon in-depth interviews with 51 participants including workers of the RPZ enterprise; RPZ trade union representatives, officials of the Bangladesh Export Processing Zone Authority, officials of the Bangladesh Garment Manufacturers' and Exporters' Association (BGMEA), and trade union federations that have provided rights awareness and support to EPZ workers. The research also included visits to four EPZ factories in Bangladesh.

The research found that the workers' movement for trade union rights in EPZs was constrained initially by the influence of transnational corporate policies. Increasing global economic competition and capital mobility and the rise of cross-border production networks combined with outsourcing, neo-liberal economic policies, changes in production processes, and growing employer resistance to unionisation have exacerbated difficulties in union organising and adversely affected unionism in EPZs. My research concurs with that of Bhattacharya who found that many issues confront the labour movement in Bangladesh, and pose a great challenge to its ability to achieve trade union rights (Bhattacharya, 1998). These issues, according to Bhattacharya have included: the power and influence of EPZ employers, trade liberalisation and deregulation arising from globalisation and competition and unfavourable national labour laws that exclude trade unions in EPZs.

My research found that the power and influence of employers over EPZ workers were tremendous (see some evidences at Appendix H). Referring to the pre trade union period Zohir states that employers had absolute control on workers' administration; they could easily exercise the power to hire and fire (Zohir, 2000). The argument of the Bangladesh Government was that labour standards and workers' rights clauses would drive away investors (Sankaran, 2007). Traditional work systems were changing with increasing focus on

flexibility and environmental protection. The harmful ‘race to the bottom’ competition and cost-cutting measures by unscrupulous employers resulted in precarious jobs with more women in the workforce, more discrimination, low wages, and poor working conditions (Sankaran, 2007). Finally, hostile attitudes to trade union activists appeared to be the strongest challenge to unionism.

President of BGWF said,

“Workers are regularly sacked, or subjected to false charges for being active in unions. The General Secretary of the United Federation of Garment Workers has been arrested more than a dozen times for involving in trade union movement”. (AH)²¹

The challenges confronting the trade union movement are diagrammatically shown below:

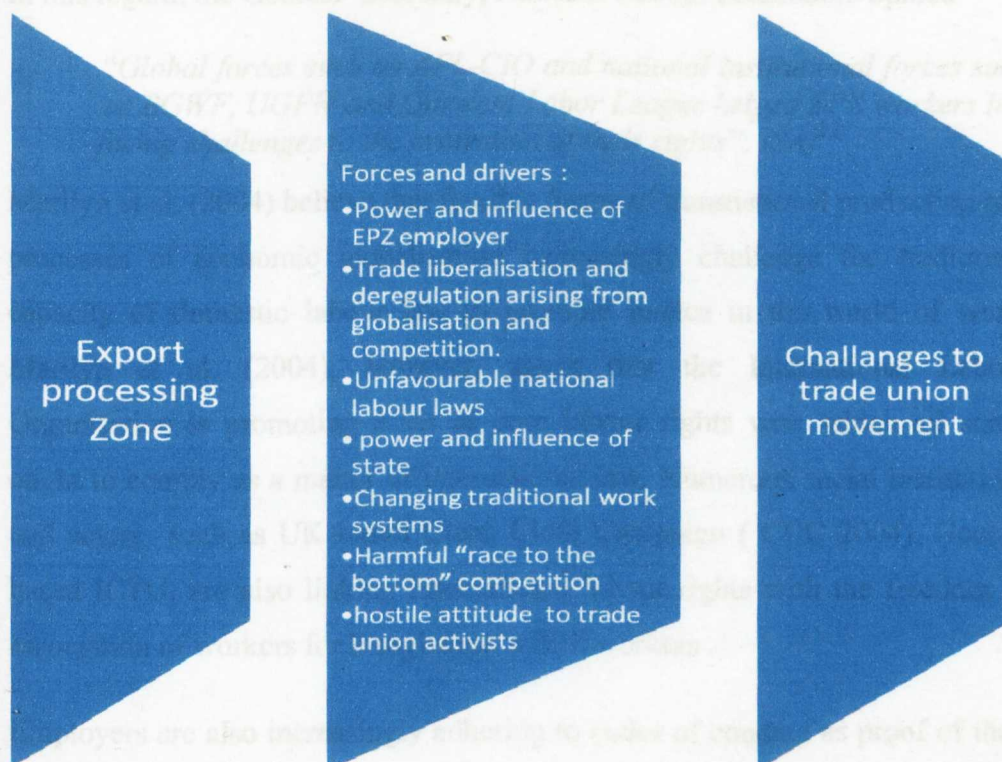


Diagram 5.1: Challenges confronting the trade union movement

Role of global and national institutional forces

Global and national institutional forces are supposed to help aid EPZ workers in facing challenges to the protection of their rights. This is indeed possible

²¹ AH- President – Bangladesh Garment Workers Federation (BGWF).

since the production process in EPZ manufacturing is characterised by an interlinked supply chain. This is dependent upon both global markets and government policies and enforcements. This implies that the responsibility for protecting workers' rights and ensuring better workplace conditions are shared between employers and BEPZA (national government agent). While each actor has a different and unique role, clearly the role of entrepreneurs who produce and export and who employ workers to do this work are paramount and affect workers' situations directly. National legislation and labour laws set the framework in which workers' mobilisations and movements have to operate. The government is supposed to bear the responsibility for implementing labour legislation for establishing effective monitoring mechanisms.

In this regard, the General Secretary, National Labour Federation opined

“Global forces such as AFL-CIO and national institutional forces such as BGWF, UGFW and Garment Labor League helped EPZ workers in facing challenges to the protection of their rights”. (SA)²²

Marilyn et al. (2004) believe that flexible forms of transnational production and processes of economic globalisation increasingly challenge the traditional capacity of domestic labour law to promote justice in the world of work. Marilyn et al. (2004), however, assert that the International Labour Organisation is promoting a set of core labour rights with which all states ought to comply as a matter of international law. Numerous social institutions and actors such as UK based Clean Cloth Campaign (CCC 2004), Geneva based ICTU, are also linking international labour rights with the freedom of association of workers for Bangladesh's EPZ workers .

Employers are also increasingly adhering to codes of conduct as proof of their good labour relations.

During interview, President, BGMEA said,

“Employers in the Bangladesh garment industry including EPZs must demonstrate compliance with codes of conduct to win orders from international buyers. The Bangladesh Garment Manufacturers and Exporters Association (BGMEA) has also formulated its own code of

²² SA- General Secretary , National Labour Federation

conduct for the industry and has set up a compliance unit that monitors labour conditions in members' factories". (SM)²³.

The employer's behaviour towards its employees (and those whose employment is directly dependent upon the employer through subcontracting and other arrangements) is transparent, and adherence to the code of conduct is subject to independent verification by qualified assessors. Corporate codes of conduct are created through the interaction of the competing forces in the workplace, community and regulatory networks.

My research explored whether compliance to codes of conduct or willingness to abide by a certain set of regulations, actually practised in the EPZs. This research found that the company's adherence to codes of conduct is not the same as a culture of accountability. The BGMEA president said,

"The women workers in the Bangladesh garment industry including EPZs have had more public attention to their rights than any group of workers in the country. Faced with the threat of bad publicity and boycotts of their goods, international buyers such as Nike and Gap adopted codes of conduct on working conditions, however these international standards are different from the national labour laws drawn up by the state, which set out the rights of all Bangladeshi workers outside the EPZs". (SM)²⁴.

The BGMEA president also said,

"Failure to comply with international basic labour standards now carries penalties for the garment manufacturers that supply these buyers, most notably the potential loss of business". (SM)²⁴

My research reveals that such practices are however absent for many factories as I was told that,

"Many employers still manage to evade all visible aspects of the codes of conduct. Employers have formalised their relationships with each other and with the government, but relationships with workers remain exploitative. Although there is evidence of some compliance with codes due to the companies' vulnerability in the international buyer-driven value chain, rather than a genuine value of accountability International brand-name companies are more concerned about their reputation than the needs of workers". (AH)²⁵

²³ SM – President , Bangladesh Garment Manufacturers and Exporters Association

²⁴ SM – President , Bangladesh Garment Manufacturers and Exporters Association

²⁵ AH – President –BGWF

Such codes are not able to take the place of universal systems of regulation: even an ideal code of conduct is limited in application to employees of a particular company, or, at best, to those employed by its suppliers or subcontractors. Given the very real limits on an instrument which is essentially self-policing, and the contemporary trends in industrial development, what is required is an enforceable universal safety net of minimum labour standards to protect all workers. The ILO Declaration, in this respect, places great stress on the primacy of national sovereignty. All parties concerned by this declaration should respect the sovereign rights of states, obey the national laws and regulations, and give due consideration to local practices and respect relevant international standards. The declaration calls on member states to ratify ILO Conventions containing core international labour standards and codes of conduct (ILO, 2006).

The Bangladesh Government, both constitutionally and as signatory to various international conventions (see appendix D), is committed to protect the rights of workers and to ensure non-exploitative and better workplace conditions for all workers. However, workers are exposed to exploitation and violation of rights and remain unprotected by formal accountability processes. In fact, the protection of workers' rights in the EPZs is left up to the assumed goodwill and good intentions of employers and to market forces (Mayumi et al., 2008). All workers are supposed to be protected under existing labour legislation as per the constitution of Bangladesh (Rahman, 2009) but only a negligible fraction actually enjoys the protection of the state (Faruque 2009). Although this legal framework provides the fundamental right of all workers to freedom of association and collective bargaining, in reality the state is not able to ensure this right (Faruque 2009). The Bangladesh Government has not acted responsibly and has not only neglected to protect the rights of workers, but has even exposed workers to new vulnerabilities through its failure to review and revise labour policies and practices in a timely fashion (ILO, 2006a). No adequate safeguards were instituted to protect labour employed in the EPZs until 2004 when a new EPZ labour law was enacted allowing trade unions in the EPZs in Bangladesh. The responsible public sector agency BEPZA was

under pressure to comply with ratified ILO standards and core conventions and was embarrassed by its inability to get employers to abide by labour legislation. This research also reveals that a few South Korean companies threatened Bangladesh government that they will withdraw their investment in the EPZ if trade unions are allowed there (MA)²⁶. However according to the BEPZA official (MA)²⁶ such hostile attitude were eliminated through maintaining bureaucratic control over trade union activities in the EPZs. The common perception was that state institutions and agencies, including the legal system and law enforcers, seemed biased towards protecting the interest of capital rather than the rights of workers (Singh et al., 2004). The EPZ entrepreneur's sole purpose was to tap into the abundantly available and low-skilled, low-cost work force and take advantage of informal labour recruitment and workplace policies. The employers felt little responsibility to look after the welfare of the workforce; in fact, such concerns did not feature at all in the factory owners' list of priorities. Their primary worry was that, "at the formative phase of their manufacturing businesses they could not be distracted by unreasonable workers' demands and unnecessary disruptions" (Khan, 2001: 169). Employers "are seen as willing to look after workers' basic survival needs as long as they remain loyal and subservient, and do not disturb the production process" (Khan, 2001: 169).

This research also found a similar attitude of the EPZ employer as president, BGMEA said,

"Our business depends on the timely delivery of our export orders, so we like to maintain our tight production schedules. As such we are willing to fulfil workers demand if they remain loyal to our business interest and do not want to disturb our production process". (SM)²⁷

Lack of accountability of EPZ employers

Negligence on the part of employers to refrain from violating workers' rights and to comply with basic legislation is not only because of weak state supervisory structures and processes, but also because of lack of accountability of the employers. My research suggests that employers see workers almost as bonded labour locked in a totally dependent relationship, to whom they are not

²⁶ MA- Member (Investment Promotion), BEPZA

²⁷ SM – President , Bangladesh Garment Manufacturer and Exporter Association

answerable; their only obligation is to provide for their minimum needs for survival. Employers and management believe that ‘happy workers’ are indications that workers’ welfare is ensured; there is no need for any trade unions in the factory if workers are satisfied with the terms and conditions. The following is a typical comment on the issue from an EPZ enterprise Chief Executive Officer:

“Workers are very happy here, they are well looked after, so there is no migration from EPZ factory, workers do not need to join a union”
(ZA)²⁸

In fact, the power of EPZ capitalists poses serious problems for the government and workers and activists in that they try to regulate the operations of EPZ employers and working conditions in their factories. The state is either unwilling or unable to direct foreign capital in a way that benefits local industries and workers (Kucera, 2001). Faux argues that contemporary patterns of economic globalisation and the mobility of capital shift power away from governments to pursue progressive economic or social policies and usurp powers that rightfully belong to the workers and their representatives in government. Governments are barred from favouring their own workers legally in some ways, and are fearful in other ways due to their dependence on foreign investment (Faux, 2002).

The position of the state as well as that of labour has been further weakened by structural adjustment measures implemented by the International Monetary Fund (IMF) and the World Bank (WB) (Brecher et al., 2002; Dicken, 1998). As in many other countries these institutions now determine the terms of trade, wages, currency exchanges and state development policy (Bhattacharya, 1998). Other global institutions such as the World Trade Organisation (WTO) have acquired many powers once reserved for national governments. Trade agreements such as the North American Free Trade Agreement (NAFTA) and the WTO tend to be controlled by the wealthy, industrialised nations that set the agenda to protect the interests of foreign investors and the mobility of capital in supply chains, but do little to protect the interests of labour (Basu, 2001; Connell, 1987).

²⁸ ZA- CEO , Hy-Lan Sweater Ltd.

Many transnational corporations (TNC) follow international subcontracting arrangements. Because they tend to relocate where labour costs are lowest, low-income countries must compete with one another to attract foreign investment and to attain employment opportunities (Dicken, 1998). Foreign investors are attracted to the zones for tax incentives, lax environmental standards, and a guaranteed cheap and compliant workforce (Korten, 2001; Rodrick, 2000). In fact, minimum wages in EPZs are often suspended, unions forbidden, and benefits, job security and working conditions are very poor (Sklair, 1995; Bailey et al., 1993). This was also true for Bangladesh as well (Kabeer, 2004; Mayumi et al., 2008). Many critics refer to this process as the “race to the bottom” (Hayter, 1997) as also mentioned in earlier chapters of this thesis.

However, the “race to the bottom” phenomenon is highly contested among social scientists. Many see globalisation as providing states with a potential strategic coordinating role, highlighting the constraints as well as the generation of new demands that can prompt the reform of the welfare state and the renewal of social democracy (Rodrik, 2000; Greider, 1998). Dicken (1998) and Sklair (1995) argue that the relationship between transnational corporations and governments can be both cooperative and conflictual in that this relationship is dialectical and changing over time. The ability of transnational corporations (TNCs) to play countries’ bids for investment against one another depends upon the specific relative bargaining power of TNCs and states.

How to best combat the power of global capital over workers’ interests is under intense debate. Some propose (Rodrik, 2000; Greider, 1998; Dicken, 1998) that self-regulation by foreign investors themselves is the best solution. Others argue that global mechanisms, such as international accords on labour standards, are needed to guarantee basic labour rights (Kabeer et al., 2004, Servais, 2004). Still other strategies advocate regulation at the national and local level in that the host government must force foreign investors to obey national laws. This entails the mobilisation of global fronts popularly known as moving from above. This concept, along with its reflection in the trade union movement for Bangladesh’s EPZ workers, is discussed below.

International network building for workers rights

Allegations involving the use of sweatshop labour by major brand-name retailers received much attention in the mainstream media and in academic circles in the industrially developed countries. By the late 1990s there was evidence that consumers were willing to express their dissatisfaction with corporate abuses through their purchasing decisions. According to a 1999 study conducted by Marymount University's Centre for Ethical Concerns, 75 per cent of respondents said that they would avoid shopping at a retailer who is known to sell garments made in sweatshops. More than 86 per cent stated that they would pay an extra dollar on a \$20.00 garment if they were sure that it was not made in a sweatshop (Fung, O'Rourke and Sabel, 2001).

Greenhouse (1997) has stated that several transnational corporations took the initiative to legislate on working conditions by establishing codes of conduct that they demand their subcontractors adhere to. However, workers tended to have little, if any, knowledge of the codes, and subcontractors rarely enforced them (Greenhouse, 1997). Even when subcontractors did attempt to adhere to them there was no mechanism to do so. To establish more comprehensive reform leaders of the apparel and footwear industries and representatives from human rights and labour rights organisations came up with standard regulations that subcontractors must recognise and enforce. In 1997 they released the Apparel Industry Partnership (AIP) Code of Conduct, which included guidelines on workers' rights, along with general health and safety regulations (Greenhouse, 1997). A subsequent agreement established the Fair Labour Association (FLA) to enforce and monitor the AIP code.

This research found a FLA Independent External Monitoring (IEM) audit on Bangladeshi factory. The IEM unit of FLA discovered that workers were denied a legally mandated wage increase. As a result, two FLA-affiliated companies manufacturing goods at the factory required that factory management recalculate wages for all workers. The factory subsequently developed a six-month plan to reimburse workers for miscalculated wages, and the workers received the back pay to which they were entitled (FLA 2010).

There is, however, no consensus as to what the appropriate institutional mechanisms are to protect labour rights. One position holds that the international community should attempt to standardise workers' rights in foreign-owned factories and that trade agreements should contain and provide the same enforcement mechanisms as for other commercial provisions, using similar binding dispute resolution procedures and trade sanctions for failure of corporations or governments to comply with international standards (Connell, 2001). Others see it as the exclusive role of the International Labour Organisation (ILO, 2006) to constitutionally set and deal with labour standards. However, corporations are not subject to any binding regulations or formal sanctions for failure to respect human and labour rights (Faux, 2002). The limited clauses that do address labour issues are weak and/or not enforced (Fung et al., 2001).

The situation in Bangladesh is, however, to some extent different. The Bangladesh government places emphasis on so called employment-friendly policy (BEPZA 2010). But in this regard, the President BGWF has pointed out,

“BEPZA’s claim of maintaining employment - friendly labour policy did not explain the mechanism of maintaining employment friendly labour policy and there are evidences of violation of worker’s rights”. (AH)²⁹

Thus for the workers, the most important issue is social justice and how to guarantee this, in so far as possible in a country in crisis over job security, and mechanisms that help workers to fight for their rights in the work place.

General Secretary, Bangladesh Labour Federation in this regard viewed,

“The current labour Laws for EPZ workers issued by the BEPZA such as BEPZA Instruction number 1 and 2 in 1989 are not fairly and totally exercised in the EPZs in Bangladesh. There is no provision for workers in the EPZ labour laws to safe guard workers’ job security through trade unions and collective bargaining mechanism. So there is strong need for a fight for trade union rights in Bangladesh’s EPZs”. (SA)³⁰

For the government, the most important issue is attracting investment, and this requires a labour code that permits hiring "flexibility" - the opposite of what

²⁹ AH- President , Bangladesh Garment Workers federation (BGWF)

³⁰ SA – General Secretary, Bangladesh National Labour Federation.

the workers need. In late May and throughout June 2001 there was a wave of fierce class struggle in the Bangladesh garment industry. To illustrate the scale of events: around 4,000 readymade garment factories in Dhaka (including some EPZ factories) went on wildcat strike; 16 factories (outside EPZs) were burnt down by strikers and hundreds more ransacked and looted; pitched battles were fought with police and private security forces in workplaces and workers' neighborhoods; and main roads were blocked. Casualties included three workers shot dead, thousands injured, and several hundred jailed (ITUC, 2009). The government eventually felt compelled to bring in the army to restore “order” (ITUC, 2009). It was a working class revolt that spread beyond the country’s readymade garment factories and involved the wider working class (including EPZs) community (ITUC, 2009). Mobilisation from grassroots workplace level has been presented below.

Mobilisation from grassroots workplace level (mobilisation from below)

Bangladesh’s EPZs’ working class wanted to improve labour laws and working conditions. They fought for a new labour code that not only recognises all the de facto changes to the benefit of workers over the decade but also advances workers' rights even further through establishing their trade union rights. President NGWF in this regard said,

“NGWF as trade union federation having objects of betterment for all garment workers of the country was fighting for workers’ rights in Bangladesh’s Export Processing Zones (EPZs) as well. NGWF launched several awareness campaign involving EPZ workers to defend their rights and demand implementation of labour legislation, supporting and accelerating the process of mobilization for trade union rights”. (AH)³¹

Contribution of some interviewed workers to this end has been presented below under the head ‘cohesive mobilisation’.

Workers’ rights campaigns in the EPZ industry were a major component of what was often referred to as the anti-globalisation campaign. The emerging global movement was specifically resistant to the corporate-dominated economic, social and political form that globalisation has taken. This movement had a central focus: how to best attain trade union rights, as Brecher et al. (2002) have argued that there is a need for a global system that provides

³¹ AH – President , Bangladesh Garment Workers Federation (BGWF)

minimum rights and standards and new forms of global economic regulation. This entailed the empowerment of workers, local communities and other civil society actor's vis-à-vis their own government and global actors.

Though workers have no voice in international trade agreements such as the World Trade Organisation (WTO) and North American Free Trade Agreement (NAFTA), they can affect policy change in other ways that necessarily emerge at the micro level. The North American Free Trade Agreement (NAFTA) and certain agreements of the World Trade Organization (WTO) procurement rules forbid U.S. federal and state governments buying from foreign firms which suppress workers' conditions including European or other third-country. Examples in this regard can be cited from 'In the Public Interest' a weekly column by Ralph Nader (an American progressive political activist, and five-time candidate for President of the United States) that runs in newspapers around the United States. In its columns in 17 August 1999 Nader states that textile workers in a Bangladesh factory that makes clothes for Wal-Mart are paid far less than the countries' legal minimum wage. International trade in products made by oppressed workers is illegal under the WTO rule. Linked to standards of justice for the oppressed labour making massive profits for Wal-Mart, Nike, and other giant companies, consumer dollars can speak power and truth. The alternative is for unknowing shoppers to keep allowing these abuses that lead to obscene profits for corporations (Nader 2010).

Thus when local labour organises at the point of production, in alliance with other local or international groups, this can filter up to a global level and manifest itself in institutional change (Sklair, 1998; Evans, 2000). Under this situation a cohesive (working together as a united whole) labour mobilisation can play a crucial role and, in fact, this has happened in Bangladesh. The evidence of cohesive mobilisation in Bangladesh's EPZs is presented below.

Cohesive³² mobilisation

Unorganised workers lack power and are unable to exercise any labour process against exploitative labour conditions and work place powers; although my

³² Combining to form a strong well-organised unit.

research showed that the majority know their rights and want to claim what is due to them. Workers interviewed for this study often expressed the opinion that both the state and the market have failed to constrain the power of the employers to make unilateral decisions regarding the labour contract and workplace conditions. They felt that they should have an organisation of their own. A female worker interviewed in this research explained,

“We want to increase our benefits and at the same time do not want to lose our jobs. But we do not know how to do this. We, however, realise that we need to form an organisation and have to move together.”
(SH)³³

However the research found that before 2004 EPZ workers were extremely unorganised and were not represented by any trade unions, as there were no trade unions in EPZ before promulgation of the “Workers Association and Industrial Relations Act 2004” that allowed trade unions in the EPZ. As such, some outside workers’ organisations have tried to bypass and manoeuvre around factory owners’ aversion to unionisation in order to motivate workers to organise (Khan, 2001). One such organisation is the Bangladesh Garment and Industrial Workers’ Federation (BGIWF). They extended their support to the EPZ workers’ fight for trade union rights.

When interviewed, one BGWF leader expressed,

“It was very difficult to organise EPZ workers, as trade unions were not allowed. If the owner finds out that a worker is involved in an organisation then he might be fired. However, we have launched several awareness campaigns and tried to organise workers in a few factories and talked to them about their rights.”(AH)³⁴.

According to this respondent, at the beginning when the EPZ industry began, workers’ knowledge of labour rights and legal provisions was very little. Although awareness has increased with greater experience knowledge is still limited, even after two decades of EPZ operation, especially among female workers. The field study under this research revealed that about one third (11 out of 36 workers interviewed) admitted that they had no knowledge about existing labour laws of the country.

During one interview, a male EPZ trade union representative said,

³³ SH-Worker, Beximco Fashion Ltd.

³⁴ AH-President Trade union Federation, BGWF.

“In our factory most of the workers, particularly women, know little as they come from villages and have little education. Considering this, I told them that they have various rights including right for trade union. So they must raise their voice for those rights.” (AK)³⁵

Another female worker interviewed, however was more knowledgeable than

the EPZ representative suggested. She told me:

“I know some rules and regulations of EPZ factories and other factories. I live with workers from different factories. When we talk to each other I find out various information, like maternity leave should be for three months, and that we are meant to work eight hours a day.” (TA)³⁶

The mutual communication between workers living together helped a growing awareness about workers’ rights. Thus the sense of exploitation and demand for workers’ own organisation led to some grassroots level mobilisation. The processes of growing capacity to mobilise are presented below.

How has the capacity to mobilise grown over time?

There have been different types of workers’ struggles and mobilisations that have gathered momentum since 2000. The workers struggle and mobilisation pattern takes various forms:

Spontaneous protests in the factory premises and shop floor

Initially, some silent and less visible mobilisations took place on the shop floor and have been much more significant in terms of the number of workers’ involved and frequency. There was an increasing realisation amongst workers of the need to mobilise and unite in order to protect their jobs, protest against unfair treatment and hold employers to account, as is evident from the following statement from one EPZ trade union representative interviewed:

“Earlier it used to be much more difficult to make the workers understand about usefulness of trade union. Workers asked many questions and concerns about possible harms of unionisation. But soon they understood the importance of organizations, when a worker lost his job, but eventually got it back as his dismissal was protested by a group of workers amid extreme fear of job loss for all fellow protestors. But nothing goes against protesting fellow workers in that case. Eventually they understood the strength of unity.”(FA)³⁷

³⁵ AK-Worker, Beximco, Fashion Ltd.

³⁶ T A-Worker, Beximco, Fashion Ltd.

³⁷ FA-President, Trade union, Hy-Lan Sweater Int. Ltd.

Respondents discussed some confrontational struggles on the EPZ shop floor and factory premise, in which workers got together spontaneously to protest with the factory management. Some of the evidence in support of this type of protest is presented below.

“On 29 May 2004, workers at the Owner Way factory in the Dhaka Export Processing Zone began a work stoppage in the morning. Workers became upset following a statement from management suggesting that wages for workers would not be increased.---the workers at last started work in the afternoon, after the management assured them that the problem would be resolved” (Daily Star, 2004).

“On 6 June 2004, clashes broke out between workers and management and work stoppages occurred at A-One EPZ factory. Workers were demanding wage increase, increased holiday allowance, payments of overdue wages and health and safety. Workers were forced to come back to work without any foreseeable result of their protest”(DailyStar, 2004a).

Individual protests

According to this research individual action by workers was also increasingly used to protest against unfair treatment, claims for higher wages or demand for owed wages and overtime payments. However Paul-Majumdar has argued that individual protests usually have less impact than shop floor protests (Paul-Majumder, 2003). Respondents suggested that older and more experienced workers who have more self-confidence and have learned some negotiating skills generally resort to individual action. However, they warned that such action was quite costly for the worker since it was quite easy for management to fire one worker without creating too much of a disturbing effect on other workers. Hence, only the most desperate workers or those workers who knew they could easily find another job had chosen this type of action. When conditions became too oppressive or there was no scope for bargaining, the worker simply left the job and tried to find work in another factory in silent protest. In this regard an EPZ trade union representative told me,

“A female worker’s salary was fixed at Tk 3800, but she was not given an increment for a long time. When she asked the manager to raise her salary, he refused to do anything about it. As a result, the worker left the job and took one elsewhere.” (AF)³⁸

³⁸ AF- Worker ,Grameen Knitwear Ltd.

Regarding repression by the employers, another EPZ union representative said,

“The authorities used to oppress the workers sometimes, therefore we used to protest. In one such situation I protested to the manager. After listening, the manager called me and scolded me a lot. He told me, you provoked the workers, and they are not working properly because of that; our production has been disturbed, so the management has asked that you will not join your duties.” (TS)³⁹

However, the EPZ union representative said that he compromised with the management and kept his job. It was easy to protect against individual protests through repressive measures. Workers thus felt it necessary to move collectively.

Collective efforts

The collective efforts of workers and activists at the grassroots level in conjunction with those at the transnational level have helped to put pressure on government, retailers and their subcontractors to adhere to labour laws and codes of conduct. The following evidence illustrates the grassroots level of mobilisation to improve working conditions in EPZs, and how this was mutually reinforced. It also shows how the government was forced to take a proactive role in helping to resolve conflicts between foreign capital and labour. In January 2001, about 5,000 workers went on strike in Dhaka at the Young One factory. The strike was in reaction to a host of substandard conditions, including the failure to pay the minimum wage. After a day-long strike, a police crackdown ensued and state police attacked the workers guarding the factory. Fifteen workers were hospitalised, and five organisers of the strike were fired (Daily Star, 2001).

According to the respondents in this research protests were generally mobilised around the issue of wages and overtime, as all the interviewed workers in this research said getting minimum wages on time was their highest demand. In some extreme cases, they told me, struggles and protests have spilled out on the streets. Over time, such mobilisations increased in frequency and in the level of violence.

³⁹ TS- Secretary, Trade Union, Grameen Knitwear Ltd.

A diverse network of support for the workers was mobilised among labour and international human rights' groups across the North and South. Bangladesh's EPZ workers used the power of the growing anti-sweatshop movement in the United States to reinforce their efforts (AH)⁴⁰. They contacted the Dhaka office of the AFL-CIO (American Federation of Labour and Congress of Industrial Organisations) which helped EPZ workers publicise their case to US consumers (Bacon, 2001). It was felt that there is a growing concern with "ethical consumerism". Consumers are increasingly basing their consumption decisions not only on price considerations but also on moral principles, relating to the conditions of production. Social labelling programmes providing consumers with information on goods that meet certain ethical standards have thus grown in number and importance (Fung et al. 2001). US consumers have pressured administrators to threaten the companies and the Bangladesh Government with the termination of the contracts if they did not help to rectify the situation. The American Federation of Labour Congress of Industrial Organisation (AFL-CIO) petitioned the Government of the United States in 2001 for withdrawal of the Generalised System of Preferences (GSP)⁴¹ benefits to Bangladesh on account of the denial of the rights under the conventions to workers in EPZs. In order to avoid the loss of the GSP benefits, an understanding was negotiated with the United States Government in January 2001 to recognize the rights under the Conventions in EPZs, with effect from 1 January 2004 (Ramapriya, 2007).

Support was also provided by the AFL-CIO, the largest union federation in the United States, (made up of 56 national and international unions, together representing more than 11 million workers), 'Campaign for Labour Rights' (CLR 2000), 'Sweatshop Watch', and the 'European Clean Clothes Campaign'. The mobilisation to sustain the workers' campaign was a multi-level, multi-task strategy that targeted the local, national and international levels (CLR 2000).

⁴⁰ AH-President BGWF.

⁴¹ The Generalized System of Preference (GSP) is a formal set of exemptions outlined by the World Trade Organization (WTO), aimed at providing preferential access for developing countries in the form of reduced tariffs for their goods into the markets of developed countries.

NGOs also played an instrumental role in the organisation and information-sharing aspect of the campaign, most of which was done via seminar and workshops. Global Exchange and CLR in particular were fundamental in organising the broad network of activists. International solidarity at the grassroots level unequivocally played a significant role in the success of this trade union movement (CLR, 2000). The overall success for the workers was due to organising, solidarity, and corporate campaign strategies in enforcing concessions among retailers, their subcontractors and the Bangladesh Government to respect workers' rights. My research revealed that combined efforts of labour rights organisations created sufficient democratic space for the workers to organise and win their union rights. Interview with the trade union officials under this study revealed that while pressure for allowing union rights was crucial in helping workers achieve their victory, and helped win the right for trade union activity, ultimately, it was the courage and determination of workers that was critical in improving the situation.

These struggles shed interesting insights into the mobilising strategies of workers' movements for trade union rights. The successes of EPZ workers' movements depended on the coordination and reinforcement of different synergistic strategies between different agents and coalitions. This research shows that cross-national networks of solidarity that link grassroots organisers in the factories with labour and human rights groups have achieved the greatest success in pressuring brand-name retailers, local manufacturers, and local authorities to improve workers' conditions.

This research supports the claim by Brecher et al. (2002) that the empowerment of local and national communities and politics requires a degree of global regulation and governance because global capitals (EPZ employers) and state agencies responsible for administration of labour affairs are interdependent. The interviewees (AH, SA)⁴² under this research viewed that international and national standards such as freedom of association and minimum wage laws were respected only when non-state local actors linked transnationally with other civil actors to ensure their enforcement.

⁴² AH – President ,Bangladesh garment Workers Federation
SA- General secretary , Bangladesh National Labour Federation

These global advocacy networks favouring EPZ workers, what Keck and Sikkink (1998) call “transnational advocacy networks,” share similar identities and interests, and work outside the control of the national, state and local authorities. This was clearly how the victories in Bangladesh’s EPZs were achieved. The activists incorporated global perspectives to link with their local demands in order to implement policies regarding trade union rights. Global support for the movement was based on raising the quality of life for all, and establishing a type of globalisation that includes justice and ethical concerns. Research, cited above, has suggested that not only are people willing to avoid retailers that sell merchandise made under questionable conditions, they are also willing to pay more for garments if they can be guaranteed they were produced under fair conditions.

Like many other developing countries that have established EPZs, the Government of Bangladesh has thus reluctantly taken steps to protect workers’ rights, and has tried to maintain an effective regulatory mechanism to enforce international or national labour standards. The mechanism and implementation phases of trade union rights in Bangladesh’s EPZs are presented below.

5.5 Implementation of trade union rights: narration of events

The issue of allowing trade union rights in Bangladesh’s EPZs is over a decade old. Beside workers’ demands, the government of Bangladesh was compelled to take a stand on the issue because of the US Generalised System of Preference (GSP). The US Generalised System of Preference (GSP) is a programme designed to promote economic growth in the developing world by providing preferential duty-free entry for about 4,800 products from 131 designated beneficiary countries and territories. GSP was instituted on January 1, 1976, by the ‘Trade Act of 1974’ (USTR, 2009). The United States of America is the largest importer of Bangladeshi products, accounting for 44 per cent of its total export. Although most US imports from Bangladesh fall outside the GSP, its cancellation may affect overall trade with Bangladesh. The US Ambassador in Dhaka, Harry K Thomas, has said that Washington would not offer the GSP to Bangladesh from January 2004 if it failed to introduce

trade unionism in its exclusive industrial zones (Drainville, 2009). Bangladesh and the US signed the GSP treaty in 1991, which later expired in 2001.

Washington extended the pact by another three years on the condition that Bangladesh would allow trade unions by then to enjoy the facility. Bangladesh tried to soften the US position on trade unions, but Washington gave the cold shoulder to Bangladesh's appeal to give it another three years before the launch of trade unions (Daily Star, 2002). A high-powered Bangladesh Government delegation visited Washington and asked for more time to give special training to workers before allowing trade union activities (Jamil, 2009). The government fears trade unionism in the EPZs would allow 'unruly' workers scope to stage strikes and work stoppages without any cogent reasons (Kabeer et al., 2004). On November 17, 2003, the Ministry of Labour and Employment discussed the latest developments on the trade union issue at a meeting and decided to allow trade union activities in the Export Processing Zones in the wake of Washington's threat to drop the Generalised System of Preference from its export items from January 2004 if the activities were not allowed (Daily Star, 2003). Finally, the Government of Bangladesh passed the 'Workers Associations and Industrial Relations Act 2004' (WAIRA, 2004), allowing trade union rights in the EPZs. According to WAIRA (2004) the implementation phases of the 'EPZ Workers Associations and Industrial Relations Act 2004' were as follows:

Implementation phases of trade unions in Bangladesh's EPZs

The 'EPZ Workers Associations and Industrial Relations Act 2004' provided for two phases of implementation. Phase I from July 2004 to October 2006 required the formation and election of 'Worker Representation and Welfare Committees (WRWCs)', and Phase II from October 2006-October 2010, permitted WRWCs to petition for the formation of 'Workers Associations' (WAIRA, 2004). Elections for the WRWCs took place in December 2004, and some 177 WRWCs were registered on the basis of elections. The elections were often monitored by representatives from the US Embassy, the AFL-CIO's Solidarity Centre and other credible parties (Jamil, 2009). BEPZA has implemented the 'EPZ Workers Associations and Industrial Relations Act

2004' and according to one source under this all workers have the opportunity to enjoy their freedom of association that is trade union rights (MA)⁴³.

Trade union rights were again suspended during the emergency period (2006 to 2008) under the army-backed caretaker government and there was widespread violation of trade union rights throughout the country (USDS, 2008). In January 2007, the President of Bangladesh declared a state of emergency and formed an army-backed caretaker government. The caretaker government promulgated the Emergency Power Rules (EPR) and Emergency Power Ordinance 2007 to enforce the state of emergency. Under EPR the right of trade unions to meet lawfully or hold public demonstrations was prohibited. Additionally, during the year several labour leaders and organisations reported being subject to intimidation and scrutiny by security forces (USDS, 2008). In September 2007, the government, however, relaxed the ban imposed on trade union activities under the state of emergency in January 2007 and allowed labour rights organisations to conduct activities on a very limited scale to allow unions to carry out financial and administrative tasks. The full lifting of the state of emergency on December 2008 enabled trade unions to resume their normal activities (USDS, 2008).

In September 2007, the AFL-CIO filed a petition with the United States Trade Representative (USTR), seeking to remove Bangladesh from the list of eligible beneficiary developing countries under the Generalised System of Preference. The petition specifically noted workers' rights violations in the readymade garment industries, as well as in the EPZs. As a result, the United States Trade Representative placed Bangladesh under continuing review to monitor its progress toward a set of workers' rights benchmarks. The state of emergency was lifted in December 2008. In April 2009, the AFL-CIO reported that the government and employers of Bangladesh had taken some steps forward (Solidarity Center, 2009). Under pressure from AFL-CIO and ILO the Bangladesh Government has allowed existing labour courts of the country to dispose of industrial disputes and try offences of EPZ workers by incorporating clauses in the article 56 & 59 of the 'EPZ Workers Associations and Industrial Relations Act 2004' as this was not included in the WAIRA Act 2004. This

⁴³ MA – Member (Investment Promotion) , BEPZA

modification in the ACT 2004 was promulgated by an Ordinance during the tenure of the army-backed caretaker government (2006 - 2008) and later ratified as law by the democratically elected Parliament (AR)⁴⁴.

BEPZA started the implementation of Phase II of the 'WAIRA Act 2004', and has taken numerous steps to ensure its full implementation. BEPZA issued a letter of instruction to all enterprises on the legal requirement to permit the establishment of '*Sramik Sangha*' (trade unions) as of November 1, 2006 and distributed the necessary printed forms for workers to request a referendum on trade unions (evidence of support from 50% or more of the total workers of the respective enterprise for forming a trade union in their enterprise). In developing the required forms and procedures for implementing Phase II, BEPZA sat on a number of meetings with the AFL-CIO's Solidarity Centre (Jamil, 2009).

Referendums and elections on 'Workers Associations' in 192 EPZ enterprises had been completed up to October 2009 which constitutes 74.42 per cent of the eligible enterprises of a total of 258 industries. BEPZA put its best efforts in to completing the referendums and elections in all the factories by December, 2009 (Jamil 2009). 'Workers Associations' (formation of trade unions) in 149 EPZ enterprises had been completed up to October 10, 2009, which constitutes 77.60 per cent of the total 192 enterprises where referendums and elections on '*Sramik Sangha*' were held (Jamil, 2009). '*Sramik Sangha*' (trade unions) in 56 enterprises in Dhaka EPZ had been completed up to October 10, 2009 which is 78% of the total 72 enterprises where referendums and elections on '*Sramik Sangha*' were held (BEPZA, 2009). Numerous officials (US Department of Labour, Deputy Assistant Secretary for Democracy, Human Rights and Labour, State Department, the Ambassador of USA and Second Secretary, US Embassy, Dhaka, Executive Director, Solidarity Centre, AFL-CIO, Washington and Foreign Affairs Officer, Bureau of Democracy, Human Rights and Labour, US Department of State) visited Dhaka's and Chittagong's EPZs and observed referendums and elections of EPZ '*Sramik Sangha*' (Jamil, 2009).

⁴⁴ AR – General Manager , Enterprise , BEPZA

The Bangladesh Government issued an Ordinance in October 2008, extending the duration of the 'EPZ Workers' Associations and Industrial Relations Act 2004' up to October 31, 2010 by incorporating the necessary modifications in the Act (Jamil, 2009). Finally, the 'EPZ Workers' Association and Industrial Relations Act 2004' (WAIRA, 2004) was passed by the elected Parliament of Bangladesh (BEPZA, 2010). This historical event has been cheered by the EPZ workers as a glorious victory, as this has given a permanent shape to their trade union rights (Daily Star 2010).

5.6 Conclusion

This research revealed two broad types of strategies that the movement for trade union rights mobilised. The first strategy is official politics that comprises open, declared forms of movement. The political strategy involves open debate and conflict over the issue of trade unionism in EPZs in Bangladesh. It was in fact 'the realm of elites' (for example, journalists, politicians, revolutionaries), of written records (for example, news stories, petitions such as petition submitted to US government by Solidarity Centre), and of public action such as BEPZA's responses to international pressures. This strategy however depends on hierarchical modes of organisation and representation due to bureaucratic forms of communication and authority. The second strategy that workers' groups adopted was direct actions. This involved less formalised and organised attempts to challenge managerial hegemony. Such a strategy had taken the form of direct and non-hierarchical attempts by workers through various types of grassroots mobilisation to constitute social relationships and assert their rights. The direct actions were not co-ordinated through formal organisation and engagement with official centres of power such as corporate hierarchies or the state agency -BEPZA. Instead the workers adopted the strategy of direct claiming of their trade union rights through participation in number of street protests/processions which were mainly organised by some external trade union federation such as National Garment Workers Federation. As an inevitable consequence of these two broad types of strategic movements, EPZ workers finally came out with victory of achieving their trade union rights.

Chapter 6: The labour process in Bangladesh's EPZs

6.1 Introduction

Understanding workplace power and the labour process is important for any labour studies. Studying workplaces within the conceptual remit of labour process analysis can help to understand dimensions of workplace employment relations issues. As such the first few sections of this chapter introduce the workplace power and contemporary labour process theories, and the subsequent sections are used for discussing the experiences of the EPZ workers' organisation (trade unions) in the context of the changed management practices that characterised their organisation. Taking on the labour process analysis, the chapter explores the position of labour in the organisation in explaining workers own strategies and how the prevailing workplace labour process interacts with them. In utilising much of the labour process analysis, the chapter claims that workers' own sense making and interpretation of the workplace industrial relations are accounted for much by the trade unions own actions and commitment to their members.

The specificities of the EPZ industrial relation environment within the capitalist mode of production could be conceptualised as total and absolute labour subordination to capital. This opens up an ambivalent interface within which to conceptualise and explain the dynamics of labour process, in context. This chapter attempts to contribute to the labour process analysis for examining contemporary workplace relations. It attempts to examine the experiences and strategies of EPZ trade unions in the wake of reformed industrial relations practices emerging from implementation of the 'WAIRA Act 2004'.

This chapter is structured in five sections. Section 6.2 discusses contemporary debates on labour process theories to contrast strategies based on cooperation, control and mobilisation. The section 6.3 provides an overall picture of the state of employment relations and labour process that are in practice within EPZs in Bangladesh. This section has been split into few sections; sub section 6.3.1 presents a detailed discussion on government legislative instruments

available for balancing workplace power with provisions for providing greater protection for workers and their trade union rights. Sub section 6.3.2 provides discussion on employers' control mechanism and sub section 6.3.3 presents EPZ workers' position in the labour process with a detailed discussion on the procedure for the resolution of labour disputes. Sub section 6.3.4 provides an account of government administrative capacity in intervening in labour relations. Section 6.4 presents an evaluation of trade union strategies to protect worker's rights. Three important case studies on trade union strategies namely, (i) consultation (ii) industrial action and (iii) preventive strategies, with analytical remarks focussing how these strategies tie-in with the labour process theories, are also discussed in this chapter. Section 6.5 provides conclusions to the chapter.

6.2 Contemporary labour process theories

This section deals with contemporary labour process theories to contrast strategies based on cooperation, control and mobilisation. Industrial sociologists have long been concerned with the workplace industrial relations. This concern has appeared under a variety of headings. The heading currently in vogue is empowerment (Conger and Kamungo, 1988; Thomas and Velthouse, 1990), focusing on empowering workers, which is especially prominent in the work of two groups of scholars: employee rights theorists and labour process theorists. Employee rights theory has developed primarily in the United States. Employee rights theorists express their concerns in relation to empowerment in terms of the rights that individuals ought to have as members of society (or by virtue of being humans) but are denied to them in their roles as employees. On the other hand Labour Process Theory that has emerged in Europe, especially Great Britain suggesting that managerial action is chiefly motivated by capitalist labour relations, by strategies of employers and their agents to try and control and stabilise the unruly element/factor of production, namely, living labour (Thompson and Smith, 2000).

Labour Process Theory is a late Marxist theory of the organisation of work under capitalism. It critiques scientific management as authored by Frederick

Taylor in the early 1900s. Frederick Taylor in his 'The Principles of Scientific Management' theorised that workers were not equal in talent, education, or motivation and these factors should be taken into consideration when assigning tasks. In his labour study, he developed a scientific method of getting tasks completed in less time. Labour Process Theory uses central concepts developed by Braverman (1974) in the 1970s. Recent attempts have been made to use labour process theory to explain workers' bargaining power under contemporary global capitalism. Labour Process Theory has developed into a broader set of interventions and texts linked to critiquing new forms of management strategy of an exploitative nature. Much of the early work on labour process theory was written within a broad Marxist framework. Braverman (1974) played a crucial role in resurrecting the neglected aspect of Marx's work, and three of the key texts in second wave labour process theory - Burawoy (1979), Edwards (1979) and Friedman (1977) - were written from a Marxist perspective.

Labour process theory attempts to show how "the rationality of technique in the modern industrial enterprise is not neutral in respect of class domination" (Giddens 1982:38). The main critique has been mobilised through a structuralist analysis of capitalism and organisation that challenges bourgeois analyses of the workplace where workers are represented as 'free agents' by virtue of their apparently sovereign control over the sale of their labour.

Braverman's 'Labour and Monopoly Capital' (1974) targets the individualism and voluntarism of bourgeois industrial sociology which ignores how each person remains at the hands of social relations (Daniel and Willmott 2001). Labour process analysts (Wilmot 1995, Storey 1985, 1989, Friedman 1987) has taken up the challenge of addressing the question of how theory might be reconstructed to incorporate an understanding of subjectivity in the field of capital-labour relations. Storey (1985) showed that labour process rests upon the fact that capital constructs systems of control in order to secure the structurally necessary extraction of surplus value from labour. Storey also points to the presence of a multiplicity of levels and forms of control that, he argues, are not exclusively formed by an essentialist logic of capitalism.

Storey argued that labour process not only relies upon a single precarious mode of control, rather, control devices are activated, deactivated, merge and are reconstituted out of the struggle between various groups both within and between workers and managers (Storey 1985). At the same time, Friedman (1987) usefully stresses the importance of avoiding the rules implied by production functions in neo-classical economic models, so that the interactions of other forces are recognised.

Braverman (1974) and those who debated his work initially were clear that the labour process is that part of the mode of production in which workers' productive capacity is deployed in order to produce use values and at the same time surplus value. There was an interest in the nature of the valorisation process and in the dynamics of struggle and exploitation. This view has evidently been de-emphasised more recently, with the growth of interest in identity and subjectivity and with the rise of poststructuralist Foucault-inspired analyses (Ackroyd and Thompson 1999).

Burawoy (1979) for example specifically set his approach in contrast to Braverman's view. Burawoy stressed the success of management in the factory that he studied in securing compliance and neutralising resistance. Thus 'dualism' is commonly seen as a central problem in Labour Process Theory, that is a mode of analysis in which control and resistance are treated as stark opposites. Yet Burawoy argued that, rather than there being a straight opposition between capitalist control and worker resistance, workers in fact produce consent as an integral part of the production process (Burawoy 1979).

Based upon ethnographic study and participant observation of shop floor work, Burawoy (1979) shows how group dynamics provide the conditions whereby consent and co-operation are intertwined and created at the point of work in a way what he terms 'the political and ideological realms of production'.

Studies of labour market experience of the workers, for example in Barker's (1999) well-known study, find a distinct form of 'concertive' control. But it does not try to say how common this is or what conditions produces it. There

are clearly different kinds of teams, and where teamwork is combined with other conditions, it is more likely to generate outcomes of value to workers as well as to management than is true when these conditions are absent. As Ackroyd and Thompson (1999) comment on another example of Sewell's (1998) work, there is a tendency to strip out context and to produce an abstract control imperative.

The interest is in how labour power is deployed and what the consequences are. For present purposes, the key is that a labour process perspective can say some distinctive things about management, and we need to understand the labour process, not as work in general, but as a form of human activity that takes a particular character under capitalism. Here, managers and workers meet in a relationship of 'structured antagonism', and they define themselves in this relationship: there can be no manager without a worker, and the basics of social class lie in the dynamics and contradictions of the relationship (Edwards 2000).

One way is to look at the organisation of the labour process and the way in which a frontier of control is created and sustained where workers may not 'resist' but may obtain benefits, for example through legal rights. Burawoy in this regard notes that workplace regimes are located in national contexts and that states take different views of the regulation of the labour process. The Foucaultian (organisation studies as an exit from Marxian influenced analysis) insistence that power and knowledge are parts of the same thing asserts to the extent that it means anything, that at the immediate point of production there is a potential constant negotiation over claims to control resources. If workers argue about effort levels, they are asserting their power and their knowledge that they are aware that there is indeed a bargain and that they can change something that is they can make choices as to how to respond resulting in actions, bargains and compromises that become a new pattern of workplace politics.

There is a body of work that addresses the changing structure of capitalism, Criticising the efforts to incorporate subjectivity within labour process analysis, Martinez Lucio and Stewart (1997) emphasised that "radical labour process

critiques have effectively been ceded to researchers concerned more with the labour process as a site for the production of relations of subjectivity” (Martinez Lucio and Stewart 1997:52). A concern with subjectivity is also understood to imply the neglect of labour as an economic commodity that results in ‘the sublimation of questions of structure to themes of subjectivity” (Martinez Lucio and Stewart 1997:55). From this position, a recognition of how “the individualizing tendencies of capitalist relations of production” (Willmott 1989: 371), such as individually negotiated contracts, flexitime, and performance-related pay, can “accentuate existential insecurity to the point where privatized efforts to gain a secure identity take precedence over collective efforts to transform the historical conditions that promote such self-defeating tendencies” (Willmott 1989: 371) is interpreted as “ redundancy of approaches anchored in the metanarratives of collectivism” (Martinez Lucio and Stewart 1997:57). Danieal and Willmott argued “here Martinez Lucio and Stewart conflate a metanarrative of collectivism which rightly understands work to be a collective process undertaken by ‘the collective labourer’ (Willmott 1997) -with analysis that understands how within the contradictions of the labour process, ‘privatised efforts’ may emerge that are self-defeating insofar as they impede or displace collective self-transformation as a strategy of emancipatory change” (Damian and Willmott 2001 : 463).

The Post-Structuralism in Labour Process Theory involves a self-critical and multi-disciplinary exploration of complex political, economic and psychological processes that combine the practices of the labour process. Post structuralism offers a way of understanding the nature of social relations through which the sense and meaning of freedom is experienced.

Labour process pays no attention to the employees’ sense of being autonomous and unified. In contrast, poststructuralist analysis dictates power relations to be co-implicated in cooperation with the principles of managing the employment relation. This understanding is revealed to be consistent with the industrial relations in Bangladesh’s EPZs and provides the scope and opportunities within which workers can be made dignified by strategies pursued by workers organisations.

Worker dynamics in the workplace have been created in the Bangladesh's EPZs industrial relations following the implementation of 'WAIRA Act 2004'. This new development in the labour process has been facilitated (even though EPZ employers reluctantly accepted trade unions in their enterprise) by industrial relations strategies which appear to be organised around a new common traditional set of management practices (both from employer and trade unions and relevant state agencies' points of view) together within the limits of traditional regulations.

This research has explored how patterns of behaviour emerging from the trade union movement in Bangladesh's EPZs reshape industrial relations and alter the terms of the labour process. The change has empowered workers for bargaining over pay and conditions, strikes, and at the extreme quasi-revolutionary protests. Such acts, or the threat of them, can come to tie-in or become contrasting based on cooperation, control and mobilisation. These aspects have been examined and findings are presented in section 6.4 of this chapter. Labour process analysis of work thus entails an empirical interest in the experience of work at the point of production. And, in terms of method, case studies have been the preferred approach. Workplace labour process in practice in the Bangladesh's EPZs with the aid of some case studies on trade union strategies are discussed in the following sections.

6.3 State of employment relations and labour process in practice

This section provides an account of the state of employment relations and labour process inside Bangladesh's EPZs. To this end, face-to-face interviews with the senior officials of BEPZA, managers of the EPZ enterprises with responsibility for employment relations or personnel issues, interviews with a trade union representative and a good number of EPZ workers, were conducted and are discussed below.

The interview with a BEPZA official focused on legislative and government institutional settings for EPZ employment relations. The interview with EPZ enterprise management focused on recruitment and job security, consultation

and communication, employee representation, payment systems, grievance and discipline, equal opportunities, health and safety, flexibility and performance.

The interview with workers' representatives (trade unions) provides information on the structure of representation at the workplace, means of communication with workers, incidence of negotiation and consultation over pay and other matters involved in discipline and grievances, and incidence of collective disputes and industrial action. The interview with workers provided information on job arrangements, working hours, payment of wages, job satisfaction, training and skills, information and consultation, employee representation and dispute settlement.

6.3.1 Government legislative instruments for protection of workers' rights

The legislation (WAIRA Act 2004) concerning the formation of trade unions emphasises the balance of power, providing greater protection for workers and their trade union rights. The act under its article 8 provides inter alia the following:

- The right to strike on conditions that strikes are only permissible after a multi-level mediation procedure, as stipulated by law, has failed.
- The provision of tripartite consultation allowed the institutional frame work for tripartite consultations at the enterprise levels.
- Unions and employers have the right to conduct independent wage talks and collective bargaining negotiations.
- Employers are obliged, to enter into collective bargaining negotiations with unions, if the latter so desire.
- Trade union officials allowed protection against dismissal; the companies are required to provide trade union committees with rooms for their work.
- Lockouts are prohibited by law under any circumstances.

The Act provides workers a statutory right to join a trade union, and a trade union achieved a statutory right to seek recognition by the employer at an EPZ enterprise. This creates an environment where collective bargaining can occur in anticipation of a reduction in damage that poor labour relations can cause, for example, in respect of loss of job security and lower non-wage benefits. In this context, during one interview a BEPZA official said,

“The Act provide workers the right to join a union and for the union to be recognised. It protects workers involved in a strike from dismissal if

the union follows the terms and conditions of calling a strike. Union representatives may accompany workers at disciplinary or grievance hearings and outlaws discrimination in the workplace on the grounds of union membership. In cases where an employer refuses to recognise a union representation, it has the right to be heard by the BEPZA, which has legal power to force recognition subject to certain conditions.”(MA)⁴⁵

It needs to be mentioned that BEPZA had established the terms and conditions of employment before 2004 under the BEPZA Instruction Number 1 (see appendix F) and therefore it was expected that it would have some influence on the terms and conditions of employment. The implementation status of terms and conditions was expected to be forceful with progressive adoption of new legislation such as the ‘EPZ Workers’ Associations and Industrial Relations Act 2004’. The research findings of the case studies presented in subsequent sections of this chapter as well as in chapter 7 indicate that the influence of statutory legislation on implementation of terms, and conditions of employment improved, in the opinion of participants on average in the core workers’ rights areas (wages, working hours, working conditions and other benefits) investigated, while none considered that it had worsened. Thus, participants perceived that the state acquired more freedom to intervene in industrial relations in favour of workers than before due to the enactment of new legislation.

6.3.2 Employers’ control mechanisms

The research found that an employer’s relative level of power over workers is dependent upon numerous factors. It covers facets such as worker recruitment, payment of wage and non-wage benefits, own methods for reaching production targets, or process controls used in the work place. This research has revealed that employers have enough authority at company level to determine the terms and conditions of employment as they desire. About one-third of worker participants agreed that due to the employer’s initiative, terms and conditions of employment had improved significantly over the years. Findings presented in subsequent sections indicate that compliance of company code of conduct have played a positive role in implementing favourable terms and conditions of

⁴⁵ MA- Member (Investment Promotion), BEPZA.

employment. Additionally, all the interviewed workers agreed that the employer's flexibility over terms and conditions of employment, such as working hours and other benefits have been reduced more than before. Therefore, findings confirm the expectation that the employer's power over terms and conditions of employment has been increasingly put under control with the progressive adoption of the new legislation.

It would be relevant to mention here that there are two employers' associations to represent the employer's interest in the EPZs. They are the 'Bangladesh Garments Manufacturers' and Exporters' Association' (BGMEA) and the 'Bangladesh Knitwear Manufacturers' and Exporters' Association' (BKMEA). The important issues revealed during interview are the reluctance of the employers' associations to initiate any collective arrangement against the interest of workers due to legislative limitation. During an interview with the researcher the BGMEA president expressed,

"It's difficult to initiate a collective arrangement against the interest of workers because employers' associations are not able, as well as not willing, to have a common view, particularly for applying terms and conditions of employment that goes against the BEPZA rules. Thus, an important obstacle in the application of an employer's collective arrangement is constraints by the unwillingness of individual member employers to delegate power to employers' associations to apply anything publicly against workers interest on their behalf." (SM)⁴⁶

It appears during interviews with enterprise level officials (ZA, SA)⁴⁷ that individual members in fact delegate little power to employers' associations because they do not want to remain under any obligation from their Association.

6.3.3 Workers' position in the labour process

Trade unions

The 'EPZ Workers Associations and Industrial Relations Act 2004' seeks to promote workers' participation in decision-making through trade union and employee consultation and joint decision-making on certain issues. It

⁴⁶ SM- President, BGMEA

⁴⁷ ZA- CEO ,Hy-Lan Sweater Intenational Ltd SA- Manager, Grameen Knitwear Ltd

provides procedures for the resolution of labour disputes through statutory conciliation and arbitration, and through an independent alternative dispute resolution mechanism. Trade unions in EPZs are able to provide voice and representation to workers in the production process. They help workers to defend their interests, to articulate their concerns and priorities and to engage in negotiations and discussions with other actors in the production system. The trade unions try to play their role in promoting the bargaining power of workers, improve their remuneration and working conditions and ensure their participation in workplace decisions. The case study findings presented in section 6.4 show that trade union initiatives had important rules regarding terms and conditions of employment for the workers. Four trade union representatives interviewed under this study (FA, GU, TS, WA)⁴⁸ indicated that immediately after 2004 trade unions were becoming organised.

From the research it can be seen that trade union activity includes persuasion, consultation and collective bargaining. The proportion of workers in trade unions; the proportion of workers covered by collective bargaining agreements; participation in workplace decision-making; and participation by workers, employers and civil society organisations in dispute resolution are some of the indicators of union performance (Taylor, 1999). Different patterns and results of performance are obtained depending upon the workplace power and different labour processes followed in the workplace. By and large consultation and collective bargaining are the most prominent labour processes for protecting workers' rights. These two labour processes, as well as other processes available to EPZ workers, are presented in the following sections.

Consultation between unions and employers

Anstey (1997) and Salamon (1992) define employee participation as a range of influence employees may have on decision making, ranging from task centred to power centred forms. To them task centered is a conceptual framework under which employees can use some degree of power to influence but not to make, negotiate or co-determine workplace decisions. It is an indirect form of

⁴⁸ FA - President, TU, Hy-Lan Sweater Ltd. GU- Secretary, TU, Beximco Fashion Ltd
TS- Secretary, TU , Grameen Knitwear ltd WA- Secretary ,TU, Ilki Textile Ltd.

participation in that employee representatives participate on behalf of employees to represent them. This is sometimes known as representative rather than direct participation. On the other hand the power centered form involves issues of power sharing in the workplace. Employers might feel that it restricts their managerial prerogative and flexibility in decision-making. Trade unions feel that it threatens to undermine trade unions by blurring the distinction between management and employee interests. As du Toit et al. (2003) note, in practice the spectrum of participation ranges from those that are extensions of management to those that are fully accountable to employees. The Act of 2004 (WAIRA, 2004) has significant provisions on employer consultations with trade unions and employee representatives (WAIRA, 2004). The Act of 2004 also contained provision that EPZ employers must be willing to take reasonable steps to consult and attempt to reach agreement with a trade union representing their members at the workplace.

My research revealed that the employer's compliance with workers' rights followed the strategy to enter into consultation about the formulation and implementation of a compliance plan with the representatives of trade unions in their company, as well as employees or their representatives.

Consultation strategies of the unions

The trade unions in their consultation with employers use different strategies. A common feature in consultation is that a representation group is set up or used for this purpose. It was reported that sometimes a smaller group was established in a union to deal with a particular employer.

Problems faced by trade unions in consultation

a) Degree of union participation

Union representatives (FA, GU, TS)⁴⁹ during interviews expressed that in most cases employers tried to impose decisions unilaterally and that there was no proper consultation with unions by the employers. The employer tends to take charge of the entire process and treats the union as though it is largely to be

⁴⁹ GU- Secretary , Trade union (TU) , Beximco Fashion ltd
TS- Secretary, TU , Grameen Knitwear ltd , WA- Secretary , TU , Ilki Textile ltd

informed rather than to participate equally in decision-making. Trade unions found that in very few cases were the union representative actually involved in the drawing up of the document prepared for consent. The document was shown to the trade union and they were asked to countersign it. A union representative disclosed,

“Employers only did this in order to comply with the provisions of the buyer, and so to be seen in a good light.” (FA)⁵⁰

Union representatives also said that their input was not seriously considered and included in the compliance document. The union representatives felt that employers were more concerned with compliance in respect of demands submitted to the BEPZA than the implementation of those demands.

b) Different interpretations

Many problems around processing and implementation appear to be of an interpretative nature. A common problem reported by the union representatives is that the employers and trade unions had different understandings of certain pertinent terms such as ‘consultation’. This hindered the consultation process. As one union representative opined:

“Some employers’ conception of consultation was that it was enough to simply inform the union, and that consultation did not entail agreement or consensus.” (TS)⁵¹

Union representatives (FA, TS)⁵² also felt that their proposals were understood in consultation in a limited way and interpreted in a different way by the employer. Also proposals were discussed for long periods without reaching decisions. Employers also refused to respond to alternative proposals without properly explaining the reasons for rejection.

c) Consultation agenda

During consultation, union representative felt that their issues of discussion such as wage increment and overtime payment issues tended to be lumped together (FA, TS)⁵².

The Union representatives (FA, TS)⁵² also informed me that issues related to the finances of the company, such as wages and conditions of employment,

⁵⁰ FA - President , TU, Hy-Lan Sweater Int. Ltd.

⁵¹ TS - Secretary, TU , Grameen Knitwear Ltd.

⁵² FA- President , TU, Hy-Lan Sweater Int. Ltd .
TS- Secretary, TU , Grameen Knitwear Ltd .

tended to be placed in the pending list for future discussion; and eventually they were not adequately dealt with, being given a lower priority on the employment relations' agenda in organisations. Some other important issues such as technical skills development training for the workers tended to be kept in the pending list with reasons given being the present financial position of the company.

Trade union strategies for dealing with consultation difficulties

It was a common theme for unions that when an employer needed the signature of the trade union on an employment relations item such as maintaining a code of conduct for the satisfaction of brands (international buyers), the trade union could use this as leverage to get something that it wanted. This technique has indeed been applied by the unions. A union representative said,

“Union refused to sign a document concerning the safety measures taken against fire hazards that the employer is required to show the buyer until the employer had declared a plan that included skills development training for the workers.”(WA)⁵³

The union representatives (FA, TS)⁵⁴ said they need a strategy to more fully penetrate all the EPZs. The union does not have this at the moment and that consultation practices are non-existent in many workplaces. Therefore, there is a need, according to the unions, to develop workers' unity and to enable them to link up at regional (each Export Processing Zone would be considered as a region) and national levels. Union representatives (FA, TS)⁵⁴ also suggested that where the employer tries to treat the union as though it is just there to share information, the union should refuse to countersign anything favouring the employer's sole interest.

Union representatives also feel that unions should come down harder on the BEPZA. One union representative agreed saying,

“The unions need to be empowered themselves with the details of engagement, and that national office BEPZA should engage unions so that awareness is created at an affiliate level.” (TS)⁵⁴

⁵³ WA- Secretary , TU , Ilki Textile Ltd.

⁵⁴ FA - President , TU , Hy-Lan Sweater Ltd. TS- Secretary, TU , Grameen Knitwear Ltd.

Union representatives opined that at this initial stage there is a general lack of strategic thinking in relation to union participation in consultation. The research revealed that trade unions will need to place consultation higher on their own agendas, especially if they are to move the agendas beyond traditional collective bargaining matters to the critical imperative of human resource development and, arguably, to a more strategic need in relation to the greater skill development needs of the workers and thereby upgrading their status.

Summary of main issues in consultation

The research found that there is less evidence of consultation by employers with unions in the EPZs. According to unions, many employers believe they do not need to do anything further. Trade union representatives experience difficulty in getting management to talk about some of the issues relating to workers' job security.

Union representatives find it difficult to become involved in recruitment and job security practices within the company. Union representatives felt that they must know what the EPZ law is and what their rights under the law are. According to the union representatives, they need to challenge the employer when it appears the employer is not carrying out his obligations under the legislation. However, trade unions on the ground, it was said, do not have the necessary capacity. One union representative mentioned,

“We are often unable to interact and engage meaningfully about workers' recruitment and job security matters within our companies, as we cannot pinpoint the elements that need serious attention. If we raise a concern about particular issues of workers grievances, the employer would know who did so and the next day that worker might be a victim.” (TS)⁵⁵

During an interview, another union representative clearly indicated,

“Employers make unilateral decisions as to who should be on consultation group. This seriously undermines union influence. The union could not impress upon employers properly to develop required strategies, as the employers make the excuse that there is no budget, and therefore they cannot increase wage for the worker in immediate future.” (FA)⁵⁶

⁵⁵ TS- Secretary, TU , Grameen Knitwear Ltd.

⁵⁶ FA - President , TU, Hy-Lan Sweater Int. Ltd.

Unions are also concerned that BEPZA is focusing more on advocacy than enforcement. The unions and BEPZA can potentially play a key and perhaps joint role, but some unions are not confident that if they go to BEPZA they will get what they want, since there are often unforeseen delays. Trade union representatives felt that the government has enough power and should put more pressure on employers to comply with workers' rights.

Union officials feel that BEPZA should be at the forefront of the development of employment relations and skills development as per the legislation. However, since the legislation was enacted it seems that BEPZA is playing a less active role at organisational level and during collective bargaining negotiations and that union members' skill development issues are relegated to secondary issues once the bread-and-butter issues that was basic needs such as wages , health and working conditions related matters become apparent. Skill development issues come to the discussion table but are not properly concluded. One reason appears to be lack of union capacity.

Collective bargaining: union recognition and obligation to bargain

Collective bargaining is an important labour process in the EPZs. Once unions have formed, bargaining cannot, however, start automatically. In the EPZs there is a distinction between union formation and recognition of the union as the bargaining agent; an intermediary step before the employer is obliged to bargain. The EPZ Authority imposes some obligation to bargain but the process is riddled with loopholes which can delay the start of bargaining despite the fact that there are clear rules on union recognition and obligation to bargain. But there appear many formalities in recognition and the actual practice shows delays in the functioning of the bargaining process.

Under the framework of the 'EPZ Workers' Associations and Industrial Relations Act 2004' (WAIRA, 2004) collective bargaining cannot be carried out unless a registered 'Workers Association' (trade union) is available in any establishment/ industry in the EPZs. According to legal provisions contained in the Act, if there is only one trade union in an enterprise with at least 50 per cent

of workers⁵⁷ employed therein as its members, it is declared as the Collective Bargaining Agent (CBA) for that enterprise. Thus, as a registered body with more than 50 per cent of workers as members, the union is legally entitled to raise labour disputes on behalf of the workers and to bargain collectively with the employers on the issues of disputes. When any industrial dispute arises or is apprehended, the union or the employer of the establishment is required to communicate their respective views in writing to the other (WAIRA 2004). After communicating their respective views, both the union and the employer sit across the table and negotiate in order to arrive at a settlement. Collective bargaining negotiations have to be completed within 21 days after the official demand. At plant level the union can raise a dispute in writing and place it before the management for collective bargaining. Similarly, the employers can also raise a dispute and place it before the union for negotiation. Collective bargaining (bipartite negotiation) starts within 15 days of submitting a written demand from either party.

Before the new legislation, respondents said, workers had to organise a protest rally to compel a hostile employer to come to the bargaining table. But now they believed that the environment has changed with the implementation of the Act of 2004 and EPZ employers had conceded recognition and bargaining rights to represent workers without workers' recourse to strike action being necessary (MA)⁵⁸

Scope and subject matter of bargaining

The obligation to bargain does not in itself guarantee that successful bargaining will take place. Free collective bargaining requires the right to lockout (for employers) or strike (by unions). Bangladesh permits the right to strike, but then de facto takes away that right through a plethora of administrative rules and restrictions. In Bangladesh, for example, dispute resolution rules require 14 days' notice of strike. If either party calls for mediation, then the strike must be withheld and the parties must enter the mediation process. If mediation is not successful, the government may refer the dispute to binding arbitration, or to an

⁵⁷ If more than 50% (fifty per cent) of the workers cast votes, and more than 50% (fifty per cent) of the votes cast are in favour of formation of 'Workers Associations', the workers in the said industrial unit shall, thereby, acquire the legitimate right to form an association under the Act of 2004 (WAIRA, 2004).

⁵⁸ MA- Member (Investment Promotion) BEPZA.

industrial court or tribunal. Theoretically, then, strikes will not take place if this procedure is followed.

Tripartism and social dialogue

This section focuses on a series of rights that underpin tripartism that is consultation between three parties such as trade unions, EPZ employers and state agency. The law explicitly provides for tripartism in the EPZ legislation. The enactment of legislation regarding tripartism is the result of demands by strong unions. It is clear that tripartism occurred as it is backed by legislation and ILO conventions.

In Bangladesh, tripartism has been institutionalised through the ratification of the ILO Convention concerning tripartite consultations to promote the implementation of international labour standards, 1976 (No. 144) in 1979 (ILO, 1999). According to the Convention, employers and workers shall be represented on an equal footing on any bodies through which consultations are undertaken in the labour process. The objective of promoting tripartism in industrial relations is to minimise conflict situations and establish harmony between employers and trade unions. Tripartism is one of the foremost ways in which to achieve workers' rights. The role of tripartism is also highlighted in formulating and reforming laws and policies on labour-management issues in order to reflect the interest and priorities of partners in proposed laws and policies. As an effect of this, the Social Compliance Forum in the Ready Made Garments (RMG) sector consisting of apparel industries in EPZs was established in 2005, and comprised of government representatives, industry associations, buyers, and workers organisations (Hassan, 2008). The Forum reviewed existing policies, especially occupational safety and labour welfare aspects, and provided guidelines for necessary policy reforms. The Forum has undertaken steps for building awareness about labour laws and developing databases with information on factories. With the influence of tripartism a 'Workers' compliance and safety unit' has been formed at the enterprise level in EPZs to deal with working conditions and occupational safety and health issues (Hassan, 2008).

The main issues on the agenda of the social dialogue in Bangladesh include labour law reform, protecting workers' rights in EPZs, hours of work, payment

for overtime, wages, occupational safety and health, leave, provision for transport, social security and special needs of women workers. A landmark effort on tripartism initiated by stakeholders in recent years resulted in the signing of the Memorandum of Understanding (MoU) on June 2006 amongst the government, the BGMEA and the leaders of the workers. The 10-point tripartite MoU was aimed at putting an end to labour unrest in the RMG and EPZ⁵⁹ sector that erupted over long-suppressed grievances of the workers (ILO, 2007). The main agendas of MoU were: issuing employment documents and identity cards to the workers, providing bargaining powers to the workers with owners, one-day weekly holidays for workers, fair trade unionism in RMG including in EPZs, overtime allowances, maternity leave with pay as per the labour law and the formation of a Wage Board to review and fix wages. The amendment of 'EPZ Workers Associations and Industrial Relations Act 2004' (amended in 2009) was greatly influenced by the demands of stakeholders and many points of the MoU had been incorporated in the amended Act (AH)⁶⁰.

Another achievement of the tripartite outcome has been the declaration of new minimum wages for EPZ workers in July 2010 through which the Bangladesh government has doubled the minimum wage for its garment workers including EPZ workers following months of violent protests over pay (BBC, 2010).

Dispute Settlement

According to the 'EPZ Workers Associations and Industrial Relations Act 2004' (WAIRA, 2004), no industrial dispute shall be deemed to exist unless it has been raised by an employer or a collective bargaining agent in accordance with the provisions of the Act (WAIRA, 2004, section 48). No differentiation is made between disputes of rights and disputes of interest; both are considered as disputes under the law. Both disputes of rights and disputes of interest can be taken to the Labour Court under this legislation. Bipartite negotiation and

⁵⁹ On the morning of Monday, 22 May 2006 at Dhaka Export Processing Zone (EPZ), workers at Universal Garments Limited gathered in front of the factory to demand payment of 3 months of owed back wages. They were attacked by factory security staff. In response, the workers went to neighbouring factories and called out other garment workers for support. The growing group of workers then went from factory to factory calling on other workers to join them; 20,000 workers are reported to have joined this angry procession. By the afternoon hundreds of other factories in Savar EPZ had joined the strikes (Libcom, 2009).

⁶⁰ AH-President, BGWF

conciliation are two important methods of settlement of industrial disputes because they provide grounds for amicable settlement in what is said to be a free and unfettered environment. As a third party the conciliators try to help the conflicting parties resolve their disputes amicably and restore a good relationship between the disputants. In essence, bipartite negotiation and conciliation are seen to be complementary to each other and it is argued that “if successfully used, can provide a solid foundation to industrial relations” (Halim, 2007: 161).

The ‘EPZ Workers’ Associations and Industrial Relations Act 2004’ (WAIRA, 2004) also provides an important tool for minimising industrial disputes at the very initial stage through the intervention of the trade union. In this regard, the following functions (in line with provisions laid down in the Act of 2004) trade unions are reportedly performed to inculcate and develop a sense of belonging and workers’ commitment:

- a. To endeavour to promote mutual trust, understanding and cooperation between the employer and the workers;
- b. To develop a sense of discipline and good working conditions;
- c. To encourage vocational training for workers;
- d. To fulfil production targets, reduce production costs and wastes and raise the quality of products.

There was no fixed time limit for conflict settlement. Sometimes it takes several months to settle disputes. This resulted in enormous problems for disputants, as there was a long demand for the EPZ workers to settle their disputes as early as possible and workers demanded a strict time limit for their dispute to be solved. As per the workers’ demands BEPZA set up an Industrial Relations Department. A manager has been entrusted with the task of grievance handling, dispute settlement, and labour inspection as head of the Industrial Relation Department (IRD) in each zone. The Industrial Relations Department uses a checklist⁶¹ to monitor compliance with the provisions provided in BEPZA’s guidelines for benefits and privileges to be accorded to the workers. The checklist is presented in Table 6.3.1 below:

⁶¹ Known as the Citizen Charter of BEPZA.

Table: 6.3.1: Checklist for settlement of workers grievances

Description of service	Needed documents & working procedures	Description of work and time spent			Action
		File/note initiating officer	Member (IP) GM(IP)	Executive Chairman	
Settlement of worker grievances	Grievances along with supporting papers (if any)	Analysis of the complaints and give instruction to the zones	Scrutinizing and recommendation	Approval	Permission issued/ Decision conveyed
		One working day		one working day	one working day

Source: BEPZA (2010): Citizen Charter, Investment Promotion Division, Bangladesh Export Processing Zone Authority, Dhaka

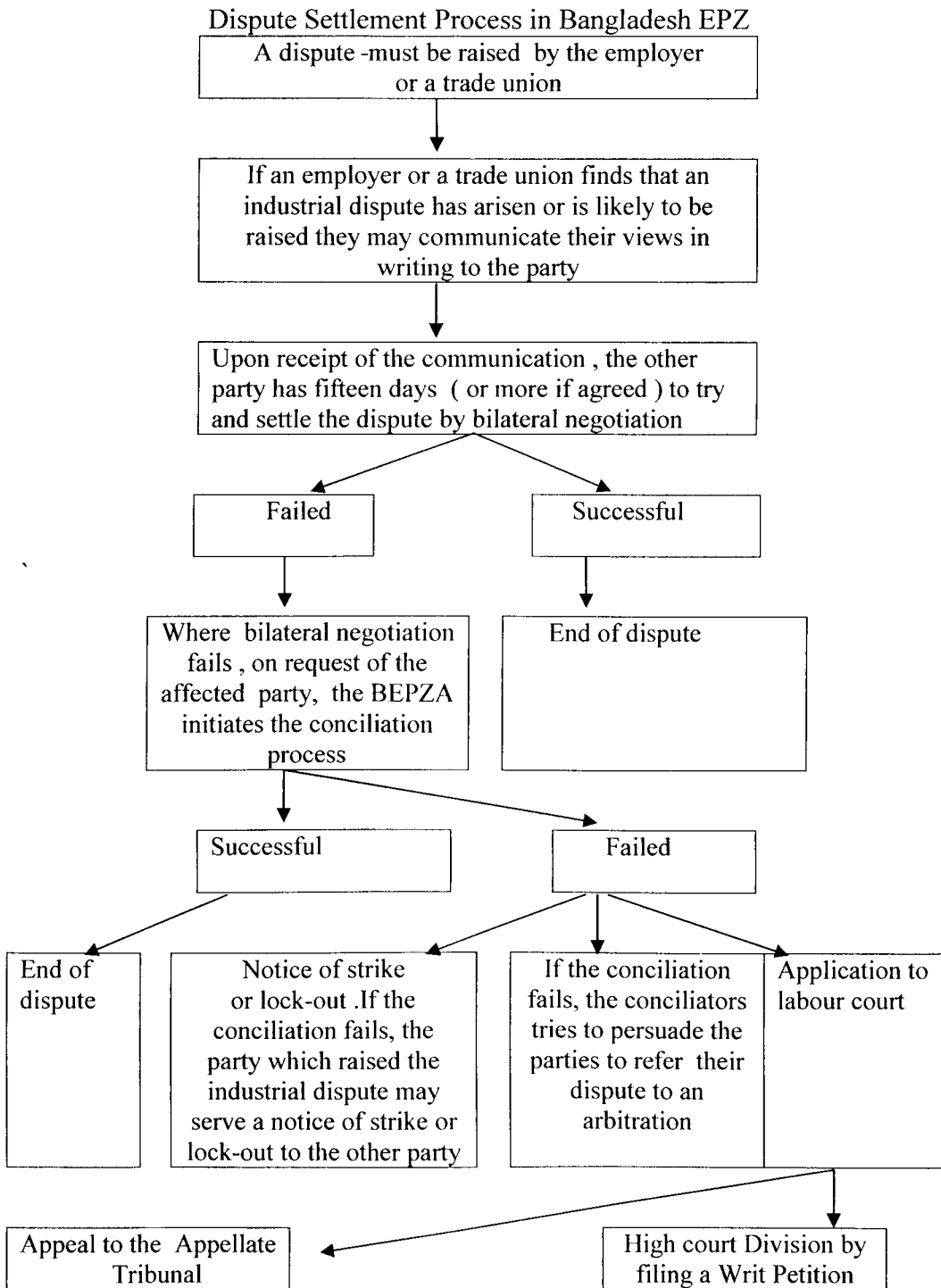
BEPZA management believes that almost all of the large firms comply with the law, but many smaller enterprises have been cited for late or non-payment of wages (MA)⁶². According to the ‘EPZ Workers’ Associations and Industrial Relations Act 2004’, when a difference between an employer and worker is found they have the right for negotiation to settle the issue. When negotiation fails any of the parties can request to the conciliator to intervene in the dispute. If the conciliation fails, though, the parties involved in the dispute are entitled to go for strike or lock-out. Arbitration is also available (MA)⁶².

In practice it is revealed from personal interviews with BEPZA officials (MA AR)⁶³ that there are two conciliators, sixty counsellors and one arbitrator in the EPZs in Bangladesh. The workers submit grievances to the counsellors in written form. They are then discussed and the matter is decided upon by the counsellors accordingly. The matters which are not settled by the counsellors are referred to the conciliator and the conciliator then initiates proceedings. In 2007 the Office of Conciliator of Export Processing Zones settled a number of 40 disputes (Faruque, 2009), and in 2009, 192 workers’ complaint cases were successfully resolved through the BEPZA conciliator (Jamil, 2009). The dispute settlement process in Bangladesh’s EPZs is illustrated below:

⁶² MA- Member (Investment Promotion), BEPZA.

⁶³ AR- General Manager , Enterprise, BEPZA.

Diagram 6.3.1



The collective bargaining and dispute settlement procedure defines disputes and creates a complex procedural system for resolving them. They are mostly the creation of the BEPZA and therefore have no sound basis in workers' representation and collective bargaining in compliance with ILO Convention Nos. 87 and 98. It is a classic system of management-dominated worker organisations and thus runs short of international standards on freedom of

association, such as the right to organise, and the right to bargain collectively covered by ILO Convention Nos. 87 and 98 (Convention No. 87 on Freedom of Association and Protection of the Right to Organise, Convention No. 98 on the Right to Organise and Collective Bargaining). The legislative weaknesses as described below are mainly responsible for this limitation.

Legislative weakness

The functions of trade unions in the Bangladesh EPZ are constrained by the weaknesses of the ‘EPZ Workers’ Associations and Industrial Relations Act 2004’. This Act has been found to have some weaknesses that hindered union activities concerning industrial relations. The ILO Committee of Experts stated in its 2009 report (ILO,2010:64-65) that the ‘EPZ Workers’ Association and Industrial Relations Act 2004’ contained numerous and significant restrictions and delays with regard to the right to organize in EPZs and in particular:

- Prohibited the formation of trade union in any industrial units established in the EPZ after the commencement of the Act and, until a period of three months after the commencement of commercial production in the concerned unit (WAIRA Act 2004, section 24);
- Establishes excessive and complicated minimum membership and referendum requirements for the establishment of trade unions (a union may be formed only when a minimum of 30 per cent of the eligible workers of an industrial unit seek its formation, and this has been verified by the Executive Chairperson of BEPZA, who shall then conduct a referendum on the basis of which the workers shall acquire the legitimate right to form a union under the Act, only if more than 50 per cent of the eligible workers cast their vote, and more than 50 per cent of the votes cast are in favour of the formation of the union (WAIRA, 2004, sections 14, 15, 17 and 20);
- Confers excessive powers of approval to the Executive Chairperson of the BEPZA (WAIRA 2004 section 17(2));
- Prevents steps for the establishment of a union in the workplace for a period of one year after the first attempt fails to gather sufficient support in a referendum (WAIRA Act 2004, section 16);
- Provides for the cancellation of the registration of a union on grounds which do not appear to justify the severity of this sanction (such as contravention of any of the provisions of the union's constitution)

(Sections 36(1) (c), (e)-(h) and 42(1) (a));

- Provides for severe restrictions on strikes once recognised (possibility to prohibit a strike if it continues for more than 15 days or even before this deadline, if the strike is considered as causing serious harm to productivity in the EPZ (WAIRA, 2004, section 54(3) and (4));
- Prevents workers' unions from obtaining or receiving any fund from any outside source without the prior approval of the Executive Chairperson of the BEPZA (section 18(2);
- Prohibits a federation from affiliating in any manner with federations in other EPZs and beyond EPZs (WAIRA Act 2004, section 32(3)); and
- It does not seem to afford guarantees against interference with the right of workers to elect their representatives in full freedom (e.g. the procedure of election shall be determined by the BEPZA, etc. (WAIRA, 2004, sections 5(6) and (7), 28(1), 29 and 32(4)).

The EPZ workers' organisations, civil society and ILO Expert Committee requested the government to take the necessary measures to amend the 'EPZ Workers' Associations and Industrial Relations Act 2004' so as to bring it into conformity with the standard trade union norms (Faruque, 2009). Following the request of civil society and ILO Expert Committee, the government has made some amendments to the 'EPZ Workers' Associations and Industrial Relations Act 2004' and the Parliament on Tuesday 20 July 2010, passed the EPZ Workers Welfare Association and Industrial Relation Bill, 2010 to allow EPZ workers to set up 'Sramik Sangha' (trade union). According to the Bill,

“Eligible workers at an industrial unit in the EPZ will be able to undertake trade union activities. The registered trade union will be the Collective Bargaining Agent (CBA) of that particular industrial unit..... No union will be allowed to establish relations whatsoever with any political party, its front wing or NGO overtly or covertly.Under the bill, if more than 50 percent of the union in an EPZ agrees, they can form a federation of the union.” (The Financial Express 2010. p.1).

Thus still there are many restrictions on the organising capacity, power and function of the trade unions in the EPZ.

Other avenues available for labour process

Codes of conduct, certification and reporting systems

Some corporate codes of conduct have been developed in response to pressure from northern unions and NGOs precisely because legislation seemed not sufficiently protective of workers' rights. Company codes and certification and reporting systems as outlined below are prominent among them.

(a) Company codes.

A majority of companies in a particular industry (e.g. sports shoes or garments) are covered by corporate codes of conduct, and monitoring is conducted by independent monitors; approximately 80 per cent of the total EPZ workers are covered by the codes (AR).

(b) Certification and reporting systems.

All the companies operating in the EPZs are part of general certification and reporting schemes, and they are monitored by independent monitors (MA).

6.3.4 Government administrative capacity in intervening labour relations

National law has to be enforced in ways that takes into account worker-friendly policies. There are, in fact, two main approaches to enforcement. The first is to impose penalties for non-compliance. The second is the operation of an inspection regime that forces employers and unions to obey the law. It is well known that the enactment of laws pertaining to protecting workers' rights is not sufficient to ensure that labour-friendly policies are implemented. It is possible for actors to break the law or ignore it on a routine basis. For example, many EPZ employers continually violate the law to prohibit forming unions in their company since trade unions are not yet formed in many EPZ factories (See Appendix G).

For inspections to work, government (BEPZA in this case) has an administrative system to carry them out. BEPZA has an industrial relations department in every EPZ, which, amongst other responsibilities, has the authority for enforcing labour conditions. The BEPZA has a total of 60 counsellors in their industrial relations departments that have the responsibility

of ensuring compliance with the ‘Workers’ Associations and Industrial Relations Act 2004’, and ensuring proper implementation of the EPZ Labour Law, BEPZA Instruction No. 1 and 2 (AR)⁶⁴.

There are, however, sharp differences of views on the nature and direction of any intervention in the labour relations under the free market economy. Broadly speaking, two distinctive schools of thought have tended to hold opposing views: neo-classical (Distortionists) and institutional schools (Institutionalists). The former holds that state and other interventions in the free functioning of market forces, unless designed to correct market failures, lead to inefficiencies in resource allocation and hence to slower growth, wage and employment expansion and material progress for workers and enterprises (Boyer and Smith, 2001). The Institutionalists, on the other hand, maintain that apart from correcting market failures, interventions that establish rights at work, collective bargaining, tripartite consultations, minimum wages and social security, contribute to political and social stability, reduced economic inequalities and higher productivity, innovation and risk-taking (Hodgson, 2002).

Most neo-classical industrial economists (Millward, et al? 2001) argue that minimum wage and employment security regulations discourage hiring and favour insiders with good jobs against outsiders with bad jobs or no jobs at all. Their hypothesis about a minimum wage is that setting it above the market clearing level reduces employment and increases unemployment. Contrary to this, the *Institutionalists* contend that state, trade unions and collective bargaining provide a mechanism for worker participation and information sharing, thus increasing mutual trust, a sense of responsibility and the motivation for better work (O’Higgins, 2001). Institutionalists thus take the opposite view of distortionists concerning the likely impact of employment regulations and argue that employment security regulations may yield increases in productivity by: improving workers’ commitment to the enterprise and thus raising work motivation and productivity, thereby reducing labour turnover and thus increasing on-the-job learning; encouraging workers to accept

⁶⁴ AR- Genarel Manager , Enterprise, BEPZA.

productivity-raising rationalisation and modernisation measures, as well as occupational and work-environment changes; inducing greater acceptance of disciplinary measures; and encouraging managers to find ways of increasing efficiency and competitiveness rather than laying off workers (Standing, 1989). The differing views of these two schools on the impact of labour market regulations have implications for the possibility of conflict between the various workers' rights dimensions. Distortionists warn that there is indeed a danger of conflict between (i) improving wages and other conditions of work and (ii) increasing employment. They believe that assuring high wages and labour standards (workers' rights) for some can harm others. Institutionalists, on the contrary, see no necessary conflict between these two sets of objectives. Ultimately, it could be argued, this is an empirical and not an ideological question; hence, it can be answered by a review of the evidence.

Following a challenge to the Distortionist view, Card and Krueger (1995) found an increase in employment in the fast food industry following an increase in the minimum wage. On the contrary, a review by the OECD (1998) of nine member countries found that there is a significant negative effect on the employment of teenagers, a 10 per cent increase in the minimum wage being associated with a fall in their employment of 2-4 per cent. Nesporova (2002: 34) found that in many transition countries, "the minimum wage has fallen well below the subsistence minimum, thus losing its social and economic function". On the other hand, in a sample of 30 developing countries, mainly in Latin America and Africa, Saget (2001) finds no significant effect of minimum wages on employment. The empirical evidence demonstrates a mixed result. Employment regulations such as those regarding the minimum wage only seem to have a modest negative impact on employment in countries where their level in relation to the average wage and their incidence rate are both high, and even where some positive effects have been identified. There are no empirical authentic studies on the effect of labour relations regulation on the volume of employment in Bangladesh. This is undoubtedly an interesting area of future research for Bangladesh. However, employment statistics as displayed on the BEPZA official website indicates that the total numbers employed in EPZ had increased from 218,299 in 2008 to 295,238 in 2011 (as of March 2011);

that is, employment during the period increased by more than 35.24 per cent. Annual growth as worked out from BEPZA official statistics was 7.50 per cent in 2009; in 2010 it reached 11.95 per cent; and in the first six months of the financial year 2011 the total number of employed had increased from 262,752 to 295,238, implying an increasing trend of employment growth (BEPZA, 2011).

6.4 An evaluation of trade union strategies

One important aim of this research was to evaluate the role trade unions played in protecting workers' rights. The situation has been looked as follows: in what manner do trade unions contribute to the protection of workers' rights? First of all, attention had given to gain some insight into the processes of trade union influence. In bargaining situations all parties have scope for consultation and negotiation. The concept of scope is defined as the various strategic options that are negotiable within a bargaining situation. It is possible to speak of trade union having influence if, after a trade union initiative has been tabled, management's preference shifts from an adversarial policy option to worker-friendly policy options. Trade unions, in fact, ideologically possess the opportunity to increase their welfare related activities by making use of means to exercise power. An increase in bargaining scope results in a new policy option which becomes negotiable to the management. In addition to the process of influence, the attitude adopted by the trade union is also important. The strategies that are used by the trade unions to try to protect the workers' rights as revealed from my research are grouped in to the following:

- a) The consultation approach in which trade union seeks the causes of the problems and tries to provide remedies;
- b) The strategy of direct industrial action approach that entails the measures enabling unions to exercise more influence on the basis of their statutory functions;
- c) Finally, the curative strategy, with which the trade union primarily aims at reducing the negative effects on workers right.

Evaluation method: case studies

The process of above mentioned three strategies used the trade union have been described by means of case studies.

In this context, a case is a trade union initiative in the field of core workers' rights within the EPZ environment. My research aimed to generate qualitative data to assist in the development of an in-depth understanding of the approaches to the organisation and representation of EPZ workers that trade unions were already using. An intensive research design was therefore adopted. A total of 9 (nine) interviews were conducted with trade union officials so as to identify the variety of approaches adopted by different unions and to highlight their understanding of issues relating to EPZ workers' representation. The initial exploratory interviews led to three approaches being identified for further investigation through in-depth case studies. Although many more strategies were identified, these cases were selected for the following reasons:

- They cover a range of fields and will be relevant to the widest number of EPZ trade unions.
- The strategies range considerably in their degree of sophistication and commitment.

However all can be considered to be important in their own right. It is however true that a successful strategy adopted by one union may not be the best approach for another. The case studies were located in the Dhaka and Adamjee EPZs. The number of interviews conducted for each case varied due to the degree of access permitted. The large majority of interviews were semi structured in nature although some unstructured discussions were also conducted.

The researcher sought to minimise bias and obtain the most 'rounded' view of each case by interviewing a wide range of individuals with a variety of interests; these include branch union officials, management representatives, and employees (workers). Interviews were recorded and subsequently transcribed in full.

Case study: three union strategies

In each case description, the position of the trade union is analysed and the problems associated with workers' rights are described. This analysis primarily focuses on the process of negotiations between the trade union and employer and on the results that have been achieved. Of the various cases, the trade union initiative always ended with some positive results, including an arrangement covering protection of workers' rights. Key trade unionists felt that the dynamics were somewhat slow for its proper implementation but in practice, improvements were noticeable. The case-studies reveal that some approaches gained more positive results than others.

Case study 1 : Consultation

Consultation between employer and trade union on employment security

Employment letters were widely viewed by the EPZ workers interviewed as a safeguard of their employment security as they contained the terms and conditions of employment. Workers are supposed to receive their employment document (a kind of information sheet which is commonly termed an employment letter by the workers, so in this thesis this employment document is termed as employment letter) after 3 to 6 months depending on the length of their probationary/apprentice period. After successful completion of the probationary period, workers become permanent. At the start of the probationary period employers issue an information sheet (job offer) to workers selected for recruitment containing the terms and conditions of employment and asking them to fill in some personal information; after taking back the signed prescribed consent form, workers are allowed to start the job. After 3 months or 6 months, based on performance, workers become permanent, internal records are updated and they are informed accordingly.

However workers explained that they were rarely given any explanation regarding any disciplinary action, including dismissal for any poor-performance or misconduct or in more serious cases. In most cases before taking formal disciplinary action or dismissal, the employer raised the matter

informally with the worker. This was often a good way of resolving a problem quickly but on many occasions there were misunderstandings, and workers were not able to clarify their situation or provide evidence as to the employer's position. The employer could then easily decide to go directly to their formal disciplinary or dismissal actions.

Worker dissatisfaction with the dismissal procedures and disputes was a common picture. Employers are supposed to review existing procedures through consultation with the workers organisation to ensure they meet the legal minimum set out in the Disputes Resolution Regulations and EPZ Employment Act. Consequently in this example, the trade unions were successful in ensuring that a consultation occurred on the issue of dismissal procedures between the employer and the unions in 2009 in Hy-Lan Sweater International Ltd. This consultation, it was hoped, would provide a framework for maintaining employment security for the worker wherever possible. A framework was agreed which applied to all workers, including permanent and temporary workers. In situations where staffing reductions need to be made, and there is a possibility of compulsory dismissal, the employer acknowledged its obligations to consult and communicate effectively with the trade union. The unions were also to be provided with information regarding reasons for any other dismissal, the number and description of workers whom it was proposed to dismiss, the proposed method of carrying out the dismissals with due regard to any agreed procedure, including the period over which the dismissals were to take effect and the proposed method of calculating the amount of any payments made to employees who might be dismissed (FA, ZA)⁶⁵.

According to the respondents effective communication and consultation were maintained with active cooperation of all parties and not simply a one-way supply of information. The employer worked with the trade union to get the balance between making progress at a reasonable pace in order to minimise unnecessary dissatisfaction of the workers and worsening workplace conditions

⁶⁵ FA- President ,Hy-Lan Sweater International Ltd.

(ZA)⁶⁶. In fact, the employer appeared to recognise the benefit of early and meaningful consultation with the trade unions. Reasonable time and opportunity was given to trade union representatives to consider the information provided and to put forward their views or proposals on the dismissal procedures. The employer gave proper consideration before reaching conclusions (ZA)⁶⁶. According to union representatives (FA)⁶⁵ the consultation yielded some good results. In line with the Disputes Resolution Regulations and EPZ Employment Code, it was agreed that the employer's disciplinary procedure henceforth will include the following steps:

1. A letter from the employer setting out the issue,
2. a meeting with concerned officials to discuss the issue and the ability to appeal against the employer's decision.
3. the employer will put their disciplinary procedure in writing, and make it easily available to the worker.
4. The employer will also provide the worker, in writing, the name of a person they can apply to if they are dissatisfied with the employer's decision.

However while the disciplinary or dismissal issue is being looked into, the employer reserved the right to suspend the worker (with or without pay during the period of suspension depending on the seriousness of the case) if they felt it is necessary (ZA)⁶⁷. In this area the union was less successful in influencing their proposal regarding suspension with payment if it became unavoidable (FA)⁶⁸

Case study 2: Industrial action

Industrial action for minimum wage rate

Rules and regulations concerning payment of salaries, wages and non-wage benefits constitute important elements of workers' rights. Workers' rights imply payment of minimum wages, regular payment of salaries and wages, payment of other non-wage benefits to workers as per their legitimate entitlement. The Export Processing Zone Authority (BEPZA) establishes

⁶⁶ ZA- CEO , Hy-Lan Sweater Int. Ltd.

⁶⁷ ZA- CEO, Hy-Lan Sweater Ltd.

⁶⁸ FA- President, TU, Hy-Lane Sweater Ltd.

separate wage rates for workers and apprentices working in companies within EPZs. These rates were not set by the government, but by the EPZ authority directly (ILO, 2010). In the EPZs, the authority may determine minimum wage rates from time to time. The legislation does not provide a specific time frame (ILO, 2010). A minimum wage notice is required to be posted in all factories, but in practice workers said they experienced irregularities in these procedures. Some of the experiences of workers participating in the research are as follows:

- Wage calculations were not clear. Specific reasons given included not receiving wage slips (10 workers); the payment sheet did not indicate the calculation but only the total amount (3 workers); not all categories (e.g. overtime) were indicated (3 workers); the total amount for each category (basic wage, overtime, etc. was given) without indicating the calculation for each category (6 workers); workers did not know the appropriate wage rate for night work (3 male workers); workers did not know the rate for work on a Friday (a weekly holiday) and public holidays (4 workers).
- Wage calculations were wrong. Ten (10) workers said that they did not receive the wages they were entitled to. This included workers who continued to receive an apprentice/probationary salary when working for longer than six months (6 workers); workers only received their piece-rate including over-time when this fell below the minimum wage (2 workers); payment of a daily/monthly wage below the minimum wage to casual workers (3 workers); undue wage deductions for absences (2 workers) ; undue wage deductions for production mistakes made or violating company rules (2 workers); non or incorrect payment of night-time wages (4 workers); and payment of wages deferred for several days when workers refused to work overtime on payday (2 workers).

BEPZA is supposed to oversee the enforcement of minimum wage policies. Understandably, there are inter-firm variations in wage levels. However,

BEPZA maintains that the minimum wage level is protected in all cases, and there is no gender discrimination regarding the fixing of wages (MA)⁶⁹.

The minimum wage rate for EPZ workers was introduced in 2006 in which the minimum wage for unskilled workers was TK 1600 (BEPZA, 2009b). The last updated average monthly wages for EPZ workers was implemented in 2009 (BEPZA, 2009b). Since then the minimum wage has not increased. Workers were demanding an increase in the minimum wage rate but the government was under pressure from the employers' side not to increase the minimum wage rate. There were many plant level strikes during June 2010 demanding an increase in the minimum wage rate. The unions and workers were harassed and intimidated for demanding a new minimum wage rate.

According to the 'EPZ Workers' Associations and Industrial Relations Act 2004' (WAIRA, 2004) employees have the right to strike subject to fulfilling certain steps and conditions (i.e. refusal to work, and an embargo on working overtime) however some strikes and lock outs are prohibited in the EPZ. Employers have the right to lock out employees (i.e. physically preventing employees from entering the work place). But both of these actions occurred in the EPZ on the issue of implementing a new minimum wage rate for the workers.

Workers' strike for a minimum wage rate

Demand for a new minimum wage was at high during June - July 2010. In the weeks of June 2010, EPZ workers launched several strikes demanding a new minimum pay rate. In June 2010, workers from a large number of garment factories in EPZs came down to the streets and joined mass demonstration rallies. Ultimately, the Bangladesh Government almost doubled the minimum wage for its garment and EPZ workers after a series of consultations with the representatives of trade unions and officials of employers' associations. The Ministry of Labour formally announced the new minimum wage for EPZ and garment workers on 30 July, 2010. But the government delayed its implementation. Again, workers went on strike, demanding the implementation

⁶⁹ MA- Member (Investment Promotion) BEPZA

of a new minimum wage rate. In response, the BEPZA issued an official order on 6 September 2010 that the minimum wage will be set at TK 2700 (\$39) for apprentice workers and different rates for workers of different grades. The new minimum wage rate is almost double the previous 2006 minimum wage rate and will be applicable for all EPZ workers (BEPZA, 2011). However, this minimum wage rate was not implemented in many EPZ factories immediately. Workers organised protest and strikes in some EPZ factories for the immediate implementation of the new minimum wage rate. Evidence of one such strike appeared on the Asia News Network website presented in the box-1 below:

Box-1 : EPZ Workers stage Protest , Place 8-pt demand

A large number of workers of Bangladesh's EPZs stage a sit-in in front of Deputy commissioner's office demanding release of two arrested colleagues and payment of salary as per the government's new pay structure. The demands include release of two arrested EPZ workers, stopping indiscriminate termination of workers and payment of salary as per the government's new pay structure.

A good number of EPZ workers, most of them belonging to Uttara Sweater Manufacturing Company Limited, have been conducting their agitation programme since 13 December 2010. During a sit-in in front of the DC office, the workers demanded immediate solution to their problems in Uttara EPZ.

Deputy Commissioner assured that police will not harass innocent workers and he will try so that the arrested workers get bail as soon as possible. When contacted, the General Manager of Uttara EPZ said, "All factories of Uttara EPZ functioned normally today.

Source: Asia News Network (2011).

More news on the Bangladeshi EPZ workers' strike over the implementation of new minimum wages appeared on the website of the International Movement for a Just World(JUST), a Malaysia-based international human rights forum established in 1992 as a society which seeks to develop global awareness as presented in the box -2 below .

**Box-2 : Factory Fire and Police Killings Fuel Discontent
Among Bangladeshi Garment Workers**

Across Bangladesh, many workers appear to have been pushed back to work on Tuesday 14 Dec 2010 after unions appealed to employers to honour a July agreement between the government, the unions and the garment companies to lift the minimum wage to US\$43 a month. According to Bangladesh Export Processing Zone (EPZ) Authority chairman and Chittagong EPZ general manager on Tuesday, 148 factories had resumed production. This indicates the scale of the unrest that began to erupt over the refusal of employers to pay the increase, which was due after announcement of new minimum wage rate.

Also on Tuesday, about 4,000 workers at a sweater factory in Uttara EPZ, 400 kilometres from Dhaka, walked out indefinitely to fight for wage increases.

(Source : JUST 2010)

Union leaders and workers however had to face numerous intimidations and harassments for such strike actions. The Detective Branch (DB) of Police detained Moshrefa Mishu, president of Garment Workers Unity Forum (ITUC 2011). These protests continued throughout the year, and many were met with violent repression: Trade union leaders were arrested, several hundred workers charged in connection with the protests. On 30 July, police filed charges against Director of the Bangladesh Garment and Industrial Workers Federation (BGIWF) Babul Akhter; and Aminul Islam on charges of inciting worker unrest. Police arrested and detained Ms. Kalpona Akter and Mr. Babul Akhter on 13 August (ITUC 2011). Numerous union leaders and workers were also arrested in connection with workers' protests during the year. Some went into hiding. Among those arrested were Garment Workers Trade Union Centre adviser Mantu Ghosh on 31 July 2010; Mohammad Shahidul Islam, President of the Kendriya Garments Sramik Dal; (ITUC 2011). In spite of repressive action, the above mentioned type of labour unrest gave rise to many strikes in 2010 for the implementation of minimum wages in full. This could lead to further conflict within the industry on the matter of minimum wages, but it has become a brief strike only for few weeks as the government continued dialogue with its pay increase programme with the unions and employers' associations (Daily Star, 2010).

With regard to the minimum wage rate, union proposals were not negotiated with the employer in as full a manner as demanded by the union. With regard to the proposals regarding the minimum wage rate no collective agreement was also reached about the trade union proposal; rather employers vocally assured the union that they will implement the new minimum wage rate gradually commensurate to their business position and financial capability. Many companies disclosed financial problems and wanted to introduce an arrangement for phasing in the implementation of the minimum wage rate. Despite this difference of opinion, all the companies subsequently agreed to implement the new minimum wage rate as soon as possible (MoL, 2010). Trade union representatives (TS, FA, WA)⁷⁰ and workers (AN, SI, SO, TA)⁷¹ also viewed this level of achievement as a success of their industrial action since this verbal assurance was achieved as a result of tripartite meeting with the union representatives, EPZ employers and officials of the state agency .

Case study 3: Prevention strategy

Prevention strategy: a tripartite approach for work place safety

Export-oriented industries are obliged to maintain working conditions that are comparable to international standards when the industry produces for the international market. Therefore, export-oriented industrialisation was supposed to have a positive impact on working conditions. However, in many cases such industries were based on sub-standard working conditions and these have affected men and women differently because they hold different jobs. Women suffered the worst from adverse working conditions because they hold low-skilled jobs where occupational hazards are greater. This is the area where trade unions reportedly extended most of their support to members. Some participants during interview said the situation had become much better in recent years. They said that due to the presence of trade unions, management became much more serious in maintaining a congenial work environment and in maintaining workers' safety than before. Management considers that the

⁷⁰ TS- Secreary, Tu, Grameen Knitwear FA- President,Hy-Lan Sweater
WA- Secretary Ilki Textile Ltd.

⁷¹ AN-Worker ,Beximco FashionLtd. SI-Worker Ilki Trxtile Ltd.
SO- Worker Beximco Fashions Ltd . TA-Worker, Beximco Fashions Ltd.

trade unions may raise agitation among the workers using their collective strength. As one manager of an EPZ factory said,

“Workers are now much more organised than before. Any irregularity or negligence from our side may help to create labour dissatisfaction and hamper production schedules. We do not like to be disturbed for any silly matter, such as complaints from workers regarding non-availability of break time, for not providing safety materials or making workers undertake their jobs in stressful situations.” (SA)⁷²

In fact, during the researcher’s visit to EPZ factories, safety standards were observed. Free uniforms, including indoor shoes as well as protective items such as gloves, goggles and head gear, are now routinely supplied to workers (BEPZA, 2009). According to one official the incidence of sexual violence and harassment has declined in the EPZ factories with the appearance of trade unions (AR)⁷³. The tripartite approach for work place safety strategies is presented below:

The government’s role

The government had an important role to play as legislators and regulators on occupational health and safety in the EPZ. The EPZ rule includes a system for enforcement of the regulations. As a BEPZA official explained,

“Responsible officials of employers are provided assistance in the form of information, training and guidance on hazards and their prevention. Negligent employers have been shown that they will face stiff fines, high compensation claims, social stigma and loss of licence or liberty.” (MA)⁷⁴

Compliance Monitoring Cell (CMC):

With the collapse of Savar Spectrum Garment factory⁷⁵ the issue of ‘Social compliance’ that is compliance with national labour legislation and the Core

⁷² SA- Manager , Grameen Knitwear Ltd

⁷³ AR- General Manager Enterprise, BEPZA

⁷⁴ MA- Member (Investment Promotion) BPPZA

⁷⁵ A nine-storied building collapsed in the early hours of April 11, 2005 which was situated at Savar, Dhaka and used as the factory premises of Spectrum Sweater Industries Limited. The collapse of Spectrum Sweaters Industries Ltd. is a classic example of systematic failure of the authority including the government and the owner. The tragedy of Savar and other tragic incidents of fire in the garments industries have claimed around 315 invaluable lives in the last 15 years that clearly demonstrates gross violation of applicable legal provisions by the owners of garments factories regarding workplace and workers safety, welfare and security (The Daily Star, 2004).

conventions of the International Labour Organisation (ILO) has become a burning issue in the apparel manufacturing sector as well as for EPZs, and lots of pressure has been imposed on the industry proprietors as well as on the government regarding the safety of workers and their overall welfare. The safety of the workers has become a national issue. The government has also placed emphasis on the importance of the issue of the safety and welfare of workers. As a result, on 11 June 2005, a meeting was held under the chairmanship of the Commerce Minister and after massive discussion, a Social Compliance Forum (SCF) was constituted, headed by the Commerce Minister including members from the workers' unions. The committee is responsible for monitoring social compliance, including occupational safety and security, labour welfare and the improvement of working conditions of the workers (MoC, 2005).

The employer's role

Employers need to be committed to adhere to labour standards. Employers should provide training to some supervisory level to workers to improve the capacity of the workforce on skills in health and safety. There should also be compulsory employers' liability insurance to cover all workers on site but, unfortunately, it is absent in many EPZ factories. One EPZ company official, however, assured the research that they were covered saying that,

"My company's health and safety policies and systems for risk management include workers' participation. Occupational health and safety matters are audited on site."(ZA)⁷⁶

Health and safety action: points imposed by buyers sourcing from Bangladesh

Apparel buyers (Importers of Bangladeshi Apparels) imposed pressure on the Government of Bangladesh and the BGMEA to:

- a) Undertake an urgent review of all multi-story buildings currently housing garment production facilities to ensure they may be safely used for this purpose. This review should be conducted by a committee consisting of representatives including labour groups;
- b) Such inspections must ensure that each factory: has a sufficient

⁷⁶ ZA- CEO ,Hy-Lan Sweater International Ltd.

number of emergency exits and keeps such exits unlocked and unobstructed during working hours; meets regulations for gas lines and electrical wiring, fire-retardant materials and other warnings and response mechanisms; and has a factory health and safety committee comprised of representatives of management and workers.

Trade union safety representatives

Trade unions have approached occupational health and safety as part of an effort to change relations of work. Their objectives have always included all aspects of the worker's life, consistent with the definition of occupational health⁷⁷ provided in 1963 by a joint committee of the International Labour Organisation and the World Health Organisation.

The trade union is apparently fighting for workplace safety of the workers. Frequently, though, the battle is more basic: the unions are fighting for their members' lives. One union representative opined,

“Trade union safety representatives are aware of the risks in the workplace, and work closely with workers and management to assist with promoting a working environment where hazards are identified, removed or properly controlled before problems occur.” (TS)⁷⁸

Trained trade union safety representatives are making a positive contribution to the prevention of injuries of the workers.

Some remarks on the trade union strategies

At this point it will be relevant to trace the forms of labour process that can be assigned to the above discussed trade union strategies. Before assigning forms of labour process to trade union strategies, particularly for the most successful industrial action strategy, it is important to see whether labour process analysis is useful for analysing industrial relations. Recalling Burawoy's (1985)

⁷⁷ The promotion and maintenance of the highest degree of physical, mental, and social well-being of workers in all occupations, the prevention among workers of departures as a result of poor health caused by their working conditions, the protection of workers in their employment from risks resulting from factors adverse to health; the placing and maintenance of the worker in an occupational environment adapted to his physiological and psychological condition.

⁷⁸ TS- Secretary, TU , Grameen Knitwear Ltd.

discussion of the politics of production, both in terms of the micro-politics of the workplace and the role of the state in work relations can help to make sense of work organisations. While few would now agree that capitalism contains an inherent dynamic of control over labour, labour process analysis keeps enthusiasm concerning employee empowerment for resistance. Many researchers seem to share the view that labour process concepts are still worthwhile, including those found in the early works of Braverman (1974) and the second wave writers (Friedman 1979, Edwards 1979). It is surely not a coincidence that so many academics in Britain and Australia where labour process theory has wide recognition, are interested in the ways in which human resource management practices constitute a new form of labour process.

Discussion on labour process theory in section 6.2 showed that earlier labour process analysis suffered from contradiction and changes in approaches to the workplace labour process. The early theoretical debates on the labour process were marked by disagreement as well as a search for common ground, but more recent debates seem to consist mostly of drawing lines in the sand. Furthermore, while post-structuralist theory has enjoyed a degree of popularity in fields like organisational studies, it has remained marginal in other areas - notably industrial relations and industrial sociology which have been heavily influenced by early labour process theory. Knights and Willmott (1989: 554) argue that there is an “inner essence which is violated in the capitalist labour process” (Knights and Willmott (1989: 552). Instead, Knights and Willmott (1989: 554) argue that subjectivity and power are mutually constitutive, such that “subjectivity is understood as a product of disciplinary mechanisms, techniques of surveillance and power-knowledge strategies: human freedom is constituted through their mediation of subjectivity”. Post-structuralism thus helps in attracting wider interest which might lead to a revitalisation of the labour process approach. The post structuralist labour process analysis played a crucial role in refocusing the interest of mainstream industrial relations and industrial sociology on a range of management issues using a critical perspective, and away from the previous limited focus on workers, unions and productivity. It is hard to imagine labour studies in the broad areas of work and employment relations which are not influenced by labour process insights.

From the perspective of core points of labour process theories as described in section 6.2, trade unions' industrial action strategy appears contrasting to both early labour process theories (based on a control theme) and new forms of labour process theory (based on mobilisation from collectivism to individualism approaches).

Ackroyd and Thompson (1999) termed this kind of resistance movement (through industrial action) in the workplace as organisational misbehaviour. The interaction between unionism and organisational misbehaviour has been hotly debated within industrial sociology (Sewell and Wilkinson 1992; Thompson and Ackroyd 1995; Fleming and Sewell 2002). One of the central arguments that are found in this literature is that the acts of resistance against management often provide the foundations of antagonistic attitudes and actions. Some labour process studies also show that when unions enthusiastically draw upon modes of organisational misbehaviour such as wild-cat strikes in their struggles against discourses of management (Rodriguez and Collinson 1995) this often leads to a process where workplace resistance (through industrial action) becomes deinstitutionalised and takes the form of more uncontrolled attacks on management.

On the other hand, trade union choices such as consultation and preventive strategies mainly imply workplace cooperation that refers to the arrangements for establishing and improving relations between management and workers within an enterprise. It involves both formal and informal interactions to enable workers and managers to meet, discuss their problems, and resolve them to the satisfaction of both parties. Workplace cooperation seeks to prevent disputes by workers and managers within enterprises taking greater responsibility for their interactions, and building trust and confidence to enable them to talk and resolve problem, without the intervention of government. As well as preventing disputes, workplace cooperation initiatives can improve working conditions and the working environment, increase labour productivity and improve enterprise competitiveness, build trust between workers and managers, promote common interests, and increase worker motivation through participation and involvement. Labour process theorists also point out that techniques for

securing control over labour consistent with studies by Friedman (1979, 1990, andc Edwards (1979) showing how management strategies of control vary from repression (through punitive and direct control) to accommodation (emphasising responsibility, participation, empowerment) set management partly an agent of capital, pragmatic mediator between capital and labour and an agent of its own interest). In order to secure workers, own interest, trade unions as an established workers representation group, also choosing strategies of cooperation to derive advantages through participation in joint consultation and prevention committees. These two trade union strategies thus appear to tie-in with the Poststructuralist analysis of labour process theory that offers a way of understanding the nature of social relations through which the sense and meaning of freedom of association (trade union) is experienced.

6.5 Conclusion

This chapter has provided perspectives on the growing body of theoretical and empirical conceptualisation of the contemporary workplace that suggest the other-side abstractions and analysis of the labour process. It recognises that, even within the critical perspectives of labour process framework, there are other sides to the understanding of the labour process that are essentially contextually nuanced, leveraged by social ontology and narratives of the workers. While the contexts of contemporary employment relations are embedded with dynamics of control/resistance, workers new forms of identity tend to reconstruct and reshape workplace industrial relations.

The trade unions are important partners in the workplace industrial relations as discussed in the case studies which were neither a complete failure nor a complete success, although some cases were more successful than others. In the less successful cases where consultation or prevention strategies were followed, the trade union mainly succeeded in demanding attention for the issue of workers' rights but did not win an outright victory. The most successful case as appeared in this research was the industrial action since it can force the employer to comply with the workers' demand as evident from

strike actions for implementation of minimum wage rate for the EPZ workers. In the context of emerging managerial practices, these research findings illustrate how the EPZ workers could employ mixed forms of covert and subtle resistance involving their subjectivity and agentic role (Willmott and Knights 2004) in leveraging and reappropriating management's normative framework concerning work re-organisation imperatives. In accounting for resistance, this research not only notes the implications of the emerging patterns of managerial practices into responding workers demands, but also focuses on how the class identity of workers as trade unions mediate the outcome of the new normative expectations on them. This research's findings thus qualify the need for labour process analysis to be useful for interfacing between the managed and the unmanaged terrains of the specificity of the workplace on which the trade unions mediate in the enactment of workplace regulations and dispute settlement. It can be mentioned here that while earlier concerns, within labour process understanding, focused upon control and consent (Edwards 1979, Burawoy 1979), contemporary sociology of work study had introduced new concerns over subjectivity, identity-formation and resistance into labour process analysis (Willmott 2004, Knights 2006, Thompson 2006). The concern here is also on the subjectivity dimension of Bangladesh's EPZ workers' own sense making for change arising from newly emerged social relations with management, new identity formation and resistance through trade unions.

Chapter 7: Trade unions 'role for precarious EPZ workers in Bangladesh

7.1 Introduction

This chapter examines the reformed and changing nature of industrial relations (IR) in Bangladesh's EPZs in terms of trade unions' role for workers particularly precarious workers, how IR are developing in the global context, as influenced by the forces of globalisation and liberalisation, and the particular historical and current factors which are influencing in the EPZ industrial relations. The chapter then identifies a range of issues which workers' organisation and their authorities such as employer and state agencies will need to consider in developing appropriate strategies to respond effectively to the challenges they now confront.

Industrialisation in Bangladesh through EPZs experiences a rapid growth of precarious employment. This increase in precarious employment challenges newly emerged trade unions' role. This chapter aims to discuss how trade unions respond to this challenge. This chapter intends to discuss how trade unions face the task of representing the interests of diverse groups of workers (based on gender and type of employment) and how the workplace labour process is affecting union capacity.

As such, a brief overview on types of employment and reasons for precariousness are presented at the very beginning of the chapter for a meaningful discussion on the role of trade unions toward precarious jobs and workers. This chapter puts an insight on who is precarious? who are mainly affected? and the dimensions of precariousness such as low pay, limited legal protection, high insecurity, limited social security, limited access to non-wage benefits etc.

This chapter also attempts to discuss possible and actual trade union strategies to precarious jobs and workers; whether union strategy is for rejection of such jobs and trying to eliminate them or for inclusion of precarious workers for improving their condition through enforcing regulations for bridging the gap.

Important instruments that are available to trade unions and how they are applied for representing precarious workers are also presented in this chapter. Relevant links to ILO decent work strategies and United Nations Millennium Development Goals (MDG) along with other international organisations' supports toward improvement of work and workplace conditions through extending regulations are also touched upon in this chapter. This chapter emphasised aspects of women workers' empowerment and their representation pattern in the union leadership. Finally general problems faced by the trade unions in their day to day operation including lack of democratic traditional trade union power along with possible ways to strengthen their organisational and operational capability as revealed from this research are presented in this chapter.

This chapter consists of 9 sections which present the above mentioned aspects in detail. The section 7.2 provides an overview of the relevant literature on precarious employment in EPZs highlighting its contribution to women's overrepresentation in precarious work with explanation for reasons of this overrepresentation and precariousness. Section 7.3 presents employment structures and workers' conditions in Bangladesh's EPZs with discussions of precariousness. Section 7.4 deals with the trade unions' broad objectives and roles with particular emphasis to precarious workers. Section 7.5 focuses on the unions' representation choices and supporting services for the precarious workers. Section 7.6 presents an evaluation of union activities for the precarious workers. Section 7.7 presents empowerment of precarious women workers in the EPZ with a discussion on the effects of United Nations Millennium Development Goals, international donor agencies such as OECD, DFID and ILO labour standards. Section 7.8 contains some general problems faced by the EPZ trade unions as well as suggestions made by the union activists for strengthening their organisation. Section 7.9 presents conclusions of the chapter focussing on workers as well as union representatives demand for further amendment of the WAIRA Act 2004 that will allow full democratic trade union powers as are enjoyed by the other trade unions outside the EPZs.

7.2 Precarious employment in EPZs: a brief review

Precarious employment is caused by employment practices designed to maximise employers' profits and flexibility and to shift risks onto workers. In highly industrialised countries full-time jobs are being replaced by precarious jobs, whilst in developing countries precarious work has always been the norm (Schenk, 2006). EPZs make a significant contribution to women's overrepresentation in precarious work. Women dominate the EPZs' workforce throughout the world and are preferred by employers as they are perceived to be compliant and willing to accept lower working conditions (Ong, 1987; Salzinger, 2003; Ngai, 2005; Wright, 2006). Precarious work is just about the only type of employment available in EPZs, where up to 90 per cent of the female workforce is employed on temporary contracts (Tiano, 1990). EPZs operate either beyond the reach of labour legislation or the legislation is not enforced. Trade unions are virtually non-existent in many EPZs (ILO, 2009).

Zeenobiyah and Lamm (2005) identify linkages between non-standard work and precarious employment. In doing so, they use Tucker's (2002) model for their research because it encompasses the key indicators of precariousness, discussed by leading researchers in this area (including Rodgers, 1989; Standing, 1997). Tucker's model was developed to measure the precariousness of any employment form. It can be applied to virtually any employment arrangement (Zeenobiyah and Lamm, 2005). Regarding the definition and the measuring of precarious employment Burges and Campbell (1998) stated that the dearth of standard employment and the shift towards forms of non-standard employment is being increasingly linked to the concept of precarious employment and the growing precariousness of the labour market and employment arrangements. Burges and Campbell (1998) stated that although the extant literature suggests that non-standard work may not necessitate precariousness, it does indicate that non-standard work is more likely to be precarious, despite precarious employment becoming an increasingly prominent feature of the contemporary labour market. There exists no commonly accepted definition of the term in the current literature. Based on the literature review, Tucker (2002) developed an integrated model that incorporates all the key aspects of precarious employment as discussed by

Rodgers (1989), Standing (1997) and Burges et al. (1998). Tucker's indicators of precariousness are presented below in Table 7.2.1

Table 7.2. 1 Tucker's indicators of precariousness

Certainty of ongoing employment	There are no short-term or long-term career prospects. There is high risk of job loss. The job can be terminated with little or no prior notice by the employer. There is no explicit or implicit contract for ongoing employment.
Degree of employee control	Employees have low level of control/bargaining power over the terms and condition of employment (wages, pace of work, working conditions). Hours of work are uncertain and can be changed at will by the employer. The task performed or the health and safety practices at the workplace make the job dangerous or unhealthy.
Level of Income	The job is low income, at or below the minimum wage. The level of income is insufficient to maintain the workers and their dependence. The earnings are uncertain or irregular.
Level of benefits	There is little or no access to standard non-wage employment benefits such as sick leave, domestic leave, bereavement leave or parental leave. There is limited or no opportunity to gain and retain skills through access to education and training.
Degree of regulatory and union protection	There is in practice no protection against unjustifiable dismissal, discrimination, sexual harassment, unacceptable working practices, including hazardous conditions. Union representation is non-existent or minimal and discouraged by the employer.

Source: Zeenobiyah et al,(2005): when non-standard work becomes precarious.

Tucker's indicators of precariousness are more or less present in the employment scenario in Bangladesh's EPZs as will become evident from further discussion in the subsequent sections of this chapter.

7.3 The employment structure and EPZ workers' conditions

7.3.1 Uncertainty of ongoing employment

The EPZ Instruction Number 1 and 2 (BEPZA, 1989) regulates the employment relations between the worker and the employer. Under the law, workers can be hired for a specific work on the basis of time, either for a fixed duration or for an undetermined duration. There is a clear distinction between regular workers and casual workers. Regular workers are those who regularly perform a job on a permanent basis. Casual workers are those who are contracted to perform specific work that shall normally be completed within a short period of time and/or perform work temporarily, intermittently and

seasonally. Casual workers are subject to the same rules and obligations and enjoy the same rights as regular workers, except for the clauses stipulated separately. A contract for a probationary period cannot last longer than three months for regular employees. The maximum contract period for an apprentice is six months (BEPZA, 2009).

According to a BEPZA official, all EPZ employers are obliged to issue job offer letters, which workers need to sign and send back to the employer in order to confirm his/her job; this, in fact, is the acceptance of the employment offer that contained the terms and condition of employment. Since there are four different categories of workers (apprentice, probation, regular, and casual) within factories, there are different contractual arrangements in the factories. For example, workers enter into a verbal agreement for the apprenticeship and probationary period but sign a contract when they become regular workers. Elsewhere, workers sign a separate contract for different categories, or workers sign a contract/application form, which covers their apprentice period and/or their probationary period as well as the following period when they become regular workers. Some factories use written contracts that contain conditions that do not comply with the BEPZA law. Workers and trade union officials interviewed for this research told that conditions sometimes included a duration of contracts for apprentices beyond the legal limit of three months (MZ, MO, AA)⁷⁹; a duration of contracts for probationary workers beyond the legal limit of three months; non-payment of indemnity for dismissal (SU, IL)⁸⁰; hours of work, mostly over-time beyond the legal limit or at the discretion of management; unclear indications of wages for the different categories of workers (FA,TS)⁸¹; hard conditions for organising/participating in a strike (AH)⁸²; and arrangements with regard to termination that are not in line with BEPZA rules (FA, TS)⁸¹. Again, for any termination prior notice (7 days) is

⁷⁹ MZ-Worker Grameen Knitwear Ltd. , MO-Worker Hy-Lan Sweater Ltd.
AA-Worker Hy-Lan Sweater Ltd.

⁸⁰ SU- Secretary, BGWF, IL- Joint Secretary, BGWF.

⁸¹ FA- President , TU, Hy-Lan Sweater Ltd. TS- Secretary TU, Grameen Knit.Ltd

⁸² AH- President , BGWF.

required but in some cases termination or termination for serious misconduct, goes against standard BEPZA practice (SF, BB)⁸³.

7.3.2 Irregularities of wages, working hours and other non-wage benefits

a) Regarding wages

Enterprises in EPZs have internal regulations specifying the terms and conditions of employment and details of wage and non-wage benefit regulations. Wage and non-wage benefits in the EPZ factories include, inter alia, actual wage or remuneration, overtime payments, bonuses, holiday pay, and maternity leave pay. Any written or verbal agreement that would remunerate the worker at a rate less than the guaranteed minimum wage should be null and void. It is also mandatory to keep internal regulations in a proper and accessible place and to be legible. The internal regulations need to comply with the EPZ law, but in practice the situation is different. Some workers related that a few factories have clauses in the internal regulations that do not comply with EPZ law. For example, minimum wages are indicated as 40 US\$ rather than 45 US\$ which is contrary to the law (SH, TA, NA, SZ)⁸⁴.

b) Regarding working hours

The number of hours worked by workers of either sex cannot exceed eight hours per day, or 48 hours per week. Overtime can only be undertaken for exceptional and urgent jobs. Overtime must be undertaken voluntarily and workers should not be punished for refusing to work overtime. Overtime hours cannot exceed 2 hours per day. Night work has been set by BEPZA instruction as to be work undertaken between the hours 2000 and 0500 (BEPZA, 1989). Weekly time off should last for a minimum of twenty-four consecutive hours. All workers should also be given in principle a day off on Friday. In practice, normal working hours amount to more than 8 hours, according to the workers interviewed in this study and overtime hours (occasionally) extend beyond the

⁸³ SF-Worker ,Grameen Knitwear Ltd. BB- Worker ,Grameen Knitwear Ltd.

⁸⁴ SH-Worker, Beximco Fashion Ltd. TA- Worker Beximco Fashion Ltd.
NA-Worker ,Grameen Knitwear Ltd. SZ- Worker, Hy-Lan Sweater Ltd.

2 hours allowed under the law and it is almost compulsory in times of need (FA, TS)⁸⁵.

c) Regarding Leave

BEPZA has designated paid public holidays for workers of all enterprises. For the year 2009, 14 days were designated as such. Payment for work on these days should be 2 times the normal rate. In practice, four workers (TA, SO, AF, SF)⁸⁶ indicated they were aware which days are public holidays, while 2 temporary workers (SM, HR)⁸⁷ indicated that they were not fully aware of either the public holidays or the casual leave entitlement. The right to paid leave is acquired after one year of service and the employer has the right to grant workers up to 7 days' casual leave. Only permanent workers are entitled to sick leave with pay. Women having a minimum of one year uninterrupted service are entitled to maternity leave. Those who are employed on probationary or apprentice contracts have no access to maternity leave (BEPZA, 1989).

My research found that in EPZ factories, maternity leave in practice is provided in accordance with the law but with some relaxation in many cases. In some factories, maternity leave is provided, but the payment is made after the worker has returned to work. One interviewee (SZ)⁸⁸ said that, factory management paid maternity leave for 45 days but with less than half pay and payment was made after she had returned to work. Some factory managements claimed (ZA, HA)⁸⁹ to provide maternity leave but no documents were available to verify these claims while workers (SZ, HA)⁸⁹ said that there were irregularities with regard to the provision and payment of maternity leave. One apprentice worker (MO,)⁹⁰ informed me that she was unable to claim maternity leave on the ground that there is no BEPZA rule for providing her maternity leave during the temporary apprenticeship period.

⁸⁵ FA- President ,TU, Hy-Lan Sweater Ltd, TS- secretary , TU, Grameen Knitwear Ltd.

⁸⁶ TA- Worker Beximco Fashion Ltd, SO - Worker Beximco Fashion Ltd.
AF - Worker ,Grameen Knitwear Ltd, SF - Worker ,Grameen Knitwear Ltd.

⁸⁷ SM- President, BGMEA , HR- Worker, Hy-Lan Sweater Ltd.

⁸⁸ SZ-Worker , Hy-Lan Sweater Ltd.

⁸⁹ ZA- CEO, Hy-Lan Sweater Ltd. HA-Manager, ILKI Textiles Ltd.

⁹⁰ MO- Worker- Hy Lan Sweater Ltd.

7.4 Trade unions' objectives for precarious workers

During the pre-trade union regime, in practice there prevailed no democratic process for the protection of workers against any unjustifiable dismissal, sexual harassment or any other injustice. As workers had no structured labour-management consultation and negotiation, complaints often generated conflict and unrest. The communication mechanism in EPZs was top-down with workers having no role in making decisions (Zohurul and Sununta, 2009). Now, there are trade unions for the workers. The question is how are the interests of the precarious workers protected through unions?

The legislation 'Workers Association and Industrial Relations Act 2004 (WAIRA 2004) gives a legal definition of trade union in the EPZs in Bangladesh,, and sets out its objectives. The main objective of a trade union is to promote the interests of its members, paying due regard to the interest of the total labour force and to the greater national interest. To achieve this aim, trade unions have a duty to maintain the viability of the undertaking by ensuring cooperation with management in measures to promote good industrial relations.

Trade unions therefore, need to maintain jointly with management effective arrangements at plant level for negotiation, consultation, and communication and for settling grievances and disputes for all workers. They take all reasonable steps to ensure that their officials and members observe all arrangements; encourage members to take part in their activities by adopting such means as would best allow them to do so, including the compilation and distribution of information. Unions also make availability of information pertaining to the rules and policies of the union; provide adequate advisory services for their members and in particular assist them to understand the terms and conditions of their employment; and identify trends in industrial relations to help their members to anticipate and keep abreast of change.

Trade unions in Bangladesh's EPZs are trying to grow as one of the effective workers' organisations. It has been mentioned earlier that trade unions had to pass through a very difficult and hostile period in the initial years. The

employers wanted to control them with iron hands. Then came the period of reluctant recognition by the employer. Now employers are forced to accommodate, tolerate and hesitatingly accept trade unions. Trade unions in the EPZs at present are mostly in their classical form, where the main objective is to collectively protect the interests of its members. They have not gained the power to go beyond the classical objectives and have not yet become strong enough to change the system or establish the rule of the working class through violence and use of force etc.

This piece of national legislation ‘Workers Association and Industrial Relations Act 2004’ provides a relatively restrictive function for trade unions. In keeping with the purposes of the legislation, trade unions themselves set out their functions within their rulebooks. In their present form, (since their functions are constrained by tight legislative provisions as explained in section 6.3.3 of chapter 6) trade unions can concentrate their activities mainly on protective or intra-mutual functions that include protecting the workers’ interests, i.e. increases in wages, providing more benefits, job security etc., either through collective bargaining or direct action such as strikes. They are not yet able to be involved in extramural functions such as providing financial and non-financial assistance to workers during the periods of strikes and lock-outs, extension of medical facilities during illness due to any accident, provision of education, recreation, recreational and housing facilities, provision of social benefits, etc. They are also not able to be involved with a political party, help the political party in enrolling members, collect donations, or seek the help of political parties during the periods of strikes and lock-outs.

The research revealed that unions are able to play the following roles for the workers which directly or indirectly influence the precarious workers:

- a. **Economic role**, by intervention in wage bargaining and thus impacting on the total working class.
- b. **Regulatory role** by setting standards in relation to jobs and terms and conditions.

a. Economic role

The economic role of trade unions is no doubt the dominant role practised by the unions. Trade unions negotiate wages and salaries, helping to distribute the value added in the business firm and increasing the spending power of their members in the economy. The recent strike of EPZ workers on the issue of a new minimum wage rate clearly indicates that there is constant tension between the state and the unions, and between the EPZ enterprise and the unions, on the economic role of trade unions. Unions are widely accused of contributing to regimes of high wages and high labour costs, leading to unemployment as investments are not encouraged and existing businesses falter as a result of high costs. The trade union representatives interviewed however opined that while increasing benefits to their members, trade unions are always conscious of the possible impact of their bargaining on costs of production and employment. One union representative said,

“Bangladesh is dependent on huge imports for its Export oriented EPZ business. In many instances, cost of production is determined by the cost of imported goods and other allied services such as freight and insurances associated with EPZ business. There is not much evidence to accuse that trade unions are responsible for wage-push higher cost of production tendencies in Bangladesh”. (FA)⁹¹.

In fact, inflow of direct foreign funds to the Bangladesh EPZ during the last year showed a marked increase from \$1804.46 million in 2009-10 to \$1998.48 million in June 2010-11(as on April 2011) (BEPZA 2011) . The point has to be made that the trade union’s economic function in Bangladesh is generally reactive. Trade unions direct their efforts at protecting their workers against the ravages of inflation, and trying to improve living standards which have been depressed for exploitative reasons. A union official also holds this view:

“We always try to defend our member’s right to work and are supportive to government policies which would be conducive to increase investment and employment in the EPZs.” (TS)⁹².

b. Regulatory role

Trade unions are playing an influential role in determining and establishing job standards in the workplace. Increasingly, management has sought to regain

⁹¹ FA President , TU, Hy-Lan Sweater Int. Ltd.

⁹² TS- Secretary, TU , Grameen Knitwear Ltd.

control of the workplace and to determine unilaterally, matters relating to the nature of jobs and other working conditions. Even at the international level, employers are claiming that workplace standards, in keeping with ILO Conventions and Recommendations, are proving onerous and difficult to maintain. There is always the tendency to roll back many of the gains achieved by trade unions. But trade unions in the EPZ have entered into arrangements where the power of management is shared with the union at the workplace. Jointly agreed procedures for dealing with major issues in the workplace e.g. grievances, discipline, job evaluation, redundancy, work changes, safety and health, along with the right to negotiate terms and conditions through collective bargaining, provided the sound basis for unions to perform regulatory functions for all including precarious workers .

Trade unions are currently trying to expand such joint arrangements to cover areas such as training, equal rights for atypical precarious workers, sexual harassment, treatment of those with chronic diseases, and other areas. On the other hand, some employers are seeking to side step the trade union by engaging in direct contract with employees rather than encouraging union participation.

The extent to which the union representative is able to establish a working relationship with management depends to a large extent on the initial training they receive. With the process of negotiating a new collective agreement, as with organizing, comes the need for frequent meetings, some informal and some formal. The provision of proper facilities for meetings is important as well as properly prepared agendas. The success of a meeting to a large extent depends on leadership. Organizers must be skilled public speakers, adept leaders and must be able to manage meetings effectively.

The functioning of the trade union in a given labour market is impacted by the structure, shape and size of the union. The size of the trade union, inclusive of its paid professional staff and its membership, will impact on its ability to provide quality goods and services. The staff should be able to cover a span and range of roles and functions on behalf of the members. The membership should also provide human resources to complement the staff. Organizing and

organization are the areas which have responsibility for ‘growing’ the union, maintaining contact between the centre and the periphery, providing many of the outreach services to members, and generally, interfacing with the widest cross-section of the public.

7.5 Trade Unions’ representation choices for the precarious workers

The focus of this section are on the trade unions’ representation for protection of precarious workers.

This research reveals that workers, particularly women in Bangladesh’s EPZs, are more prevalent at the bottom of the occupational hierarchy. Kabeer and Mahmud (2004) showed that seventy-five per cent of the EPZ workers were either casual or precarious (and were bound to remain as casual or temporary workers up to certain period) before moving to a permanent position.

My randomly selected interviewees also constitute a large number of temporary workers (10 workers out of 36 workers interviewed in my research are temporary workers) in EPZs. This employment gives rise to a working class who differ from the unions’ traditional constituency formed with permanent workers. However, some research (Visser, 1992, Beamont, 1987; Regini, 1992; Vilorkx, 1996; Hyman, 1994) has demonstrated that trade unions will gain greater support from precarious workers if they comply with the needs of these types of workers.

In order to understand the representation choices of trade unions to precarious workers (non-standard employment), it is important to discuss the way in which they differ from those of permanent workers (standard employment) who are members of unions. In general, precarious workers prefer a permanent job, but have been unable to find one. Moreover, most temporary workers rotate between employment and unemployment. This is because employers do not give temporary contracts for work of a temporary nature, but rather to reduce dismissal costs (Marshall, 1989). This makes workers feel uncertain as to the continuity of their work. It is clear, therefore, that the job security for temporary workers is very different. Although in general they share poor

working conditions, their precise needs and demands are not the same (Rodgers, 1989; Marshall, 1989; Rubery, 1989).

Thus, the scope and nature of the role of unions as regards precarious workers will vary according to the particular characteristics of such employment. Temporary workers need support from trade unions for becoming permanent worker and to enjoy available wage and non wage benefits. One temporary worker in this respect expressed,

“The job conditions entitled me to receive support from the union as I was afraid of fulfilling terms and conditions of my job during apprenticeship period and also to receive wage and other benefits.”
(BB)⁹³

Some writers (Charles and Piore, 1984; Sabel, 1987) showed that the temporary precarious workers have more insecure employment; the fear of not becoming a permanent worker or being dismissed by the employer for supporting a union is greater among temporary workers. However, my research found that this fear did not have this effect in Bangladesh’s EPZs and that in the eyes of the workers interviewed there was an increased incentive for these type of workers to become union members.

The choice of union representation for precarious workers is related to the union’s organisational structure. Some researchers have argued that those trade unions that can play a role at the factory level (there are levels such as trade union federations who provide support to their members) are in a better position to get support from workers (Ferner and Hyman, 1992; Ken and Sabel, 1992). At present unions in Bangladesh’s EPZs are allowed to organise and play their roles only at the factory level; as such, the precarious workers are directly related to the organisational structure of the union in each factory. Therefore the unions’ capacity to extend support to precarious workers from within their present organisational structure seems helpful in developing effective strategies such as direct persuasion or consultation on matters that require urgent attention for any precarious worker. Several studies (Regini, 1992; Leisink et al., 1996; Sabel, 1987; Ken and Sabel, 1992; Ferner and Hyman, 1992) have also showed that this is indeed possible. Waddington and

⁹³ BB - Worker ,Grameen Knitwear Ltd.

Whiston (1996) and Sewel and Penn (1996) showed that in some cases trade unions have also been able to obtain the support of permanent workers for supporting the causes of the temporary precarious workers. Leisink et al. (1996) argued,

“Whatever the constraints on trade union action, some scope for strategic action is always left. Union action may be largely a response to external pressures, yet this response may be innovative in terms, for instance, of the objectives that are set or the methods which are chosen to pursue them.” (1996: 2)

Trade unions in Bangladesh’s EPZs are also committed (as per their own organisational constitution) to provide support to precarious workers with the same intensity and strength as their traditional constituency (permanent workers). Unions are supposed to give the same importance to both groups of workers. It is evident, however, that in a few cases (such as dealing with some benefits for which only the permanent workers are entitled) the defence of the precarious workers occupies a secondary place in the union policies as made apparent by the union representatives during interview (FA, GU, TS, WA)⁹⁴. They indicated that unions have to some extent differential attitudes to the defence of precarious workers. Somewhat in contradiction, however the union representatives said that they believed that in ideological terms, unions are committed to represent all workers, including the temporary workers and precarious workers that account for a large proportion of the total workforce (about one-third), since they need the support of these workers in order to strengthen the unions’ overall power for representation.

This research reveals that in Bangladesh’s EPZs, trade unions are realising the need to extend their support to precarious workers to help them in availing of their rights. Trade unions are, therefore, turning into organisations of workers as a whole and not of the organisation of a particular section of the working class in the EPZs. It is the unions’ choice to represent the working class as a whole, reportedly based on an idealised vision in which workers have almost

⁹⁴ FA - President, TU, Hy-Lan Sweater Int. Ltd, GU- Secretary , TU, Beximco Fashion Ltd. TS- Secretary, TU, Grameen Knitwear Ltd WA- Secretary , TU , Ilki Textile Ltd.

homogeneous interests and a sense of belonging to a single class. Therefore, the task of harmonising the interests of all types of workers has been the strategy of trade unions in Bangladesh's EPZ.

The capacity for representation of EPZ trade unions is, however, related to the membership pattern. While union membership implies affinity and commitment to the union organisation, in practice temporary employment generally affects union membership as temporary precarious jobs usually last a very short time and rarely lead to a permanent job. Precarious employment is also low waged. Moreover, such jobs are related to inferior working conditions. These workers' limited capacity to protest, and their interest in obtaining permanent employment, leads them to accept inferior working conditions than their permanently employed counterparts. An apprentice EPZ worker states,

"My wages are less than the permanent worker; I am also not entitled to avail of all types of leave as I am not a permanent worker. As per terms of my apprentice period job conditions I have no right to claim for any other leave except casual leave. Furthermore, I have to work as helper in many occasions. Again, I do not know when I will become a permanent worker, although there is provision to become permanent within 3 to 6 months' time after joining the job. I heard that becoming a permanent worker depends on the goodwill of management." (SH)⁹⁵

Four other temporary workers (HL, AN, AA, MU)⁹⁶ also expressed views similar to the aforementioned worker.

Due to variation of employment conditions, permanent workers and precarious workers constitute two different groups of workers. The cleavage between precarious workers and the unions' core constituents stems from their distinct employment and working conditions. This was found to have a significant impact when opposing demands were voiced from each group of workers. Permanent workers' priorities are job security and higher wages. In contrast, the principal demand of the precarious workers is to move to a permanent position. While expressing views about the unions' role for protection of job security, a female temporary EPZ worker said,

⁹⁵ SH- Worker Beximco Fashions Ltd.

⁹⁶ HL- Worker , Ilki Textiles Ltd, AN-Worker, Brximco Fashions Ltd.
AA- Worker , Hy-Lan Sweater Ltd. MU-Worker, Grameen Knitwear Ltd.

“Our main problem is that we will be definitely jobless after the apprentice period or even before that if our jobs don't become permanent. We may be out of job any time if the supervisor reports that we are not fast enough to keep up with the other workers. So we always live in fear. We hope the union should extend their support to us for becoming permanent workers.”(NA)⁹⁷

A male apprentice worker expressed the same,

“I am afraid about my job, as for the last few days I have heard some adverse comments from my supervisor regarding the quality and speed of my work. I have to work in a fast-moving production line. I am working at my best level to prove my ability and efficiency. But my supervisor seemed unhappy with my work. I do not know the reason. So I am feeling really insecure about my job. I hope the union can help me to become a permanent worker.”(SN)⁹⁸

Flexibility in employment that is hire and fire is a common practice in EPZ enterprises. Permanent workers always feel the insecurity of their employment conditions. Regarding job security, the permanent EPZ workers also expect the union's support as one male permanent worker said,

“I feel my job has become insecure because I have demanded upgrading from semi skilled to skilled worker status. I am working in my factory for more than four years. Now I deserve a promotion. But this has not been automatic. So when I demanded promotion, the manager told me that I had broken discipline by demanding promotion out of way. The manager informed me that he was very unhappy with me. I know the evil consequence of such unhappiness in an EPZ factory, where hiring and firing is a normal thing. So, we want job security and the union should play positive role for protecting our jobs.” (MU)⁹⁹

In fact, EPZs have different employment requirements and consist of many assembly line organisations with a high volume output and basic needs in terms of work skills. This has led to a “flexibilisation of labour”, with the division of its workforce into a “core” with secure jobs, and a periphery, which can be dismissed and re-employed at will (Bhattacharya, 1998). With a view to coping with labour market flexibility, changes in the regulations, contracts, customs and practices are needed to rationalise the management to hire, and more especially to fire workers and to vary wage rates.

⁹⁷ NA- Worker ,Grameen Knitwear Ltd.

⁹⁸ SN- Worker Ilki Textile Ltd.

⁹⁹ MU- Worker ,Grameen Knitwear Ltd.

Trade unions as organisations of all types of EPZ workers (permanent and temporary) are not only bound to represent precarious workers from the viewpoint of their constitutional commitments but need to prove their solidarity with the demands of precarious workers. In doing so, the unions, in fact, raise their voice in favour of precarious workers' demands. They keep their eyes on the interests of the newly recruited workers, not only for protecting workers' interests but also on the grounds of ideological commitments.

A union representative said,

“We are very serious about the permanent absorption of our newly recruited fellow workers, not only for their jobs but also for strengthening our union organisation. We know more members means more union power. As long as our union is large, management will be respectful to our union strength for negotiation.” (TS)¹⁰⁰

In practice, the incidence of job regularity has reportedly increased over the last 4 years as the percentages getting employment documents show an increase from 40.2 per cent in 2005 to 94.4 per cent of the total EPZ workers and confirmation of job offers have increased from 53 per cent in 2005 to 90.6 per cent in 2008 (Nazneen, 2009). This is, however, not exclusively the outcome of the unions' influence, but also as a result of company policy and state interference (in this case BEPZA). However, some workers award a degree of credit to their unions. One worker informed,

“The union supported me with getting an employment document when I was facing unusual delay in getting my employment document and was doubtful for getting it. So I must regard the union's help in this respect.” (NA)¹⁰¹

Trade unions were found to be very active in regards to increasing wages for the workers. They followed a policy of persuasion for increasing wages for particular workers whenever they were requested for help. Regarding the union's role in this respect one worker explained,

“The union is pursuing a wage policy aimed at increasing minimum wages for all EPZ workers and ensuring equality of wage for same category of workers engaged in different production lines.” (AFS)¹⁰²

¹⁰⁰ TS - Secretary, TU , Grameen Knitwear Ltd.

¹⁰¹ NA - Worker, Hy-Lan Sweater Ltd.

¹⁰² AFS- Worker ,Grameen Knitwear Ltd.

Levels of precarious work have been reduced in recent years as a result of intensive monitoring by BEPZA. This is also in part due to pressure by the unions. Union involvement was not merely a result of compliance to international pressure, but also was a result of the improvement of labour relations through the 'EPZ Law 2004' whereby some risks (such as a sense of responsibility for uninterrupted production, maintaining time-bound production schedules) are transferred away from governments and employers. EPZ employers and state agency BEPZA have adopted the attitudes of showing the international consumer community (who are sensitive to the fair production environment that is production without labour oppression) that there are no direct labour control measures such as censure or other disciplinary action against workers, rather responsibility lies with the trade unions to motivate their members and maintain a good team spirit for maintaining time bound production schedules with power to choose options for overtime work. This, together with other public policies as laid down in the WAIRA Act 2004, gives a greater role to trade unions within the workplace. During one interview, an EPZ trade union representative said,

"Unions are committed to combat the precarious work and defend the rights of precarious workers. We organise and represent workers in the workplace. We are engaged in activities ranging from: maintain time bound production schedule, ensure that workers know their right, and assist them in pursuing their claims, raise issues with the buyers wherever possible, employer and BEPZA officials where appropriate and campaigning for legal and regulatory reform to ensure workers' rights."(WA)¹⁰³

Trade unions in Bangladesh's EPZs are, however, facing problems in organising new temporary workers though there is no restriction for new workers in joining a trade union. Some temporary workers in the EPZs are very cautious about joining trade union, principally for reasons of their preconceived fear about joining a trade union.

There are several reasons for their preconceived fear. Firstly, in the initial years of EPZ operation during 80s and 90s, employers and management were extremely hostile to any type of unionisation of their workforce, and had their

¹⁰³ WA- Secretary, TU, Ilki Textile Ltd.

own strong rationale for not allowing trade unions inside factories. This was strictly and sometimes forcibly enforced, putting a repressive action on any kind of workers' mobilisation within the factory. The threat was not only that of being fired but even being harassed and having criminal cases filed. This sometimes raised personal costs for trying to form unions and created panic for workers, particularly new workers who did not know the present changed situation. A union representative interviewed under this study opined,

“Some temporary workers of our factory told me that they were afraid to join the union since they believed that the employer does not like unions inside the factory and the employer imposes many types of repressive actions for joining trade union. I have told them the situation has now changed as trade union rights in the EPZ are now established by law. So there is no reason to believe that joining a union would become harmful; rather, you will benefit if you join the union.” (TS)¹⁰⁴

In fact, this study reveals that still now there are some factory owners and managements who continue to maintain their negative attitudes by arguing that unionisation can create problems in manufacturing because of the highly labour-intensive production process. They expressed the view that factories are beginning to allow the formation of trade unions in compliance of the ‘EPZ Workers’ Associations and Industrial Relations Act 2004’. These unions are patronised by BEPZA and factory management possibly to deter any outside influence from other trade union federations. During interview one EPZ enterprise Chief Executive Officer said,

“There is a union in our factory. We think trade unions in the EPZ are only due to the pressure of the US government. Working conditions are far better than other outside unionised factories. So the union is not necessary in the EPZs. Here devotion and work seriously are essential to fulfil tight production schedules. So we do not like to welcome the kind of activities of the union that may jeopardise our most desired production schedule.” (ZA)¹⁰⁵

The precarious status of workers increases fear regarding possible repressive actions from the employers' side. Workers feel, often correctly, that joining the

¹⁰⁴ TS- Secretary, TU , Grameen Knitwear Ltd.

¹⁰⁵ ZA- CEO ,Hy-Lan Sweater International Ltd.

unions means that their job may be terminated, that they may not have their contracts renewed, or find it difficult to obtain another job. This is evident in Bangladesh even with legislation that conforms to the ILO trade union rights conventions, and even though there are decent enforcement mechanisms through state agencies. Interviews with a Trade Union Federation Leader who has supported their solidarity to the EPZ trade union movement reveals union initiative will not be enough for overcoming the precariousness of the EPZ employment, as he exemplified,

“There is a need for strong government action. Government and international organisations, including the ILO and foreign donors, should extend positive support for creating permanent jobs and improving the quality of work in the EPZs.” (AH)¹⁰⁶

Regarding the need for international support, an EPZ union representative said,

“I know that international trade union federations like ITUC are supporting our movement aimed at protecting EPZ workers and they are putting pressure to our government for the ratification of all the core labour conventions. Today our unions are also continuing efforts, calling to ensure our rights and reform labour relations to prevent employers from using temporary employment in place of permanent employment.” (FA)¹⁰⁷

Workers thought that the unions played a positive role for protecting their rights. Many precariously employed workers said that they had suffered because they were not legally counted as ‘employees’ with a contract of employment. They were considered simply as ‘workers’ having no rights and no security, meaning that employers can dismiss him/her easily. A female EPZ worker expressed her experience,

“I entered in to the EPZ job four years ago as a temporary worker. I was given a verbal assurance that after observing the quality of my work, management would employ me as a permanent worker. But after passing more than one month, I didn’t receive any confirmation of my job and I was not treated like other workers, as if I was not an employee of the company. I couldn’t enjoy my casual leave whenever I needed it until I became permanent worker. Now the situation has

¹⁰⁶ AH - Pesident Trade union Federartion, BGWF.

¹⁰⁷ FA- President , TU, Hy-Lan Sweater Int. Ltd.

changed, temporary workers can now have access to casual leave.”
(MB)¹⁰⁸

Another female EPZ worker said,

“When I first started my job as an apprentice five years ago in the EPZ factory, I was not provided with paid holidays and was refused sickness leave. Now these are available to all EPZ workers. I believe the union has played an important role in making employers respect our rights.”
(BB)¹⁰⁹

This research thus found that unions are extending their support to precarious workers in various fields as illustrated in diagram 7.5.1 below.

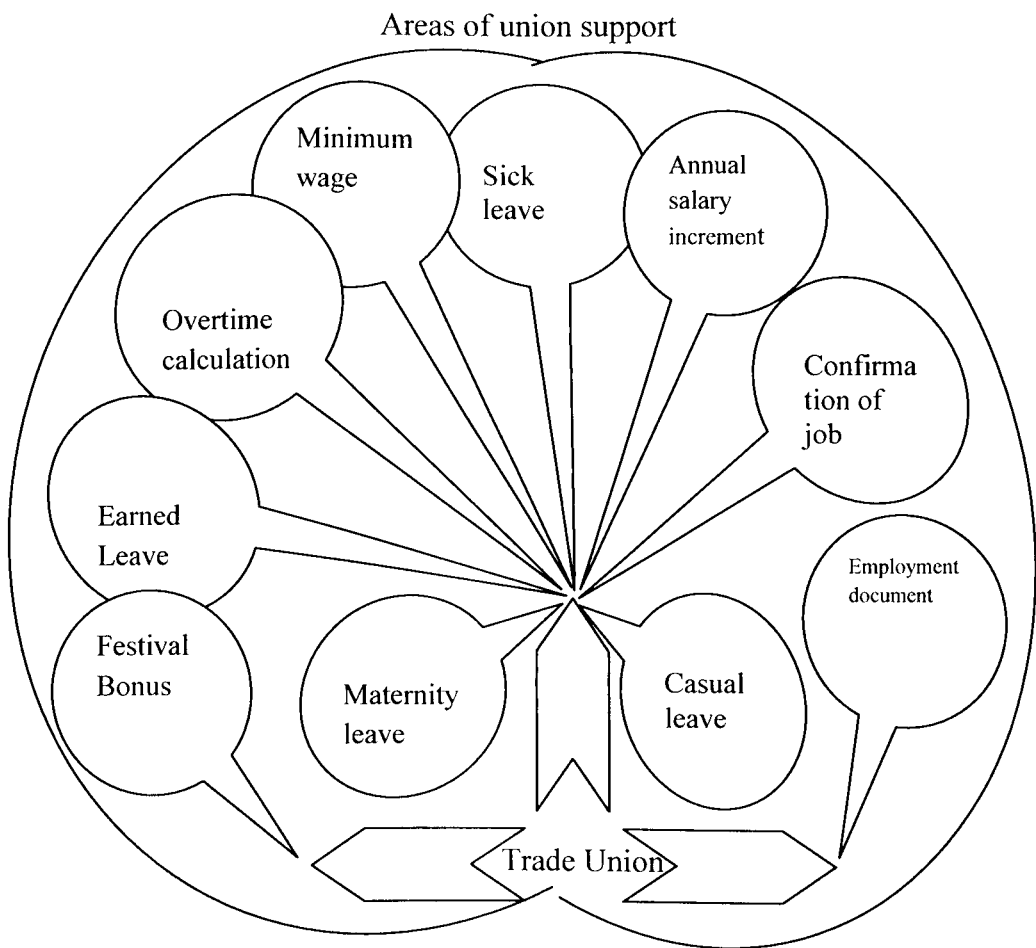


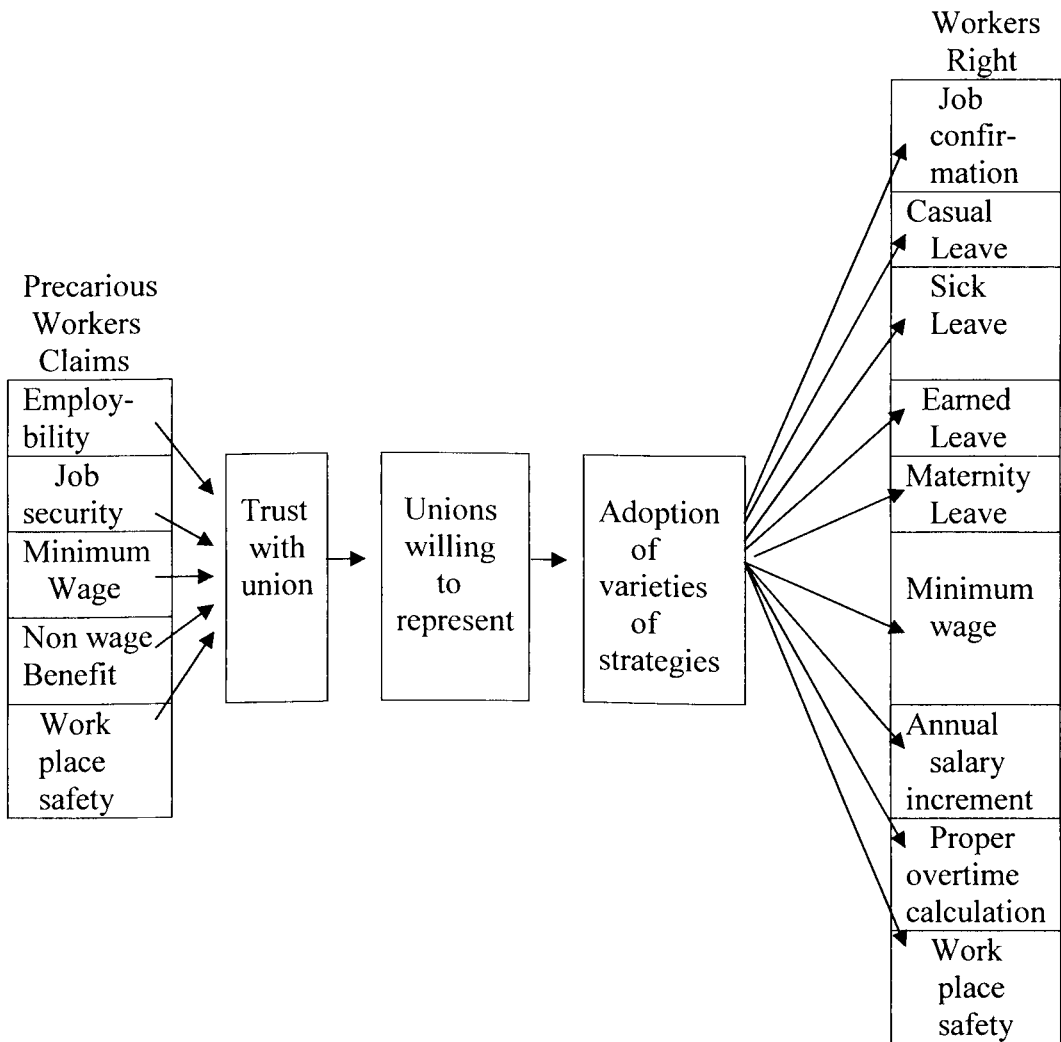
Diagram 7.5.1 Fields of trade unions' support to precarious workers

¹⁰⁸ MB- Worker ,Grameen Knitwear Ltd.

¹⁰⁹ BB- Worker , Grameen Knitwear Ltd.

A flow chart showing how trade unions have taken workers' demands into their course of action for protecting precarious workers is depicted in diagram 7.5.2 below.

Diagram 7.5.2 Flow chart showing trade unions' roles



The principal mechanism of the unions' involvement in the issue of EPZ workers' job security and attaining of a minimum wage rate has been discussed and analysed in chapter 6. Here the performance analysis of the union activities with particular reference to the precarious workers has been presented in the following sections.

7.6 Evaluation of union activities for the precarious workers

The main service the unions provide for their members are negotiation and representation. Unions also offer a range of other services to their members. These include developing the awareness of their members about employment rights, health, safety and other related issues. This research reveals that union representatives in first instance discuss with management issues which affect the workers. The union finds out the members' views and relays these to management. Sometimes there is a difference of opinion between management and union members. Negotiation practice is used to arrive at a solution to the differences. The unions also represent individual members when they have a problem at work. The study found that if a worker feels that he/she is being unfairly treated, he or she can ask the union representative to help sort out the difficulty with the manager or employer. When the problem cannot be resolved amicably, the matter then goes to BEPZA compliance units. BEPZA make sure that employment laws are properly adhered to by employees and employers. BEPZA asks the unions to represent workers. In most cases, settlements are reached, avoiding any undesired misunderstanding. Occasionally disagreements occurred but after consultation and negotiation the two sides came to a settlement. In these cases, the union did not decide to take any industrial action such as an overtime ban or a strike. There are strict laws which had to be followed when considering taking industrial action. In any industrial action taken both sides have a lot to lose. Employers face the possibility of losing income because of interruptions to production. Workers might lose their salaries and may find that their jobs are at risk. So unions did not use any industrial action at this moment and were constrained by the belief that this was a period of transformation and experiment and that they needed to proceed to the traditional trade union practice with a clean image and to convince employers that they are not harmful element, as had previously been thought by the employers and critics of trade unionism in EPZs.

Under the above context, replying to a question about what benefit trade unions bring to their members, union representatives explained that the union always passes a message to all those workers who have not yet become

members of the union. In this regard, the message of a union representative to the worker was as follows:

“If you belong to the union we will be able to offer you help with any difficulties related to work, such as your pay, leave, discrimination, working conditions, and unfair dismissal. If you join the union, we will have more negotiating power over wages and other terms and conditions of employment.” (FA)¹¹⁰

Regarding a common question of a new EPZ worker such as “will my membership with a union put me in trouble with the employer?”, one union representative expressed how he has answered the question,

“The employer is bound by law to allow unions around and respect your right to be a member of the union. I also informed the new worker that being a member of the union is a demonstration of your commitment to your job and that you has good intention to stay in the job.” (GU)¹¹¹

Another union representative said that he assured the new workers by telling them,

“You cannot be discriminated against, dismissed or refused employment for being a member of the union, or expressing interest in joining the union, or for not being a member of the union or refusing to join the union and for taking part in activities of the union at an appropriate time. You might be tempted to put off joining until you actually need help at work, but at that time the union would be in difficult position to help you with a problem if it started before you became a member.” (TS)¹¹²

Trade unions indeed help to ensure employers’ compliance with the workers right (to be enjoyed as per legislation 2004 and BEPZA instruction numbers 1 and 2) and increase the effectiveness of employment and work policies, thus preventing conflict and promoting better work conditions in the enterprise and premises. Trade unions work to ensure good governance in the world of work, making decent work a reality. Unions constantly enforce their authority to ensure compliance with national legislation. The effectiveness of union activities preventing conflict and promoting positive work conditions in the enterprise and premises were found linked to the interest that management

¹¹⁰ FA- President , TU, Hy-Lan Sweater Int. Ltd.

¹¹¹ GU- Secretary, TU, Beximco Fashion Ltd.

¹¹² TS- Secretary, TU , Grameen Knitwear Ltd.

takes in labour protection issues, and the techniques it applies to solve them. As a rule, it is also linked to the presence and action of the union in the workplace. Hence, the presence of trade unions in the enterprise ensures labour protection indicating workers are represented. The aim of a trade union (as has been revealed during interviews with union representatives) is to see that problems relating to the protection of workers at the workplace are solved as a result, firstly, of dialogue and concentration between the actors directly involved (i.e. the employers and workers), with supervision and advice by the responsible authority BEPZA regarding compliance with legislation and the terms of any relevant (enforceable) rules of the concerned EPZ legislation.

Another principle task of the union is an increasing orientation towards, and emphasis on prevention. To speak of prevention in the context of compliance implies, first of all, a determined effort to avoid incidents, disputes, conflicts etc. by assuring compliance with existing provision and standards laid down in the 'EPZ Workers Association and Industrial Relations Act 2004' (WAIRA, 2004) and BEPZA Instruction numbers 1 and 2.

This study reveals that the unions devote attention to secure the legal provisions relating to the conditions of work and the protection of workers whilst engaged in their work. They also bring to the notice of the BEPZA defects or abuses not specifically covered by existing legal provisions; they also help to solve problems before the risks materialise.

One of the approaches that the union applies to deal with grievances and safety of workers in the workplace is the direct participation of union representatives. During interview a BEPZA official stated,

“Union representatives included in the inspection visits of BEPZA Counsellors’ union can now insist BEPZA reinforce the role of safety committee to investigate any incidents and accidents and means of preventing them and encourage workers to tell inspectors about their situation.” (MA)¹¹³

The role of the 60 counsellors (see section 6.3.2 of chapter 6) responsible for enforcing the BEPZA Instruction No.1 and 2 also have further responsibilities,

¹¹³ MA- Member (Investment Promotion) BPPZA.

which include developing good industrial relations and improving workers' morale in order to achieve optimum productivity, reduce workers' grievances and to ensure the proper work environment in the factory premises and see that no workers are maltreated, misbehave, and are treated with respect and dignity. Their role also includes making workers aware of the 'EPZ Workers' Associations and Industrial Relations Act 2004', BEPZA Instruction No.1 & 2, and rights and benefits that workers are entitled to. Trade unions have been given the power to nominate trainees from among the workers (both permanent and temporary) for training courses organised and conducted by the BEPZA (BEPZA 2009). BEPZA has established two training institutes in the Chittagong and Dhaka EPZs in 2007, with the objective of imparting continuous training programmes for creating awareness on the rights and responsibilities of the workers and their productivity improvement (BEPZA 2009). In the opinion of BEPZA officials, the training courses include the following:

“Basic labour relation issues such as terms and conditions of employment, conduct and labour discipline, workers' rights and obligations, quality control and productivity enhancement techniques, workplace hazards and safety precaution.” (AR)¹¹⁴

Support for job security

Job security of the workers relates to the initial confirmation of employment and smooth continuity of jobs at the subsequent level. Employment termination or dismissal of a worker must be as per basic legal procedures such as providing notice, a pre-termination opportunity to respond, a valid reason and an opportunity for appeal to an independent body. The study finds that (as detailed in section 6.3.2 of chapter 6) trade unions use consultation and social dialogue as useful procedural response to collective dismissals – consultations with workers and employers to search for the means to avoid or minimise the social and economic impact of terminations of employment for workers. The study revealed that under the EPZ law (BEPZA Instruction Number 2) a contract of employment of a worker may be terminated at the will of one of the parties. Such termination is subject to notice given by the party taking the initiative to end the contract and shall be notified in writing to the other party

¹¹⁴ AR- General Manager, (Enterprise) BEPZA.

with an indication of the reason for termination. The BEPZA official (AR)¹¹⁴ indicated that by law each employer should assign reason and have valid grounds following BEPZA instructions and internal rules of the employer for termination and dismissal of any worker. The study examined the manner in which the right to defence prior to termination of employment is ensured. The study found that workers are usually provided information regarding the relevant provisions of the internal rules; however, the time limit available in which workers can exercise their right of appeal against the termination of employment is extremely short. According to the EPZ Act of 2004, workers are allowed to be represented by their respective union if they wish. This is substantiated by the statement of a union representative.

“The union always represents their members as per their wish and monitors how labour codes are used and ensures the right to appeal against unfair dismissal within a reasonable period of time after termination as required by the provision of labour law.” (FA)¹¹⁵

Support for wage-related matters

One BEPZA official during interview (AR)¹¹⁶ stated that the minimum wage for EPZ workers was last revised in 2009 by the Bangladesh Export Processing Zone Authority. According to the information gathered from the union representative and BEPZA official, the basic salary is either renegotiated every year or increases annually. The BEPZA official (AR)¹¹⁶ stated that the minimum wage for EPZ workers was last revised in 2009 by the Bangladesh Export Processing Zone Authority [on 6 October 2010, a new minimum wage rate was declared by the BEPZA (BEPZA, 2011) which is now in the process of implementation for all EPZ workers in Bangladesh]. The BEPZA officials (MA, AR)¹¹⁷ also mentioned that the BEPZA Instruction Number 2 is used for the calculation of various pay supplements and social security benefits, for instance, festival bonus (equal to two months' basic salary) and maternity allowance, and therefore had an impact on the income of most workers. In this connection, the study found that the unions reminded the BEPZA that the primary function of the minimum wage system envisaged in the BEPZA

¹¹⁵ FA-President, TU, Hy-Lan Sweater Int. Ltd.

¹¹⁶ AR- General Manager (Enterprise), BEPZA.

¹¹⁷ MA - Member (Investment Promotion) BPPZA ,
AR-General Manager (Enterprise) BEPZA.

instruction should be followed strictly as a measure of social protection and to overcome financial hardship by ensuring minimum levels of wages, especially for the temporary unskilled workers. The researcher conducted intense interviews with BEPZA officials, the employers' managers, the workers' representatives, and workers. Three major issues were addressed in these interviews: (i) the involvement of unions with special reference to wage arrears; (ii) the application of EPZ labour laws with special focus on gender equality; and (iii) the labour process issues, including the situation of employers' and workers' organisations in the EPZ .

Support for realising wage arrears

The grievances regarding wage arrears were a major field of concern for EPZ workers, particularly for temporary workers. One of the workers' protests in this regard can be viewed in the box below.

On the morning of Monday, 22 May 2006 at Dhaka Export Processing Zone (EPZ), workers at Universal Garments Limited gathered in front of the factory to demand payment of 3 months owed in back wages. They were attacked by factory security staff. In response the workers went to neighbouring factories and called out other workers for support. The growing group of workers then went from factory to factory calling on other workers to join them; thousands of workers are reported to have joined this angry procession. By the afternoon many other factories in Dhaka EPZ had joined the strikes (Libcom 2009).

The above blockage programme of the workers was, however, suppressed with iron hands and workers were compelled to go back their job with a mere verbal commitment of providing their wages by the next month (Daily Independent, 2006).

The study reveals that at present no statistical standard forms or labour inspection procedures are used to capture specific information on wage arrears (e.g. workers affected, delay in weeks or months, etc.) and the only available data that can provide a rough idea of the extent of the problem come from the number of individual or collective complaints filed with the BEPZA Dispute Settlement Unit. In this respect a trade union representative informed,

“Many individual workers are facing problems with wage arrears, particularly for the reasons of faulty overtime calculation. This is a common area of dispute. Union representatives frequently need to pursue the account department to rectify actual work hours in victimised workers’ payslips” (WA)¹¹⁸

Another union representative emphasised,

“It was almost routine work for our union representative to pursue account departments for following standard overtime calculation procedures so that worker can check their hours of overtime and amounts due to them. (TS)¹¹⁹

During cross-checking of the validity of the statement, the researcher was informed that a standard overtime calculation format was prepared and copies were made available to all workers and this has helped to reduce disputes on overtime calculation issues (MA)¹²⁰.

An EPZ enterprise official as well as a BEPZA official also claimed that now the issues of wage arrears have improved significantly. Regarding the present scale of wage arrears another BEPZA official added,

“Only a very few workers out of total work force had experienced delays in the payment of their wages within the last 12 months.” (AR)¹²¹.

Support towards materialisation of new minimum wage rate

Union support to the implementation of recent minimum wage rates (declared by the Government of Bangladesh in July 2010 (see section 6.3.2 in chapter 6) appeared as a major contribution to the precarious workers, since it enables bottom line temporary EPZ workers to achieve equal wages along with all other workers .

Support regarding working time

Long hours, night work and overtime are also areas of concern for EPZ workers. In EPZ industries, employers assert that long hours and night work are necessary. Irregular work hours and night work are explained by EPZ employers by pointing to compelling economic imperatives and concerns about job creation, export growth and the need for cost competitiveness. Workers,

¹¹⁸ WA- Secretary , TU , Ilki Textile Ltd.

¹¹⁹ TS- Secretary, TU , Grameen Knitwear Ltd.

¹²⁰ MA- Member (Investment Promotion) BPPZA.

¹²¹ AR- General Manager (Enterprise) BEPZA.

facing the threat of widespread unemployment, often have no choice but to accept the reality of unsocial hours as the price of having a job. Among the typical characteristics of EPZs is the high proportion of women workers, the spectacular face of the "feminisation" of labour. The concern is that, in the EPZs, the setting of unrealistically high production targets often results in night work and substantial overtime being viewed as necessary over protracted periods. Women workers working late faced increased risks of harassment and violence and special measures were needed to ensure adequate transport and security. The ILO always insisted EPZ-operating countries improve working conditions, and ensure compliance with international labour standards allowing trade unions and collective bargaining rights (Romero, 1995). In this respect ILO calls on EPZ enterprises to make special efforts to ensure, inter alia, that measures exist to help women workers combine work and family responsibilities, such as the "limitation of excessive working hours and night work" (ILO, 1994: 74). This research found that the ILO's influence materialised in the EPZ as one BEZPA official expressed,

"There is in general a prohibition of night work for women in the EPZs" (AR)¹²²

The BEPZA Instruction Number 2 (BEPZA, 1989b) permits a 48-hour work week plus 12 hours of overtime. The trade unions' presence in the workplace helped to apply laws regarding overtime in conformity with the provisions of the EPZ labour law. Except for a few, the majority of participant workers (30 workers) expressed that their working time, including overtime, is now limited to 60 hours per week. Only 6 workers stated that (TA, TO, AF, SZ, HR)¹²³ they had to work overtime for more than 60 hours; three of these workers had also been faced with the problem of overtime mis-calculation (TA, TO, HR)¹²⁴.

¹²² AR- General Manager Enterprise, BEPZA.

¹²³ TA- Worker Beximco Fashion Ltd , TO- Worker ,Grameen Knitwear Ltd.
AF- Worker ,Grameen Knitwear Ltd, SZ- Worker, Hy-Lan Sweater Int..Ltd.
HR- Worker, Hy-Lan Ltd.

¹²⁴ TA- Worker Beximco Fashion Ltd , TO- Worker ,Grameen Knitwear Ltd.
HR- Worker, Hy- Lan Sweater Int. Ltd.

Regarding overtime, one official of an EPZ enterprise (ZA)¹²⁵ said there are temporary exceptions on the length of working hours in specific cases, mainly in case of accident, force majeure¹²⁶ or urgent work to the machinery or plant. But as per EPZ law, this claim is applicable only so far as may be necessary to avoid serious interference with the ordinary working of the establishment; prevent the loss of perishable goods; allow for special work such as stocktaking; and to enable establishments to deal with cases of abnormal pressure of work due to special circumstances, insofar as the employer cannot ordinarily be expected to resort to other measures (BEPZA, 1989b). The unions' active appearance with their dispute settlement instruments reportedly, as expressed by EPZ union representatives (FA, GU, TS, WA,)¹²⁷ stands as a safeguard for protection from any undue pressure for unusual and long working hours against the will of workers.

Support regarding maternity protection: Women workers comprise more than 64 per cent of the total EPZ workers (Mayumi et al., 2008). EPZ women workers endure intolerable working conditions and long working hours. Workers have been seeking improved pay and working conditions; they have also been demanding gender-specific measures to combat sexual harassment and gender discrimination, and to obtain maternity leave as required by existing law. The three months of fully paid maternity leave are rarely provided by EPZ employers. Women are usually dismissed when they are found to be pregnant. Even when they are allowed to return to work, they lose their seniority and have to start from the bottom (Mayumi et al., 2008).

The principles of ILO maternity protection conventions have been universally embraced, with the result that at least some of these basic elements of maternity protection have been adopted into the legislation of virtually every

¹²⁵ ZA - CEO ,Hy-Lan Sweater Int.Ltd

¹²⁶ Shipment of products shall have no liability to importers for any failure to deliver goods they have ordered or any delay in doing so or for any damage or defect to goods delivered that is caused by any event or circumstance beyond company's reasonable control.

¹²⁷ FA- President , TU, Hy-Lan Sweater Int. Ltd. GU- Secretary , TU, Beximco Fashion Ltd. TS- Secretary,TU , Grameen Knitwear ltd. WA- Secretary , TU , Ilki Textile Ltd.

nation in the world, regardless of whether they have ratified conventions on maternity protection or not. Currently, Bangladesh has ratified one maternity protection convention (Nursing Personnel Convention, 1977 No. 149). Nevertheless, there remains considerable scope for improving legal protection for maternity and for effective application of those rights in practice. The International Trade Union Confederation (ITUC) renewed its commitments and efforts in 2007 to make maternity protection a reality in more countries. ITUC has included in its campaign for maternity protection calls for a strong standard of maternity protection for all women workers; new efforts were made to ratify and implement ILO Convention No. 183 and Recommendation No. 191; and new commitments by trade unions to prioritise maternity protection through the application of ILO Convention No. 183 and Recommendation No. 191 in collective agreements and labour legislation. ITUC has also appealed to trade unions to organise collective activities in their countries to raise awareness among political leaders, employers and society as a whole about the vital importance of maternity protection and paid maternity leave (ITUC, 2007a).

A wave of ITUC campaigns found a way to enter into the Bangladesh EPZ through trade unions. Regarding this issue one of the union representatives said,

“Trade union always makes aware to its members that an employer cannot dismiss a woman worker because of her absence from work on maternity leave and employment cannot be terminated unfairly if the only reason for termination is the pregnancy of the worker or the absence from work during maternity leave.” (FA)¹²⁸

This research reveals that the advocacy of international organisations for (such as BEPZA had established a Compliance Unit in each EPZ being pressurised by ILO as evident from ILO document (ILO 2009a) on ‘Trends in international development cooperation (Report to Governing Body GB304/TC/1) integrating trade unions in the labour relations provokes union integration in this respect and helped EPZ enterprises in their compliance regarding workers’ right for maternity leave with pay and job security after returning to work. The number of disputes in this regard has reportedly reduced

¹²⁸ FA- President , TU, Hy-Lan Sweater Int. Ltd

significantly. Employers' compliance regarding maternity leave increased from 57.3 per cent in 2005 to 96.4 per cent in 2008 (Nazneen, 2009). In fact, union initiatives and negotiation with management about grievances regarding maternity leave of any particular worker are noticed since the union is allowed in the plant level to represent an individual worker's dispute settlement matter. Successful negotiation of any particular case therefore has an influencing effect on others cases. In this regard one union representative stated,

“When union is able to negotiate or settle the complaints of a particular worker, all other workers of the factory facing similar problems benefited.” (FA)¹²⁹

This research also pays attention to feminisation and women's advancement in EPZ employment, as the unions' roles regarding some other gender-specific issues were noticed. The findings in this regard have been presented in the following section.

7.7 Empowerment of precarious women workers in the EPZs

It has already been explained in earlier sections how Bangladesh EPZs have been central to absorbing female labour and how trade unions are successful in protecting workers including precarious workers. The section 7.7.1 seeks to show how trade unions have rendered services to change the conditions of precarious women workers, leading to what is known as the 'advancement or empowerment of women'. The participation pattern of women workers in EPZ trade union leadership has been presented in section 7.7.2.

7.7.1 Trade unions' role for empowering women precarious workers

According to Kabeer and Mahmud (2004) gender inequality is a fundamental component of export-oriented industrialisation-based development strategies. Women are placed into lower-status jobs that do not reflect their educational level or experience. However, although gender inequality is an unintended consequence of EPZs, some authors have suggested that this type of employment has improved the social status and economic power of women in Bangladesh. The ability to earn a regular wage in EPZ factories has given Bangladeshi women economic independence (Nazneen 2009).

¹²⁹ FA- President, TU, Hy-Lan Sweater Int. Ltd.

However this research has found that women's rights at work, social protection and social dialogue for greater opportunities to secure a livelihood with an equal level of protection and a voice in decision-making are not ensured. Though equal rights at work is central in order to achieve equitable and sustainable advancement for women, various issues of ICFTU reports (2001a; 2006; 2009) illustrate how these rights were routinely violated in Bangladesh.

Despite equal rights in Bangladesh being a tool for the empowerment of women, gender remained a line of fragmentation in the EPZ labour force. Evidence shows that women are far more circumscribed than men in their choice of work, and that horizontal segregation by sex is persistent in employment patterns in EPZs, too. Vertical segregation by sex is marked in the EPZ employment with women overwhelmingly concentrated at the lower levels of the occupation hierarchy in terms of wages, status and authority. Since 1990 female employment in EPZ has increased. Between 1990 and 2010 the employment rate of women rose more than for male workers (as shown in section 5.2.3 in chapter 5). The gender disaggregated data over the same period reveals that women workers in the EPZs, as a whole, have tended to increase progressively.

Nevertheless, empowerment rather than exploitation for women workers is far more desirable. Eminent scholar Amartya Sen (1997) argued that no welfare provision can substitute for the security of having access to a means of livelihood. Kabeer (2001) holds that for power to come about for women three interrelated dimensions are needed: access to and control of resources; the ability to use these resources to bring about new opportunities; and achievements (the attainment of new social outcomes). To her, empowerment is both a process and an end result (Kabeer, 2001). Trade unions in Bangladesh's EPZs, in alliance with other actors, are in the process of empowering women, but the desired end results are yet to come. However, regarding the process of empowerment, the researcher identified a number of barriers to female advancement in employment, including a male-dominated culture and a gender power imbalance in the EPZ workplace. A major obstacle

to female career progression is attributed to gender stereotypes. Gender stereotypes are defined as “socially shared beliefs about the characteristics or attributes of men and women in general that influence our perceptions of individual men and women” (Thanacoody et al., 2009: 26)

This research found that these cultural constraints are perhaps now the major obstacle to the enhancement of women’s position within the EPZ industry. The research revealed that women face obstacles in accessing higher paid supervisory level jobs; despite the fact that the majority of the workforce is female, the senior management positions remain solely a male preserve. On the positive side, the research, however, found that women’s accession to the junior grade supervisory level is increasing as evidenced from a report on female EPZ workers in Bangladesh (Zohir, 2000). As such, a gradual change appears to be taking place in the EPZ employment structure.

Trade unions are becoming strong equality advocates. Trade unions have voiced their desire for equal minimum wages for all workers on the same grade as a response to women workers’ demand due to the important gender issues in the workplace. Minimum wages are of benefit to women because women predominate in lower-grade work where minimum equal wages are a more instrumental tool for their empowerment and rights.

Another important visible contribution of trade unions to women’s rights is in the workplace environment. During the initial period, some companies employed their workers under extremely arduous work conditions. The most frequently cited concerns of both unions (since trade unions are committed to improve work place conditions) and workers were insufficient sanitary facilities, poor lighting, crowded shop floor settings, employer controlled industrial relations or lack of respect for women’s dignity. These conditions have been improved fully or are in the process of being improved in the EPZ. Additionally, the flexibilisation of employment, associated with little or no protection for the worker that was also linked to the exploitation of women, has been reduced noticeably.

Research reveals that improvement of employment structures and women's empowerment, particularly for precarious workers, received global support. There is international recognition that precarious employment cannot be reduced without promoting workers' rights (UNC, 2008). It has been revealed from this study that the unions' appearance in the EPZ environment itself manifests in measures that ensure compliance with the fundamental principles and rights at work or core labour standards. Trade unions' presence in the EPZs enables rights that influence stronger standards of governance from the responsible authority, BEPZA. For example, trade unions strengthen workers' organisations and help to promote their conditions. Trade unions are constantly asking for a social dialogue and consultation aiming at increasing the minimum wage rate. There is evidence to suggest that the establishment of a legal minimum wage based on labour standards can improve the climate for raising the income levels of the workers (Bell and Gibbons, 2007; Bazillier, 2007; Palley, 2007).

In recognition of the importance of better working conditions for the workers¹³⁰, the Millennium Development Goals (MDGs)¹³¹ have now incorporated the goal of protecting workers' rights. MDGs includes a target to achieve full and productive employment and good work for all, including women and young people by 2015 (ILO, 2009a), and 'decent work conditions for all' is clearly an objective of the international development agenda. The constituent parts of decent work agendas and their relevance to Bangladesh's current EPZ employment relations are illustrated below.

The struggle for the rights of the EPZ workers has gained attention within the international community and has been reflected in a number of high-level declarations and resolutions. The decent work agenda received perhaps its most

¹³⁰ The concept of decent working conditions was developed by the International Labour Organisation in 1999 to describe "opportunities for men and women to enjoy workers' rights in conditions of freedom, equity, security and human dignity" (ILO 1999).

¹³¹ At the Millennium Summit in September 2000 the largest gathering of world leaders in history adopted the UN Millennium Declaration, committing their nations to a new global partnership to reduce extreme poverty and setting out a series of time-bound targets, with a deadline of 2015 that have become known as the Millennium Development Goals.

important international endorsement when world leaders agreed in 2005 to amend the MDGs to explicitly include reference to workers' rights. MDGs aim to achieve full and productive employment and decent work conditions for all, including women and young people by 2015. Alongside its incorporation into the MDGs, in December 2008, the UN General Assembly adopted a resolution to make fair employment the entire central theme of the Second United Nations Decade for the Eradication of Poverty (UN, 2008). The Council of the European Union has also adopted employment and better work conditions as an objective in EU external assistance and development cooperation (CEU, 2007). This is to be implemented through trade agreements, multilateral agreements, bilateral cooperation and neighbourhood policy. Another source of support for the precarious worker is the OECD Development Assistance Committee (DAC), comprised of donor governments and multilateral institutions. The DAC issued a high-level policy statement in May 2009 to declare that productive employment and decent work conditions need to be a key objective of development co-operation (OECD DAC, 2009a). In particular, the statement emphasises the mutually reinforcing nature of actions on social protection and employment and calls for donors to support, inter alia, host countries' own efforts to build social protection systems with measures specifically designed to improve employment and support the protection of workers' rights. The Responsible and Ethical Garment Sector (RAGS) is a new Department for International Development (DFID) initiative to promote better labour standards in the garment sector in developing countries from which UK retailers source garments. The overall objective of RAGS is that responsible and ethical production becomes the norm in the garment manufacturing sector supplying the UK. RAGS specifically aim to stimulate and catalyse sustainable improvements in working conditions through better supply chain practices in the UK and in producer countries. A project 'Right and Governance Challenge' under DFID funding is under implementation from 2008, aiming at gender equality that covers garment workers, including Bangladesh's EPZ workers (DFID, 2008).

The ILO launched the Alliance for Women Workers' Rights (AWWR) on 6 September 2009 at the VIP Lounge of the National Press Club, Dhaka. The

Alliance campaign aimed to promote women workers' rights within the workplace, including EPZs. Some of the initial focus areas are: equal payment for work of equal value, minimum wage, maternity leave, elimination of sexual harassment and discrimination in the workplace (ILO, 2009). Thus, it is clear that trade unions in alliance with international organisations were involved in promoting gender equality as well as protecting workers' rights.

7.7.2 Participation of women workers in trade union leadership

Another issue is the under representation of women in the EPZ trade unions themselves. Women's participation in trade unions had long been one of the important areas for promoting and protecting workers' rights in general and women's empowerment in particular. Despite that, women in Bangladesh EPZ quite often encounter more obstacles than men in workplaces, and are treated unequally in their terms and conditions of employment. Key interviews with participants demonstrated that the lack of enabling environment for enhancing women's participation and representation was one of the important reasons for the under-representation and marginalisation of women in trade union membership and in positions of responsibility within the trade union. The information provided below reveals further the marginalisation of women within the trade union decision-making bodies.

In general, women are under-represented in executive bodies. The number of women in leadership positions is an indicator of women's representation in the decision making process. Women's active participation in leadership positions allows women to become role models for workers at large and women workers in particular, in effect encouraging other women workers to participate in trade union activities. While a good number of women are active in trade unions as leaders in organising workers and carrying out different functions of the trade unions, only a very small number of women do in fact hold high positions in the trade union organizational ladder. Only a few EPZ trade unions have women as their president. None of the Union's general secretaries is a woman. The major positions in leadership for women in the EPZ unions are mostly secretary of women's affairs, cultural matters, and education and training. The

positions which are occupied by women in trade unions are mostly subordinate to men. Information gathered during one interview with a BEPZA official (AR)¹³² highlights that up to December 2009, a total number of 69 trade unions were formed in the Dhaka EPZ. According to the ‘Workers Association and Industrial Relations Act 2004’, each union must have an executive body comprising 15 members. Accordingly, these 69 unions contained a total of 1035 executive members. All the interviewed EPZ trade union representatives (FA, GU, TS, WA)¹³³ viewed that women’s participation rates in the union leadership on average only about 30 percent of the total number of union executives. Union representatives informed me that out of 15 executive members of a trade union in each EPZ enterprise only 4-5 are female members (FA, GU, TS, WA)¹³³. This is well below the percentage of women in the work force.

For the above reasons, it was essential to take a closer look at the measures that the unions have been implementing in order to enable women to gain access to the higher levels of organisations. All the interviewed trade union leaders said that they have adopted numerous specific measures in order to increase the numbers of women at positions of responsibility within trade unions. The range of initiatives mentioned include training to prepare women in carrying out their trade union activity, campaigns to encourage women workers to join unions and awareness raising interactions among trade unionists.

Women workers’ barriers to participating in trade union activities and leadership range from issues that are legal, social and economic. A large majority of barriers are attributable to the lack of enabling environment in the workplaces for women to contribute to the workplace governance. Interviews with some TU leaders (AH, FA, TS, SU, IL , WA)¹³⁴ showed that the lack of enabling environment for enhancing women’s participation and representation

¹³² AR-GenarelManager Enterprise, BEPZA.

¹³³ FA - President , TU, Hy-Lan Sweater Int. Ltd, GU- Secretary , TU, Beximco Fashion ltd. TS- Secretary,TU , Grameen Knitwear ltd WA- Secretary , TU , Ilki Textile Ltd.

¹³⁴ AH President, BGWF, FA- President, TU, Hy-Lan Sweater Int. Ltd. TS-- Secretary,TU , Grameen Knitwear Ltd. SU - Secretary ,BGWF. IL- Joint Secretary, BGWF. WA- Secretary , TU , Ilki Textile Ltd.

was one of the important reasons for the under-representation and marginalisation of women in trade union membership and in positions of responsibility within the trade union.

The overall complicated and cumbersome procedures set out for establishments in EPZs and many restrictions under the ‘Workers Association and Industrial Relations Act 2004’, make it difficult for both men and women to effectively participate in the governance of their workplaces, the process is more disempowering for women in comparison. The dis-empowering process becomes starker for women with the actual practice in and around EPZ enterprises. Women are often disproportionately victims of acts of intimidation and abuse. Labour leaders (AH, FA, SU , TS, IL WA)¹³⁵ cited cases of EPZ enterprise managers conducting acts of intimidation and abuse in the wake of labour unrest demanding a new minimum wage rate for EPZ workers .

The acts of intimidation and abuse by the employers are paramount for women willing to join trade unions. This is more profound for women workers who have few social ties in Dhaka city and whose economic security solely depends on their job. A number of cases of women being harassed by the employers for keeping contacts with the trade unions were cited by the trade union leaders (AH, FA,TS , SU , IL , WA)¹³⁵. The interviewed TU leaders also viewed that many women do not want to risk their jobs by joining unions. This follows from their disproportionate sufferings in terms of insecurity in their workplaces. This is also due to the fact that most of them are new young EPZ workers and migrants from remote rural areas in need of survival.

Women workers also face hostility from their male partners and male family members. In Bangladesh society, women often face pressures from their family not to be involved in activities outside their work. Overall, trade union activities in the society are not taken as prestigious undertakings; in contrast,

¹³⁵ AH President, BGWF, FA- President, TU, Hy-Lan Sweater Int. Ltd.
TS-- Secretary, TU , Grameen Knitwear ltd Ltd. SU - Secretary ,BGWF
IL- Joint Secretary, BGWF. WA- Secretary , TU , Ilki Textile Ltd.

women involved in trade union activities are often looked down upon. Many of the workers feel intimidated regarding how society perceives them. The economic insecurity and dependence on male counterparts and other male family members for livelihood makes it complicated further. This research however reveals that the societal perception of women's work in EPZ enterprises is positively set in a process of change, still at large; the social context is yet to appear favourable for their joining trade unions.

This research reveals that the current trade union policies fall short of gender focus promotion and protection. The trade union leaders need to incorporate specific women's policies to encourage women's participation. Women trade union leaders' trajectories to the positions of responsibility and their roles need to be highlighted in their governing documents. Trade union structures need to be more women-friendly in encouraging women. The women's concerns need to be mainstreamed and women leaders need to be encouraged to take a broader position of responsibility. Places can be reserved for women with voting rights in decision-making bodies. Women engaged in leadership, particularly engaged in organising activities need to be provided with more responsibilities to enable them to work independently. All trade unions should be geared towards establishing 'organising cells' for integrating women's concerns in trade unions, and building a pool of women organisers.

Another possible way of achieving the goal of bringing the women into the union leadership could be training and educational programmes that will help growing confidence and expertise for women, enabling them to demand and receive strategic positions in the hierarchy of unions. Training and education programmes, as the interviews with women workers illustrate, are immensely valuable in promoting leadership abilities among women trade unionists - a condition for changing the image of unions from being essentially male organizations. Although more than sixty per cent of workers in the zone are women, they generally feel inertia about joining trade unions. Women also remain responsible for household tasks and childcare; understandably, they find little time and energy to take part in union activities. Workers in EPZs are

also required to work regularly beyond normal hours in order to meet strict delivery deadlines. So appropriate measures need to be taken to lessen the load of overtime work. According to TU participants (TS, FA)¹³⁶ this can be done either through increasing the number of regular workers to fill the gap or through maintaining production schedules by subcontracting some of the works. These measures would help to allow women workers some extra time to be engaged in the union activities.

7.8 Some general problems faced by the EPZ trade unions

All the union representatives interviewed in this study viewed finance as a problem for the union at every level. According to ‘Workers Association and Industrial Relations act 2004’ EPZ trade unions are not allowed to receive funds from outside. According to the union representatives, one of its problems is the way the union is viewed by EPZ workers. Many workers, even those who are members, consider it just as a kind of public service or a form of social assistance run by the outside fund. In this respect one participant from the Trade Union Federation said,

“Bangladeshi trade union tradition, dating from colonial period has an external fund/aid -oriented union culture. The members come to claim their rights, but see no reason to take any part in activities” (AH)¹³⁷.

To union representatives, this is a serious problem, and the unions have framed several approaches to improve member’s willingness to financially contribute to the union through payment of monthly membership fees which they need to pay as per provision of the governing document of every individual trade unions (TS FA)¹³⁸.

There is also no affiliate database which can inform anyone enquiring about membership data such as characteristics of union membership, gender, age,

¹³⁶ FA - President, TU, Hy-Lan Sweater Ltd. TS-Secretary, TU ,Gramen nitwear Ltd.

¹³⁷ AH- President, BGWF.

¹³⁸ FA – President, TU Hylan Swearer Int. Ltd.
TS- Secretary TU, Grameen Knitwear Ltd.

education level profiles etc. There is no systematic collection, coordination and storage of information to support problem advocacy and lobbying. Access to IT and intranet at workplace level are also absent. According to trade union leaders, funding constraints and high costs of IT equipment and PCs limit access to internet connectivity for the trade unions. There is no website for unions and no effective interaction of unions and their members through intranets or networking. Lack of internet facility or access to it also place limitations on their network building activities. The trade union leadership generally therefore has poor ICT skills and a poor appreciation of the role of ICT in union work. Leaders are still using manual systems to run the unions.

This research also reveals that unless workers in one particular enterprise are able to build unity with workers in other EPZ enterprises in their common struggle and achieve financial capacity to launch union campaigns for growing awareness and support from the mass of EPZ workers then they will not be able to achieve their desired goal. This then leads trade unions to the next question, is their present organizing framework based on the new thinking (since the 'Workers Association and Industrial Relations act 2004' was framed solely by BEPZA authority without any consultation with EPZ) of 'workers association' style? Is this structure conducive for present day struggles? The EPZ workers obviously did not fight for 'association style' bureaucratically controlled unions, but for general democratic trade unions like other industrial workers in Bangladesh. Every union leader opined that, if all working people in the EPZ are organised into democratic unions, then the workers will have more power to collectively bargain with the companies, with the government and with the local authorities for their welfare. This research thus intends put forward ideas for strengthening trade unions for EPZ working people, which will address the needs of organizing and fighting for their legitimate rights. Trade union strategies at present are at a crossroads of the movement. This research has shown that the union experience so far is very young (as union activities in the Bangladesh's EPZs virtually starts from the later part of 2008) and their experiences must be learnt from and improved . So are the present organising strategies adequate to build strong trade unions of all EPZ workers?

7.9 Conclusion

This research revealed that both the employers' strategies such as flexibility and low costs as pillars of competitiveness in the one hand and state strategies such as legislation and other labour policies favouring capital are responsible for allowing or promoting precarious employment in the EPZs. Mainly affected are young women and low skilled temporary workers characterised by low pay, limited legal protection, high job insecurity and limited access to non wage benefits including leave entitlements. This research found that trade union strategies to such precarious workers are inclusive and aimed at improving their work conditions and rights either through enforcing regulations or through co-operation with the management or through combinations of both.

The overwhelming existence of precarious employment and trade union strategy towards them also concern state agents (BEPZA) to reform industrial relations for balancing their three fold objectives- enhancement of industrialisation process, safeguard interest of local and foreign investors and maintain labour friendly policies aiming at protecting workers interest. However, it transpired from the examination of the 'WAIRA Act 2004', that it contains many clauses through which BEPZA can control and interfere union activities. For example BEPZA has the teeth to cancel union recognition for violation of any of the provisions of the WAIRA Act 2004.

The contents of the WIRA Act 2004 were prepared without any proper consultation with workers' representatives. In fact, its contents were the sole outcome of bureaucratic intellectuals. Thus, it contains many limitations that impose certain restrictions (such as forbidding formation of trade union federations) on unions for organising resistance movements. In spite of these limitations, this research found that union strategies to support many wildcat strikes (such as recent wildcat strikes for the implementation of minimum wage rates) compelled the state agency to force employers into greater compliance with workers' rights. This research however found that trade unions were free to play cooperative roles (such as participation in consultation table as well as in the joint preventive committees) for the interest of the workers. Trade unions

in Bangladesh's EPZs (which virtually started its operation from 2006 with a period of about 2 years suspension on union activities during the state emergency period) are now in the transition stage of building their capacity to force the state agency (BEPZA) to play a proactive role in protecting workers' rights. Until now, they are found acting as a participatory agent of the state agency BEPZA within the framework of WAIRA Act 2004, in order to implement their reformed labour regulations (that allows union functions) in the EPZ factories. Field studies also found that trade unions provided support not only in the form of providing rights-based information to the workers but also representing in the process of dispute settlement and affairs of workers' grievances.

This research also revealed that instruments available to trade unions for materialisation of their economic and regulatory objectives for improving conditions of precarious workers include collective bargaining, organising precarious workers under the umbrella of the trade union, providing required support services and information to individual workers, and influencing state agency for maintaining worker friendly labour policies through obeying ILO conventions, and social clauses that emerged from the MDGs and international donor agencies' aid packages.

The study also revealed that trade union strategies are not divisionary but always covered same rights to both temporary and permanent workers; for example the new minimum wage rates are equally applicable to all the EPZ workers. Legal initiatives promoted by unions are also noticed for reducing qualification period from temporary apprenticeship condition to permanent worker as well as in extending some social security rights to atypical jobs such as maternity allowance. The research found that union strategies are largely dependent on legal contexts that contain limited negotiation power due to inability to form trade union federations (involving both inside and outside trade unions) and organising mass scale industrial action.

The research has revealed that union initiatives need to go a long way in reducing the intensity of precarious employment. Furthermore, in the context

of employer-dominated labour relations in the EPZs, there is no substitute for traditional democratic trade unions for protecting workers' rights. The precarious employment conditions of a large number of EPZ workers undoubtedly present particular challenges to traditional union organising models. The influence of international organisations in alliance with workers' organisations (trade unions) has been reported to be helpful in bringing about changes in the employment structure leading to improvement in precarious employment conditions in the EPZs.

Chapter 8: Conclusion of the thesis

This research has led to conclusions based on not only qualitative research interviews but also on strategies adopted by trade unions as they struggle to respond and adapt to their challenging environment. At various levels and with regard to some of the strategies adopted trade unions have been proactive according to those workers and union representatives who participated in this research.

This research has analysed how globalisation has influenced the fight for trade union rights by workers in Bangladesh's EPZs and, in turn, the extent to which the trade unions have been able to shape the process of change. It has also reviewed the prospects that trade unions have in the near future. Up to the writing of this thesis, trade unions in the EPZs in Bangladesh have not proved able to become strong representative agencies of worker's interest during the initial years, in part because their organisational strength as well as their operational powers were constrained by some of the adverse provisions of the 'WAIRA Act 2004'.

This thesis found that the 'EPZ Workers' Association and Industrial Relations Act 2004' (WAIRA Act 2004) is undoubtedly a progressive initiative for protecting workers' rights in factories located in Export Processing Zones in Bangladesh. For workers, it has given them a voice in relation to improving the terms and conditions of employment and higher job security. It has contributed to an improvement in dispute settlement and in tackling labour discipline(- a term used to mean compulsion where the worker is forced to work under certain conditions with a perpetual threat of dismissal as the basic measure to maintain labour discipline) in the EPZ labour relations. The research also found that the state agency BEPZA provided workers through trade unions some degree of power to force employers into greater compliance with workers' rights. Article 8 of the WAIRA Act 2004 (WAIRA 2004) clearly prescribes that the trade union shall support the enterprise management in exercising its power of operation and management in accordance with law.

As detailed in section 6.3.1 of Chapter 6, the legislation (WAIRA Act 2004) provided legal foundation allowing trade union rights, law on collective bargaining, contracts and agreements and law on deciding collective labour disputes. The act allows trade unions the right to strike if mediation procedure as stipulated by law has failed, tripartite consultations at the enterprise levels, the right to conduct independent wage talks and collective bargaining negotiations. The act also includes employer's obligation to enter into collective bargaining negotiations with unions, protection against dismissal of trade union officials; requirement of companies to provide trade union committees with office rooms for their work and prohibition of lockouts under any circumstances.

This research has been able to accomplish some important findings through interviewing people whose voices are rarely heard (the EPZ workers) but also in gaining access to some very high level BEPZA officials, factory managers, trade unionists and persons who have been at the forefront of the workers movement and campaigning for change.

The trade unions have been able to implement new minimum wage rates, sometimes as a result of large labour disputes that have included isolated protests, but also going as far as striking when minimum wage payments failed to materialize. Though these were often wildcat strikes (unannounced work stoppages called by workers without the authorisation of their union) or other desperate acts of individual workforces, they have later been supported by the unions. In addition, the unions did call protest rallies on wages in 2010. They were then able to expand those protest rallies into large scale labour disputes through attracting other factory workers.

Over the course of this research and within this thesis, the wider dimension of union activities have been highlighted and discussed. Various activities have been undertaken by the trade unions to protect workers' rights and their welfare that include consultation, industrial action and other instruments available to them.

The importance of the trade union actions and the mobilisation strategies of the unions discussed in 6 and 7 are explicit. Correspondingly one of the important research questions was to investigate the roles of trade unions in protecting workers' rights particularly for precarious workers. The strategic actions that are used by the trade unions to try to protect the workers' rights have been categorised into the three main strategies. a) The consultation strategy in which trade union seeks the causes of the problems and tries to provide remedies; b) The strategy of direct industrial action that entails the measures enabling unions to exercise more influence on the basis of their statutory functions; and c) the preventive strategy, with which the trade union primarily aims at reducing the negative effects on workers' rights. The above mentioned three strategies used by the trade unions have been described by means of case studies. The case-studies reveal that some approaches gained more positive results than others. Of the various cases, the trade union initiative always ended with some positive results, including an arrangement covering protection of workers' rights.

This research found that trade unions were successful in ensuring workers' employment security using consultation that occurred on the issue of dismissal procedures between the employer and the unions in 2009 in one EPZ enterprise. This consultation has provided a framework for maintaining employment security for both permanent and temporary workers.

The case study on a union's industrial action strategy found that though the government of Bangladesh had almost doubled the minimum wage rate for the EPZ workers after a series of consultations with the representatives of trade unions and officials of employers' associations, they were not implemented in many EPZ factories immediately. Moreover, some trade union leaders and workers had to face numerous intimidations and harassments for strike actions demanding implementation of minimum wage rates.

Using the case study approach this thesis illustrates how traditional union strategies have been harnessed by EPZ trade union activists to both challenge

authority and protect workers' rights. The findings from the case studies point some future mobilisation processes. The thesis looks specifically at the potential union strategies in contributing to increased internal democracy and unions' capability to mobilise.

This research revealed the importance of union actions on two dimensions which may shape the development or failure of trade union movements in EPZs. These two dimensions were between the trade union and authority and the authorities themselves (e.g. the EPZ employer and state agency BEPZA) whereby the unions must judge the opportunity-threat and the authorities determine the subsequent degree of facilitation-repression. The relationship of the trade union's action to capital and state thus seems crucial and important. This relationship between authority and trade unions would condition the formation of future labour movements as the authority would respond in different fashions to the threat from below. Authorities might seek to repress emerging movements, or to facilitate institutional structures through collective bargaining to contain or process conflict. The balance between repression/exclusion and facilitation/institutionalisation would thus be needed for those in authority.

This research noticed that the strike action was linked to workers who were willing to take risks and were subject to repression. It was also observed that some of the actions were innovative such as the use of 'sit-in' programmes by the Ultra EPZ workers (see Box-1 in section 6.4 of chapter 6) which supplemented the 'conventional' strikes and mass demonstrations. Successful protest movements are, according to Tarrow (1998), likely to be those which build on conventional forms of protest. To organise a successful movement, trade unions must supplement their 'conventional' contentious actions and adopt strategies and identities that expand their repertoires of action and ways of working. But there is the danger that unions' commitment to democratic institutionalisation will constrain their ability to be disruptive. At the same time trade unions have no sufficient infrastructural and democratic cultural capacity to be able to alter their ways of working and be more innovative.

To help create the conditions for the development of innovative practice, this research revealed that trade unions may continue to adopt networking mechanisms. The networking activity is a central component of the ability of trade union movements to thrive and grow (Passy, 2003). This is because networking acts to transfer innovative ideas to build the capacity to counteract tendencies of bureaucratic inertia. Voss and Sherman (2000) indicate that 'bureaucratic conservatism' in unions can be overcome by activists being willing to challenge the 'status quo'. A progressive networking approach would require the loosening up of bureaucratic restrictions to allow exchange of ideas within and between unions, and importantly, between unions and other agents within civil society who can help the workers' cause through coalitions and alliances. When combined with high levels of union participation, networking would encourage 'high risk activism' (McAdam 1986), which in turn will act to motivate union members to increase their propensity to mobilise.

The research revealed that in the absence of state sponsorship, unions must become more effective in the workplace or suffer the inevitable consequences. Strategic choices for unions need to include both considerations of socio-political orientation and scale of operation. On the first dimension, trade unions can opt between an integrative approach by exploring productivity coalitions with employers and social pacts with governments, and an oppositional approach by developing combative and militant mechanisms of protest and dissent. The second dimension of scale of operation, should include both national and international dimensions. National dimension should rely on the maintenance or creation of sympathetic government support for the aims and objectives of trade unions, with the international approach supplementing national solutions by the addition of multinational or supra-national support structures through agencies such as the International Labour Organisation (ILO) or even the World Trade Organisation (WTO). Of course, elements of different strategies and organising approaches may appear to move over time from one particular strategy to another as the economic and political contexts change.

During the initial formation period between 2006 and 2008, the political circumstances at the time of the state emergency period were especially unfavourable in terms of establishing competent trade unions in the EPZs. The unions have struggled to exercise their powers to meet totally new challenges and to acquire a positive image among the workers. The young EPZ trade unions were able to consolidate only within their enterprise area. However, they have been partially successful in carrying through substantial contract and collective bargaining agreements.

An evaluation of trade union performance under this research indicates that, although initially trade unions were perceived in symbolic terms in the EPZs, now they are increasingly building their capacity to influence workplace power structures and to affect the labour process so as to try to strike a fairer balance between global capital and workers' rights. Employers generally now have to negotiate with the unions. The government also finds it necessary to consult the unions about wage-fixing. It has already mentioned that new minimum wage rate came out of negotiations between the employers, trade unions and the Wage Board of the government of Bangladesh.

The research revealed some forceful views among the interviewees pertaining to changes in trade union practice in Bangladesh's EPZs. Such statements show a consistency across many of the interviews and are made without ambiguity. In addition and in relation to protecting workers rights, many interviewees spoke in very positive terms about the unions and their perception that they had some success in improving precarious workers' prospects.

Interviews conducted with both EPZ trade union representatives and workers showed that the precarious employment condition of such workers had improved significantly from the pre trade union situation which was characterised by unstable and unprotected work conditions. Indeed, future job security was uncertain and workers faced the possibility of job losses, received lower pay in relation to permanent regular workers and had no voice through the trade unions. Many factors and complexities associated with precarious

employment conditions such as complications over the issue of employment documents and barriers to the implementation of minimum wage rates for typical precarious workers have been removed through union interventions. However it is undeniable that no single organization can hope to deal with the situation alone. The successes achieved to date in the Bangladesh EPZs demonstrate that through collaborative and concerted efforts (such as ratification of ILO conventions, AFL-CIO initiatives, US government pressures on the Bangladesh government with a focus on allowing the functioning of trade unions) made a significant contribution in the creation of an environment where the promotion of fairer labour relation policies now exists in Bangladesh's EPZs.

There was little material from the research interviews that could be considered to indicate any negative impacts of trade unions in the EPZs. Indeed there was no statement, either, in the interview data pointing to union action having negatively affected the economic position of employers. This contradicts some research which has suggested that the institutional position of trade unions has had such a negative impact (*e.g.* Neil et al. 2001).

The union activists interviewed have also claimed the credit for creating a positive trade union culture through undertaking their functions as per provisions of the Article 8 of WAIRA Act 2004. This research revealed that what is particularly unique about the EPZ trade unions is that they not only make efforts to represent and protect the workers' legitimate rights and interests, but that they also respect and support the enterprise's executive power and production needs. To the union representatives, EPZ trade unions are not antagonistic to the enterprises; instead, the unions and the managements treat each other with mutual respect and support. Although there have been some fights by trade unions at the enterprise level to further the economic interests of workers through negotiation and strikes (in some unexpected extreme situations which lasted only for a few hours and ended with positive results, at least with verbal assurance from the employer for meeting workers demands) those actions have ultimately provided the employer with a cooperative work force in order to achieve tight production schedules and maintain the normal

production and operation activities of the enterprise. In this way, trade unions have shown their competency in transforming into what may be considered fully fledged traditional trade unions. The influence of the EPZ unions should not be measured solely by how many members they have or whether they can mobilize workers, but also in terms of what pressures for change that they can exert on the employer by the very fact of their existence. Examples of committed and courageous representation of workers' interests at the company level primarily show that full democratic trade union practice is in fact possible in the EPZs.

Though some positive changes have been made through trade unions in the EPZs, the success is limited. Trade union representatives in this regard also hold that their efforts for reducing the intensity of precarious employment in EPZs are constrained by the lack of full democratic trade union power. To the workers and union representatives, there is no substitute for traditional democratic trade unions. To them, full democratic power can make unions stronger and better able to fight for the rights and interests of working people. No other organisation can be dedicated solely in advancing the democratic rights of union members.

Tight bureaucratic control over the EPZ unions' statutory functions, accompanied by a few legislative provisions that impose limitations on unions' independent democratic functions, present particular challenges to their traditional organising model. The goal should therefore be to ensure that workers have a democratic space to counteract this. According to the WAIRA Act 2004, all enterprises in the EPZs in Bangladesh shall allow workers to form only one trade union in an enterprise and undertake its daily work. The rules of procedure and operating mechanism of the Act 2004 thus exceptionally limit the power of the trade union as described in section 6.3.3 in chapter 6. Thus, the regulations in the Act 2004 clearly require amendment to allow more democratic management of the union's activities. What types of democratic power do trade unions need? The answer lies in the nature of existing EPZ trade union structures and characteristics of trade unions in other sectors where

they already have full democratic power. Compared with trade unions in other non-EPZ sector enterprises, trade unions in the EPZs have the peculiarities regarding powers; the law explicitly stipulates that trade unions in the EPZ will be regulated under the Act 2004 and will be held responsible to BEPZA authority.

The National Labour Law 2006 allows much wider powers and functions for trade unions operating outside EPZs including the right to join trade union federations and affiliate to any political party. Such rights are denied to trade unions in the Bangladesh's EPZs. This is the most important difference between trade unions in other industrial sectors of the economy and those in the EPZ enterprise.

EPZ trade unions are under the strict bureaucratic control of BEPZA. To be more specific, firstly, a trade union in any EPZ enterprise can only be established after gaining the support of 50% or more of the total workers of that enterprise. A referendum must be conducted by the BEPZA authority. Secondly, trade unions are established taking the individual enterprise as a unit, they are the base level trade union organizations and are not allowed to form any trade union federations outside EPZs. Thus one cannot deny the possibility that trade unions in EPZs might become a 'yellow union' (-a union set up and/or controlled by the employer/authority to prevent the establishment of a genuine traditional trade union) in the course of time if they persist in continuing with this present structure. By contrast, trade unions in non EPZ industries under the purview of national labour law of 2006 are allowed to form federation of trade unions and there are various kinds and different forms of trade unions outside EPZs. Therefore, the diverse characteristics of trade unions in those industries are very obvious. For example, usually a number of trade unions for different industries coexist in the same enterprise, thus making it possible for a worker to join one or more trade unions of a different nature according to his/her own needs. As different trade unions always represent different interests, the pluralistic structure could possibly influence the respective power of trade unions. Whatever the truth of these speculation, trade

unions outside EPZs appear to be more oriented to worker's needs rather than the needs of a bureaucratic organisation such as BEPZA.

It could be argued that EPZ trade unions in alliance with other actors (such as AFL-CIO and ILO) are becoming increasingly threatening to global capital and the state agents which protect it. The influences of international organisations in alliance with workers' organisations (trade unions) has been found helpful in bringing about changes in the employment structure, thus leading to the improvement of worker's rights and particularly precarious employment conditions in the EPZs.

Furthermore, due to the intensification of economic globalisation, the state is gradually losing its leverage in dealing with investors in the EPZs. In such a situation trade unions in the EPZs can increasingly find ways to build capacity (through developing labour process mechanisms) to influence state agents, such as BEPZA, to try to strike a more fair balance between global capital and workers' rights.

BEPZA has the authority to affect both employers and trade unions. BEPZA has the Instruction number 1 (see appendix F) at its disposal to ensure good industrial relations in the EPZs. According to these Instructions, all EPZ enterprise managements need to provide the required information regarding wages, benefits and remuneration given to workers, when requested by the Manager of the Industrial Relations Department (IRD) of BEPZA. The Manager (IRD) is responsible for ensuring observance of all applicable factory and labour laws including the guidelines issued in this regard by BEPZA from time to time. Companies operating in the zones may have their own rules regulating the terms and conditions of employment and in that event no rules or terms and conditions of employment of an individual company shall be less favourable than those contained in the instruction number 1.

In case of any general disagreement on any common issue between the employer and the worker, and non-compliance of instructions, the matter may be referred to BEPZA in which event BEPZA may appoint an officer to act as an arbitrator or conciliator for settlement of such an outstanding issue.

BEPZA has a range of sanctions when a violation is identified, these include verbal and written warnings, formal notices requiring action, administrative fines, closing down factories, and legal action, such as prosecution or reference to the public prosecutor. The Industrial Relations Department (IRD) of BEPZA reportedly takes proactive measures to ensure compliance by the employer with all applicable labour laws and standards. According to one BEPZA official (MA) in cases of non-compliance, BEPZA initially gives notice to the enterprise that services provided by BEPZA will be suspended unless immediate action is taken to rectify the situation. If within three months the enterprise fails to comply, BEPZA may suspend its services until the situation is rectified. Suspension of service could include suspending authorization of import documentation or the suspension of the 'Green Channel' facility (see Appendix C) that gives exemption from customs inspection of EPZ Companies. These sanctions are extremely effective as these facilities are of considerable importance to enterprises in the Zones. However, these sanctions are generally used in instances of non-payment of statutory dues such as wages, and are not used in other instances, such as where a trade union is not recognized. Furthermore, the decision to impose such 'sanctions' is generally an extreme measure that is rarely adopted due to the potential impact on investment. No specific good practices regarding BEPZA's administrative procedures, capacity to enforce and execute sanctions effectively were identified in this research.

One of the reasons for slackness of enforcing administrative procedure over the employer is that BEPZA which is responsible for looking after labour issues in Bangladesh's EPZs are also acting as a key institution in attracting and managing Foreign Direct Investment (FDI) into Bangladesh. With this overwhelming emphasis on the interest of foreign investors and, on the contrary, indifference to workers, considering them as one of the factors of production, BEPZA seemingly assumed that direct foreign investors would maintain labour-related laws. This negligence has contributed to BEPZA paying less attention to the enforcement of worker-related regulations. The reason for this apparent negligence lie in the paradoxical nature of BEPZA's mandate, the tension between securing an inflow of foreign direct investment

and adhering to labour regulations. Although BEPZA is also involved in the process of implementing worker-related regulations, BEPZA officials were concerned that this may challenge its goals concerning foreign investment if changes related to worker's laws (that allow trade union activities in the EPZs) are enforced with a view to improving employers' compliance to workers' rights.

BEPZA also has authority to affect trade unions. WAIRA Act 2004 provides authority for the cancellation of the registration of a union on grounds of any severe contravention of any of the provisions of the union's constitution. The act also provides severe restrictions on strikes and prohibit strikes if they continues for more than 15 days or less if the strike is considered as causing serious harm to productivity in the EPZ. BEPZA can prevent unions from obtaining or receiving any fund from any outside source without the prior approval of the Executive Chairperson of the BEPZA, prohibit a federation from affiliating in any manner with federations in other EPZs and beyond EPZs, and it can interfere with trade union procedure.

The research has also revealed EPZ private companies operate for the purpose of making a profit and they want to maximise profit. Trade unions cannot push wages and other non-wage benefits up to a level which prevents profits being made. When companies are marketing their products profitably a union can hope to win concessions by threatening to halt production and interrupt the flow of profits. But in challenging a firm's decision to lay off workers or close down whole factories, workers may turn to strike action as their strongest weapon (see the example given in chapter 6). The research has also revealed that employers are playing a tricky role by not reducing staff through direct dismissals but rather through maintaining lower wages. This appears to be the easier course for them to take because of various legal provisions and because they can thus avoid open conflict with the workforce and the BEPZA.

Following the views of the union representatives as well as workers who participated in this research, there is a call for the complete waiving of bureaucratic control clauses from the "EPZ Workers' Association and Industrial relations Act 2004" and for recognition of full democratic power for

the EPZ trade unions by the government. However, this seems a far reaching goal since employers do not normally want to see strong unions in their enterprises.

The decisive factor for trade unions is whether they will succeed in improving their standing among workers through achieving a level of success that can stabilize their membership base and organisational situation, and whether workers will therefore be willing to work with the unions. Only then will the desire to become full traditional trade unions outweigh their acceptance of the present structure and limited powers. In response to the question where do you see the specific results of the work of your trade union (multiple choice) all the interviewed workers said they wanted to see a trade union which represents their interests, fights for better minimum wage rates, deals with issues concerning settlement of work discipline and concerns itself with working conditions. The central areas of responsibility of trade unions thus appear to maintain traditional spheres of activity, influence policy at the enterprise level, represent the interests of the worker through collective bargaining agreements and bolster the ability to carry out strikes and campaigns.

Trade unions in EPZs have been constrained by legislative provisions from making partnerships with other factories and thereby gaining their strength through industry-wide contract negotiations. Since union structures are confined to the particular enterprise they are not allowed to form federations with any other trade unions within or outside the EPZs.

In principle, the trade unions can attempt to force compliance through strikes. Union attempts to organize protests have met with some positive responses (see examples in chapter 6) but most of the strikes have been comparatively short-term protests which have arisen out of desperation. However, there is evidence of exception as one strike did develop into a mass protest against the delay in implementing the recent minimum wage rate for the EPZ workers. The unions were able to mobilize workers and were able to underpin the protest with telling strikes. The strike in Uttara EPZ in Bangladesh, according to the Daily Star (Daily Star 2010) succeeded in a full day's action among EPZ

workers after they did not receive their new minimum wages. According to trade union representatives interviewed for this research, the factories that went on strike in December 2010 were from the most discontented factories. This research revealed, however, that there have been problems in mobilizing workers in enterprises where they are normally paid better rates and also paid on time. Thus to a certain extent, the unions have managed to become the voice of the discontented. The unions lack the authority and the socio-political power of persuasion to win over workers for solidarity action at factories that are in a relatively better economic position.

This research reveals grounds for some optimism despite the enormous difficulties that still lie before the EPZ trade unions on their pathway to transform into fully formed trade unions. Whether they will develop into independent organisations and more representative of workers interests at the enterprise level and in the industry at large, or whether they will succumb to the temptation to have solidarity with nationwide EPZ workers in a cooperative manner, will depend on the subsequent amendment of the legislation allowing formation of confederation with trade unions in other EPZs of the country.

So, advocacy in this regard from global economic, political, social and other supranational forces such as the International Labour Organisation (for compelling ratification of all ILO conventions); the World Trade Organisation (for inclusion of social clauses in bilateral trade agreements); the Organisation of European Community Development (by inclusion of better work condition in their aid package); as well as from local NGOs and Trade Union Federations could be of vital importance. Their support can create a strong sense of realisation and in many instances a pressure on employers and government to reform the EPZ industrial relations, in line with the national labour law 'Bangladesh Labour Act, 2006' (BLA, 2006), that would allow workers to enjoy democratic trade union rights as with all the other workers in the manufacturing sector of the country.

The process of full democratisation for the EPZ trade unions is by no means an easy job. The unions, under the present circumstances are not able effectively to create pressure to compel the authority to amend the legislation in the way

they desire to have it. The ability to meet their demands will require considerable additional efforts on the part of the unions. They must develop democracy within their own organisations. This research revealed that the activities of the unions are widely debated by all stakeholders in the EPZ industrial relations. The issues range from: the effectiveness and efficiency of union organisation and administration, internal ideals and practices in the union, the exercise of power in the unions, the leadership of the unions, the attitude of workers to the unions, and the relation between employers and the unions to the behaviour of the unions. These issues have brought about the questions of democracy within the trade unions that is, whether or not trade union members are involved in decision-making. The effectiveness of a union is in itself a democratic activity. Unions should not rely on or be controlled by other forces or bodies (such as EPZ employers and state agent BEPZA) other than the workers who form the unions themselves. The process of workers' control can only be made possible if democratic principles are observed. Independence of the union, therefore, is a function of democracy but is hindered by the restrictive provision of the 'WAIRA Act 2004'.

Unions have their own rule books (governing documents) which were prepared with due respect to the guidelines provided by the 'WAIRA Act 2004' but they need to be improved allowing members to have a vote in electing their representatives and deciding policy. This research assessed democratic values and the practice of trade unionism in EPZs. Since trade unionism is established on democratic principles, all its tenets and practices must be democratic. Some of the democratic values examined in this research include: membership involvement in decision-making; feedback mechanisms in trade union; electioneering processes; respecting the will of the members and accountability and transparency. This research revealed that members were not involved in decision-making and were not adequately given feed-back on the running and the goings-on in the union through meetings, emailing or notice boards etc. The electioneering process in unions was not transparent; as such union leaders during and after election were not bound to respect the will of members and there appeared lack of accountability and transparency in the running of union activities. It thus represents a situation where the democratic practice of trade

union will be in disarray. It is therefore important to say that trade unions not only need to be fighting for democratic rights alone, they should also be seen exhibiting democracy within the trade union. This will motivate members in dedicating themselves to the activities of the union, and the policies of the government to make trade unions more democratic.

To enhance democratic values in the practice of trade unionism in the Bangladesh's EPZs, the following strategies can be followed: (a) there should be full accounts of the decision making before final implementation on behalf of members, information could be given through meetings, notice boards etc.; (b) there needs to be a genuine movement of the rank and file within unions; this is particularly important as unions have so few established structures to allow for any accountability; (c) union officials should be elected democratically and be subject to recall at any time; (d) unions should have the right to determine their own rule books; this should include the right of unions to discipline members ; (e) there should be no secret negotiations; (f) full equality for women in the trade unions, equal contributions and equal rights of all members must be invoked; (g) rights of members to criticise union policies and the right of appeal should not be tampered with; and (j) trade unionists must be answerable to the membership, not to joint committees with the top leaders.

Finally, this research concludes, that trade unions are neither harmful for global capital, nor a threat to the neo-liberal economic policies of the EPZ operating government. Rather, this research has found that trade union strategies are more disciplined in protecting workers' rights. Findings of this thesis can help policy makers to think about necessary reform in their current legislation 'The WAIRA Act 2004', to provide more democratic power for the EPZ trade unions. Moreover qualitative research on labour studies focusing on the role of trade unions in EPZs is an under-researched area in Bangladesh; as such this research can significantly contribute to the academicians in this important area of labour studies.

- Given verbal consent
- Given written consent and voice recording
- Given written consent

SL	Date	Name	Organisation
01	30.12.09	Mr.Moyjuddin Ahmed (MA)	Member (Investment Promotion), BEPZA
02	31.12.09	Mr. Abdur Rahid (AR)	General Manager (Enterprise), BEPZA
03	7.01.09	Mr. Salam Morshedi (SM)	President, BGMEA
04	02.01.10	Mr.Amirul hoq Amin (AH)	Pesident , BGWF,
05	02. 01.10	Mrs Sultana (SU)	Secretary , BGWF
06	02.01.10	Mr. Illias (IL)	Joint Sereatary BGWF
07	11.01.10	Mr. Sahabuddin (SB)	Office Sec, Garments Labour league
08	10.01.10	Mr. Zakiul Rabbi (ZA)	CEO ,Hy-Lan Sweater Intenational Ltd.
09	6 .01.10	Mr. M. Billah (MH)	General Manager , Beximco Fashion Ltd.
10	7.01.10	Mr. Saiful Islam (SI)	Manager , Grameen Knitwear Ltd.
11	11.01.10	Kazi Hakim (HA)	Manager ,ILKI Textile Ltd.
12	11.01.10	Mr. Fazlu (FA)	President , TU, Hy-Lan Sweater Int. Ltd.
13	10.1.10	Mrs Gulshana (GU)	Secretary , TU, Beximco Fashion Ltd.
14	11.01.10	Mr. Tasaddok (TS)	Secretary,TU , Grameen Knitwear Ltd.
15	11.01.10	Mr. Wajiruddin (WA)	Secretary , TU , Ilki Textile Ltd.
16	11.01.10	Mr. Saifuddin (SA)	General Secretary, Nat. Labour Feda--
17	10.01 10	Mr.Nazmus Sakib (NS)	Worker , Beximco Fashion Ltd.
18	11.01.10	Mr Tasmim (TA)	Worker Beximco Fashion Ltd.
19	11.01.10	Ms Shirin (SH)	Worker, Beximco Fashion Ltd.
20	12.01.10	Mr. Akram(AK)	Worker r, Beximco Fashion Ltd.
21	12.01.10	Mr. Solaiman (SO)	Worker, Beximco Fashion Ltd.
22	13.01.10	Miss Sagia (SSG)	Worker,Beximco Fashion Ltd.
23	13.01.10	Miss Tania(TA)	Worker, Beximco Fashion Ltd.
24	14.01.10	Ms Afsia Khatun (AF)	Worker ,Grameen Knitwear Ltd.
25	14.01.10	Mr .Munirizzaman(MU)	Worker ,Grameen Knitwear Ltd.
26	15.01.10	Mr .Afsaruddin (AFS)	Worker ,Grameen Knitwear Ltd.
27	15.01.10	Mrs Monia begum(MB)	Worker ,Grameen Knitwear Ltd.
28	16.01.10	Mr. Torab Ali(TO)	Worker ,Grameen Knitwear Ltd.
29	16.01.10	Mr. Safiruddin (SF)	Worker ,Grameen Knitwear Ltd .
30	17.01.10	Miss Nasira Akhter (NA)	Worker ,Grameen Knitwear Ltd.
31	17.01.10	Mrs Basira Begum (BB)	Worker , Grameen Knitwear Ltd.
32	18.01.10	Ms Sririn Zahan(SZ)	Worker, Hy-Lan Sweater Int. Ltd.
33	18.01.10	Ms Shilpi(SP)	Worker, Hy-Lan Sweater Int. Ltd.
34	19.01.10	Mr. Harun ar Rshid(HR)	Worker, Hy-Lan Sweater Int. Ltd.
35	19.01.10	Mr .Nurul Amin(NA)	Worker, Hy-Lan Sweater Int. Ltd.
36	20.01.10	Mr. Anis Ali(AA)	Worker, Hy-Lan Sweater Int. Ltd.
37	20.01.10	Mrs Morgina (MO)	Worker, Hy-Lan Sweater Int. Ltd.
38	21.01.10	Mr. Tafsir (TF)	Worker, Hy-Lan Sweater Ltd.
39	22.01.10	Mr. Akhter Hossain(AI)	Worker, ILki Textile Ltd.
40	22.01.10	Mr. Zakir Ahmed(ZK)	Worker, ILki Textile Ltd.
41	23.01.10	Ms Moriom (MM)	Worker, ILki Textile Ltd.
42	23.01.10	Mis Rubina (RN)	Worker, ILki Textile Ltd.
43	24.01.10	Mr. Basir uddin (MB)	Worker, ILki Textile Ltd.
44	24.01.10	Mr. Deluar (DR)	Worker, ILki Textile Ltd.
45	25.01.10	Mr Suruj Miah(SR)	Worker , Beximco Fashion Ltd.
46	25.01.10	Mrs Nurjahan Begum(NB)	Worker Beximco Fashion Ltd.
47	25.01.10	Mr .Zakir Hossain (ZH)	Worker , Grameen Knitwear Ltd.
48	25.01.10	Mr. Moznu (MZ)	Worker, Grameen Knitwear Ltd.
49	26.01.10	Mr..Md Shamim (SI)	Worker, ILki Textile Ltd.
50	26.01.10	Mr..Md Helal (HL)	Worker, ILKI textile Ltd.
51	26.01.10	Miss Amiron (AN)	Worker Beximco Fashion Ltd.

Bangladesh country profile

Europeans began to set up trading posts in the area of Bangladesh in the 16th century; eventually the British came to dominate the region and it became part of British India. In 1947, West Pakistan and East Bengal (both primarily Muslim) separated from India (largely Hindu) and jointly became the new country of Pakistan. East Bengal became East Pakistan in 1955, but the awkward arrangement of a two-part country with its territorial units separated by 1,600 km left the Bengalis marginalized and dissatisfied. East Pakistan seceded from its union with West Pakistan in 1971 and was renamed Bangladesh.

Bangladesh in map



Location: Southern Asia, bordering the Bay of Bengal, between Myanmar and India
 Total area : 143,998 sq km (country comparison to the world: 101)
 Population: 142,319,000 (as per Pop. Census 2011)

Country comparison to the world: 7

Capital: Dhaka
 population : approx 7.0 million
 Government type : Parliamentary democracy
 Head of state: President Zillur Rahman
 (since 12 February 2009)
 Head of govt.: Prime Minister Sheikh Hasina Wajed
 (since 6 January 2009)
 Language: Bangla

Economy

The economy has grown 5-6% per year since 1996

GDP : (Purchasing power parity) \$259.3 billion (2010 est.)

country comparison to the world: 47

GDP per capita (ppp) : \$1,700 (2010 est.)

country comparison to the world: 196

GDP composition :

agriculture: 18.7%, industry: 28.7% ,services: 52.6% (2010 est.)

Labour Force :73.87 million (country comparison to the world: 8)

Labour force by occupation :

agriculture: 45%, industry: 30%, services: 25% (2008)

Export : \$16.34 billion (2010 est.) country comparison to the world: 73

Import : \$21.68 billion (2009 est.) country comparison to the world: 64

Source : CIA (2011) : The world Fact Book –Bangladesh

Bangladesh's EPZs

In order to stimulate rapid economic growth of the country, particularly through industrialization, the government has adopted an 'Open Door Policy' to attract foreign investment to Bangladesh. The Bangladesh Export Processing Zones Authority (BEPZA) is the official organ of the government to promote, attract and facilitate foreign investment in the Export Processing Zones.

Eligible investors

100% foreign owned including Bangladesh nationals ordinarily resident abroad (Type-A). Joint venture between foreign and Bangladesh entrepreneurs resident in Bangladesh (Type-B) 100% Bangladesh entrepreneurs resident in Bangladesh (Type-C).

Mode of Investment

Investment in convertible foreign currencies by foreign investors. Option to establish public/private Ltd companies or sole proprietorship/partnership concern.

Investment Guarantee

Foreign Private Investment (Promotion and Projection) Act 1980 secures all foreign investment in Bangladesh.

One window same day service and simplified procedure

BEPZA (Bangladesh Export Zone processing Authority)

- sanctions projects generally within one week.
- issues required Import/Export Permits.
- issues required Work Permits for foreign nationals working in EPZ enterprises.

<p>facilities and incentives facilities</p> <p>a. Land and factory building are available on rental basis.</p> <p>b. Electricity, water, gas and telecom are provided .</p> <p>c. Import and export permits are issued by EPZ.</p> <p>d. Work permits are issued by BEPZA.</p> <p>e. EPZ is a secured and protected area.</p> <p>f. Recreational facilities are available.</p> <p>Production oriented labour laws</p> <p>Limited right for formation of any labour union in EPZs.</p> <p>Minimum Wages (Monthly)</p> <ul style="list-style-type: none"> • Apprentices/Trainee US \$39.00 • Unskilled US \$53.00 • Semi-skilled US \$60.00 • Skilled –Grade 2 US \$66.00 • High skilled US \$109.00 <p>Other benefits include Conveyance Allowance, House Rent, Medical and Festival Allowance .</p> <ul style="list-style-type: none"> • Working Hours • 48 hours a week in a factory. • 40 hours a week in an office. <p>Employees leave</p> <p>10 days Casual leave</p> <p>17 days Annual leave</p> <p>VI. Employment</p> <p>a. Liberal employment of foreign technicians.</p> <p>c. Limited right to form labour union in the zones.</p> <p>Strike within the zones prohibited</p>	<p>Incentives</p> <p>Fiscal</p> <p>Tax Exemption</p> <p>a. Tax holiday for 10 years</p> <p>b. Exemption of income tax.</p> <p>c. Relief from double taxation</p> <p>d. Complete exemption from dividend tax</p> <p>e. Exemption of income tax on salaries</p> <p>Duty Free Import and Export</p> <p>a. import of machinery's and raw materials.</p> <p>b. Duty free import of three motor vehicles</p> <p>c. Duty free import of materials for construction.</p> <p>d. Duty free export of goods</p> <p>Non-Fiscal</p> <p>I. Investment</p> <p>a. All foreign investment secured by law.</p> <p>b. Repatriation of investment including capital gains, and profits</p> <p>e. Remittances allowed in following cases:</p> <p>f. All post tax profit and dividend on foreign Capital.</p> <p>II. Project financing and banking</p> <p>a. Off-shore banking facilities available.</p> <p>III. Import</p> <p>a. Freedom from national import policy restrictions.</p> <p>IV. Operation</p> <p>a. Sub-contracting within EPZ allowed.</p> <p>b. Intra-zone export permitted</p>
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Source : Bangladesh Export Processing Zone Authority (<http://www.EPZbangladesh.org.bd/>)

International Worker Rights Instruments in Bangladesh

Bangladesh has accepted, and signed all of the principal United Nations covenants on human and worker rights:

The International Covenant on Economic, Social and Cultural Rights (CESCR)
(Accepted)

The International Covenant on Civil and Political Rights (CCPR), which is monitored by the Human Rights Committee (Accepted on 5-01-1999)

The International Convention on the Elimination of All Forms of Racial Discrimination (CERD) (Accepted On 6-12-2000)

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) (accepted on 11-07-1979)

The Optional Protocol to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW-OP);(ratified on 22-12-2000)

The Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT) (Accepted on 04-11-1998)

The Convention on the Rights of the Child (CRC), (Ratified on 02-09-1990)

The International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (MWC).(signed on 07-10-98 , not ratified)

Source: Office of the United Nations High Commissioner for Human Rights
Available at

<http://cjei.org/publications/IAWJ%20Conference/NB%20List%20of%20ountries%20and%20treaties%20ratified%20Ratification%20repor.pdf>

Bangladesh has ratified all eight of the ILO's fundamental conventions reflected in the 1998 Declaration on Fundamental Principles and Rights at Work

Convention No. 29 on Forced Labour (Ratified on 22-6-1972)

Convention No. 87 on Freedom of Association and Protection of the Right to Organize (Ratified on 22-6-1972)

Convention No. 98 on the Right to Organize and Collective Bargaining
(Ratified on 22-6-1972)

Convention No. 100 on Equal Remuneration (ratified on 28-1-1998)

Convention No. 105 on the Abolition of Forced Labour (ratified on 22-6-1972)

Convention No. 111 on Discrimination (Employment and Occupation)
(Ratified on 22-6-1972)

Convention No 144.Tripartite Consultation (International Labour Standards
(Ratified on 17-04-1979)

Convention No. 182 on the Worst Forms of Child Labour
(Ratified on 12-3-2001)

Source: International Labour Organisation. Available at

<http://webfusion.ilo.org/public/db/standards/normes/appl/appl-byCtry.cfm?lang=en&CTYCHOICE=3090>

Appendix-E

Interview guides and questionnaire for this research

Set A : Unstructured interview guides and questionnaire For officials of Bangladesh Export Processing Zone Authority (BEPZA)

Name of the Interviewee:

Designation:

- Q1. Would you kindly tell me what efforts BEPZA has taken to implement standard workers' rights in Bangladesh's EPZs ?
- Q2. Is Bangladesh responsive to the changing global situation for improving workers' rights?
- Q3. Would you please tell me which global forces have influenced the acceptance of trade unions in the EPZs in Bangladesh ?
- Q4. What do you think are the conditions that influenced government in allowing trade unions to organise in the EPZs?
- Q5. What are the main constraints that you faced in allowing trade unions in EPZs? How did you overcome those constraints?
- Q6. Would you kindly explain what are the legal requirements for the formation of trade unions in EPZs ?
- Q7. Are there any laws or provision in the 'EPZ Workers' Association and Industrial Relations Act 2004' that restrict the right to collective bargaining?
- Q8. Are there any legal restrictions on trade union activities such as union access? to work place or on holding of union meeting ?
- Q9. Would you kindly tell me whether unions have the right to strike? What are the legal procedures for calling a strike in the EPZs ?
- Q10. Are there any provisions in EPZ law for settlement of dispute and worker's grievances? Would you mention a few evidences of dispute settlement?
- Q11. What general trends did you observe, in terms of anti-union practices? What legal actions may a union take to counter illegal anti-union action?
- Q12. Would you kindly describe any cases of violations of trade union rights in the immediate past ?
- Q13. Would you kindly pass your views about the performance of trade unions for protection of workers' rights in the EPZs?
- Q14. Would you please tell me whether trade unions require any major reform aiming to its democratic power and functions ?

Thank You

Set B: Unstructured interview guides and questionnaire

For the Official of EPZ Employers Association

Name of the organisation:

Name of the interviewee:

- Q1. Would you kindly tell me what are the main roles of your organisation towards the welfare of workers of your member enterprises ?
- Q2. Would you kindly tell me what efforts your organisation has taken to apply standard workers' rights in Bangladesh's EPZs ?
- Q3. Do you think you are committed to the changing the global situation for improving workers' rights ? Is it for the interest of the EPZ investors or for the working class or both?
- Q4. Would you kindly tell me which global factors compelled you to allow trade unions inside your member's enterprise in the EPZs ?
- Q5. Would you explain how EPZ employers are reacting or responding to the 'EPZ Workers' Association and Industrial Relations Act 2004' that allowed formation of trade unions in the EPZs?
- Q6. What are your views about the EPZ employer's attitude towards trade unions in the EPZ?
- Q7. Would you kindly tell me how you are extending your support for collective bargaining between trade unions and employers?
- Q8. What are your views about the overall performance of the trade unions in the EPZ ?
- Q9. Should trade unions continue in its present form or do they require major reforms in terms of operational procedure and in terms of the area of their activities ?

Thank you

**Set C: Unstructured interview guides and questionnaire
For the official of Trade Union Federation involved with EPZ workers**

Name of organisation:

Name of Interviewee (optional):

- Q1. Would you kindly tell me why you extended your solidarity to the EPZ trade union movement in Bangladesh ?
- Q2. Would you kindly describe how you are involved with the trade union movement of the EPZ workers ?
- Q3. Do you face any obstacles or repression from the government or from EPZ employers as a result of your involvement in the trade union movement.
- Q4. What supporting role are you playing for the protection of EPZ workers' rights?
- Q5. Do you think BEPZA is really committed to the proper implementation and functioning of trade unions in the EPZ ?
- Q6. Do you feel there are any weaknesses in the 'EPZ Workers' Association and Industrial Relations Act 2004' ? Do you think the implementation and monitoring system of BEPZA should be strengthened to this end ?
- Q7. What are your views about the EPZ employers regarding improving labour relations and honouring standard workers right in the EPZ ?
- Q8. What are your views about the performance of the trade unions in the EPZ? Should they continue in its present form or do they require major reforms in terms of operational procedure and area of their activities ?

Thank you

Set D : Unstructured interview guides and questionnaire
For official of the EPZ Employer

Name of the enterprise:

Interviewee name:

Designation :

Q.1 Regarding nature of job

- a. Would you kindly tell me the types of employee in your enterprise?
- b. What is the number or percentage of temporary and permanent workers?
- c. Is there any contract of employment? (Please specify nature of contract) what is the number or percentage of such employment ?
- d. Would you say whether a job can be terminated with or without prior notice? Is it same for temporary and permanent worker?

Q2. Regarding employee administration

- a. Are there any service rules for labour administration in your factory? If so, are they fully compatible with the standard labour rights or with national labour laws of the country ?
- b . Do you have any restrictions on the bargaining power of the trade union?
- b. Are you able to change working hours for the workers ? Normally when and under what circumstance can you change the working hours ?
- c . Are you able to change the job functions of the workers? Is it for the sake of work load or as a disciplinary action against the worker ?

Q 3. Regarding payment of wages

- a. Are you following national minimum wage rates for the workers?
- b. Are you paying the same wages for both male and female workers?
- c. Is there a higher rate for overtime work? Is there any gender disparity?
- d. Are you paying wages regularly? If there is any case of irregular payment? Please mention the reason for irregular payment.

Q 4. Regarding level of benefits

- a. Are you providing any non-wage benefits such as sick leave and maternity leave to the workers ? Are temporary and permanent workers are entitled to enjoy non wage benefits equally?
- b. Is there any insurance coverage for your worker? If so, what are they?
- c. Is there any provision for in-service training for the workers?

05. Regarding Union activities

- a. Would you kindly mention the role and performance of trade unions for dispute settlement and protection of workers' rights ?
- b. Do you have any restrictions on bargaining power of trade union?
- c. Please mention your attitude toward trade unions. Should trade unions continue in their present form ? To you, how trade union be made more effective for maintaining production friendly labour relations?
- d. Do you feel there is alternative to trade unions for protection of worker's rights? According to you what should be the alternative to trade unions?

Thank you

**Set E: Unstructured interview guide and questionnaire
For Trade Union official/ representative of the EPZ trade union**

Name of enterprise:

Name of the participant:

Designation:

Part A: About the union and process of union formation

Q1. Would you kindly tell me inception date or starting period of your union?

Q2. Would you tell me the process of forming trade unions in this enterprise?

Q3. Did you face any challenges during the process of formation of trade unions?
What would you say were some of the challenges that you encountered in the union formation stage ?

Q4. Would you throw some light on how you overcome those challenges?
Did you face any violence from government or employer?
Who has extended support to your trade union movement? How?

Part B. Regarding impacts of Trade union on workers

Q1. Would you kindly say whether your union help the workers to maintain their job security? Would you mention some evidences of your role?

Q2. Please tell me whether your union is playing a role for increasing wages for the workers. If so, will you kindly provide any evidence for it? How have wages increased?

Q3. Would you kindly describe how your union helps workers with regard to other non –wage benefits? What are those benefits?

Q4. Would you tell me how the union has helped the workers facing any departmental disciplinary actions .

Q5. Would you kindly tell me whether your union is playing a role in bringing better work conditions in and around the work place? If so how?

Q7. Would you kindly tell me how you helped workers transferring from temporary? worker to permanent worker ?

Q8. Would you tell me how you face work place power that is the employer and BEPZA for dispute settlement and reaching a collective bargaining agreement?

Q9. Would kindly mention evidence of dispute settlement and collective agreement?

Q10. Would you kindly tell me whether trade unions require any major reform for overcoming the obstacles and challenges to trade unions ?

Thank you

**Set E: Unstructured interview guide and questionnaire
For workers of EPZ enterprise**

Name of worker:

Sex: Male/female:

Name of enterprise:

Q1. Regarding Demographic information

- a. Did you migrate from a rural area? Can you remember when you first came here for work? Approximately how old you were at that time?
- b. Are you married? Are you the only wage earner of your family?

Q2. Regarding status and nature of job

- a. How did you find this job?
- b. What is the nature of your job? Is it temporary or permanent job?
- c. Do you think the risk of losing your job is very high?
- d. Are you working as unskilled or skilled category worker?

Q 3. Regarding earning and income

- a. Are you getting your wages on hourly, daily or monthly basis?
- b. Do you face any differences of wage rate due to gender difference?
- c. Do you receive any bonus such as festival bonus (Eid bonus)?
- d. Are you getting your wages as per minimum wage rate? Do you know your minimum wage rate?
- e. Are you getting your wages regularly?

Q4. Regarding level of benefits

- a. Are you aware of the other benefits that you are or may be entitled to?
- b. Are you getting any non wage benefits such as: sick leave, maternity benefit/holiday allowance?
- c. Are you entitled to leave/gratuity/group insurance/pension from the company?

Q5. Regarding work place and condition

- a. Are you normally working in standing or sitting position?
- b. Are you working with any hazardous equipment or in any risky position?
- c. Is your work place pollution free (such as sound protection, dust free/) is it properly ventilated?
- d. Is the work place over crowded? Is there adequate safety provision in the factory?
- e. Are you provided with safety materials such as (safety gloves, masks, helmet, fire protection)?
- f. Do you enjoy any break time during your work hours?
- g. Is there any medical clinic or first aid section in your factory?

Q6. Are you aware of your rights as worker? Have you ever heard about standard workers' rights? Do you know what the standard workers' rights contain?

Q7. Regarding employer control

- a. Do your hours of work vary frequently?
- b. Does it affect your physical condition or personal and family life?
- c. Do you face frequent changes in your job functions? If so how, does it affect you?
- d. Are you able to protest freely for any discrimination against you? If so how and to whom?
- e. Are you free to join a trade union? Are you a union member at present?
- f. Did you face any restrictions from any quarter for joining trade union?
- g. Did you participate in the trade union movement in the early stage? If yes under what capacity?
- h. Did you face any repression for your involvement in the union movement? If so, how did you overcome them?

Q8. Regarding impact of trade union on worker

Did the trade union help you in anyway? How has the union helped you?
Can you cite any particular evidence in support of your views?

Q9. Opinion about employer

- a. How do you feel about your employer? Do you feel your relationship with your employer is friendly to you? If not why not?

Q10. Attitude /Opinion about trade union

- a. Do you feel the trade union is really helpful for the well being of EPZ workers?
- b. Do you feel that union activities should be more strengthened? How can it be further strengthened?

Q11. Your comments about this research

Do you think this research will contribute any indication for improving workers' rights and the condition of trade unions in the EPZs ?

Thank you

BEPZA Instruction 1

Bangladesh Export Processing Zones Authority
House#19/D, Road#6, Dhanmondi R/A, Dhaka-1205

Instruction No 1 of 1989

Dated June 14, 1989

In exercise of the powers conferred under Section 3A of the Bangladesh Export Processing Zones Authority Act, 1980 (Act No XXXVI of 1980), the Bangladesh Export Processing Zones Authority hereinafter referred to as BEPZA, is pleased to issue following directives on SERVICE MATTERS CONCERNING WORKERS AND OFFICERS EMPLOYED IN THE COMPANIES OPERATING WITHIN THE EXPORT PROCESSING ZONES OF BANGLADESH

PART-I

1. These instructions shall apply to:

Workers, officers and Apprentices of the Companies, unless the terms and conditions of service have been determined under a contract specifically entered into by and between a company and the said employee.

Companies operating in the zones may have their own rules regulating the terms and conditions of employment and in that event no rules or terms and conditions of employment of an individual company shall be less favourable than those contained in these instructions

PART-II

1. Definitions:

- a) "Apprentice" means a learner who is paid an allowance or fixed pay during the period of his training;
- b) "Casual" worker is a person whose employment is of a casual nature;
- c) "Company" shall mean and include any undertaking registered in Bangladesh and operating in the Export Processing Zone or Zones of Bangladesh;
- d) "Employee" means any worker or officer in the company;
- e) "Employer" means the Board of Directors of the Company which inter-alia means the Chairman/ Managing Director/ Director of the Company or any other officer if so authorized by the Company in this behalf;
- f) "Factory" means the factory of the company and it shall include any workshop premises or the precincts thereof located in the Export Processing Zones of Bangladesh where ten or more workers are ordinarily employed;
- g) "Pay" means the amount drawn monthly or weekly by an employee as basic pay.
- h) "Workers" means any person including an apprentice employed in the office or factory of a company to do any unskilled, technical, trade promotional or clerical or supervisory work for hire or reward, whether the terms of employment be expressed or implied, but does not include any person who is employed mainly in a managerial, executive, or administrative capacity.

PART-III

Classification of employees

2. Classification of employees-Employees shall be classified as follows:

- a) Permanent;
- b) Temporary;
- c) Probationer;
- d) On Contract;
- e) Apprentice;
- f) Casual;

4. Description

(a) "Permanent-employee" is an employee who has been engaged on a permanent basis after satisfactory completion of four months service.

(b) "Temporary employee" is an employee who has been engaged for work which is essentially of a temporary nature and is likely to be finished within a limited time.

(c) "Probationer" is an employee who is provisionally engaged to fill a permanent vacancy in a post and has not completed the period of his probation. If a permanent employee is engaged as a probationer in a new post, he may be reverted back to his previous post if his work is found unsatisfactory at any time during the probationary period of six months.

(d) Employee on contract – An employee "On Contract" is a person with whom a specific contract of employment has been entered into. But the said contract shall not be less favourable to the employee than those provided in these instructions.

(e) Apprentice – means a learner who is paid an allowance during the period of his training.

(f) "Casual" employee is a person whose employment is of a casual nature.

PART-IV Service Record

5. Appointment letter:- An appointment letter, mentioning the terms and conditions of service, nature of work, pay and/or any other relevant matter shall be given to an employee concerned on his appointment, excepting in the case of casual employees.

6. Maintenance of Service records etc.:- Service records of the workers shall be maintained in a "Service Book" which will contain names & other particulars of the persons employed, date of employment, nature of work, rate of wages, leave taken & records of conduct etc.

PART-V

Leave and Holiday

7. Right to leave etc:-

(a) Leave is a privilege and cannot be claimed as a matter of right. The manager or the person empowered to grant leave shall have the discretion to refuse or revoke the leave of any description when the exigencies of his services so require.

(b) Leave entitlement shall be calculated on the basis of English calendar year.

(c) For the purpose of these instructions, the expression "Service" means-

(I). Actual days of work;

(II). Period of leave with pay;

(III). Compulsory "off" days;

(IV). Period of probation of the employee who is confirmed in a permanent post on the expiry of the probation period and

(V). The period of leave without pay not exceeding ten days.

(d) An employee shall be deemed to have completed a year's service notwithstanding any interruption in service during the year on account of authorized absence.

(e) An employee who remains absent for any period in excess of the period of leave originally sanctioned or subsequently extended shall be liable to disciplinary action unless he is able to explain his overstay in a satisfactory manner to his Manager. Such absence shall be treated as "Misconduct" and the employee shall be liable to such punishment as may be specified herein.

(f) Friday or Holiday falling in between the first & the last days of any leave period shall count as part of the leave.

(g) A "day or days off" which an employee becomes entitled to by virtue of having worked on a Friday or on a holiday notified by the Management shall be allowed to be affixed or prefixed to privilege leave.

(h) If the application for leave is on medical ground, the employee shall submit with his application a certificate from the Doctor of the Company at Station where such Doctor is available or from a qualified registered Medical Practitioner at places where his employer's Doctor is not available stating the probable period for which leave is required.

8. Casual leave and sick leave:-

(1) Every worker shall be entitled to casual leave with full wages for ten day in a year.

(2) Every worker shall be entitled to fourteen days' sick leave on half-average wages in a year.

Provided that sick leave or casual leave admissible under this section shall not be accumulated and carried forward to the succeeding year.

9. Day-off:-

An employee when required to work on a Friday or holiday a "day off" shall be given as a substitute on any other day.

10. Maternity Benefit:-

A female employee who has completed a minimum of ten months service shall be entitled, on application, to maternity leave with pay for six weeks before a six weeks after the confinement on ground of maternity (Child-birth). This benefit may be granted only twice in the whole period of service life of a female employee.

Provided further that maternity leave for the second time shall be admissible only after a period of 3 years from the date of availing of first such leave.

11. Earned Leave

An employee shall be eligible for earned for leave with pay for every completed year of service as under:-

(a) One day for every twenty two days of work performed by him during the previous period of 12 months.

(b) If an employee does not, in any such period of 12 months service, takes such leave to which he is entitled under sub-para (a) either in whole or in part, any such leave not taken by him shall be allowed to be added to the succeeding year provided that an employee shall cease to earn any leave when the earned leave due to him amounts to thirty days. If earned leave is refused in the interest of the company, employee shall have the option to encash the leave so refused.

12. Festival leave

(a) Every employee shall be allowed at least ten days festival holiday with pay in a Calendar year. The day or days and the dates for such festivals shall be fixed by the Management in such manner as they deem fit but in keeping with the general consensus of the employees.

(b) The day or days and dates of festival holidays shall be fixed and conspicuously notified in the month of January i.e. at the beginning of the year.

(c) An employee may be required to work on any festival holiday but two days compensatory holidays with pay shall be allowed to the employee within thirty days immediately after that holiday.

(d) If an employee so desires in writing, two days' pay in lieu of compensatory holiday may be granted.

PART-VI

TERMINATION/ RESIGNATION OF EMPLOYMENT

13. Termination of service:-

For termination of the services of a permanent/ temporary employee by the employer, 120 days' notice in the case of permanent employee and 60 days' notice in the case of Temporary Employee shall be given by his employer provided that pay for 120 days or 60 days, as the case may be shall be paid in lieu of such notice provided further that the worker whose employment is so terminated, shall be paid compensation at the rate of one month's pay for every completed year of service or for any part thereof in excess of six months in addition to any other benefits to which he may be entitled to under the terms of employment.

14. Resignation

- (1) A permanent employee shall be required to give one month's notice, should he wish to resign from the services of the company.
- (2) An employee who resigns from service of the company but fails to give the required notice shall surrender pay in lieu of such notice thereof.
- (3) The employer shall accept the resignation if due notice is given or due payment in lieu of notice is made or pay is surrendered in lieu of such notice.
- (4) Notwithstanding anything stated above no employee against whom a disciplinary proceeding is pending shall resign from the services of the company unless 60 days' have elapsed from the drawing up of the departmental proceeding. Provided that the employer may allow such employee to resign on such conditions as he may deem fit.

15. Discipline and grievance Procedure (1) Where an employee of the Company in the opinion of the employer is inefficient, or (b) corrupt, or (c) guilty of misconduct, the employer may impose on him one or more of the penalties specified in Para 16, if after enquiry, he is found guilty of any of the above charges.

Note 1 'Misconduct' means conduct prejudicial to good order or service discipline un-becoming of an employee or a gentleman and shall include:-

- (a) Wilful insubordination or disobedience, whether alone or in combination with others, to any lawful or reasonable order of a superior;
- (b) Theft, fraud or dishonesty in connection with the business or property of the factory/ enterprise;
- (c) Causing damage to any property of the factory/ enterprise;
- (d) Taking or giving bribes or any illegal gratification;
- (e) Habitual late attendance or habitual absence from duty without leave or without sufficient cause.
Absence without leave for ten days in a year shall be regarded as habitual absence without leave.
- (f) Continuous absence for more than ten days without permission and without satisfactory cause of absence;
- (g) Habitual breach of any law, order, instruction applicable to him;
- (h) Habitual neglect or negligence of work;
- (i) Wilful abstention or absence from work singly or with others;
- (j) Drunkenness, fighting & riotous, disorderly or indecent behaviour;
- (k) Taking part in or suspected or being engaged in subversive activities either alone or with others;
- (l) Collecting or canvassing or the collection of any money within the premises of the enterprise/Company/ factory for any purposes not approved by the employer.
- (m) Smoking within the premises of the company or enterprise/ factory where it is prohibited;
- (n) Distribution or exhibition within the boundaries of the premises of the

Company/ factory of any hand bill, pamphlets or poster without the previous permission of the competent authority.

- (o) Holding meeting within the boundaries of the premises of the Company/ factory without sanction of the employer;
- (p) Gambling within the boundaries of the premises of the Company/ factory;
- (q) Habitual indiscipline;
- (r) Leaving work without permission;
- (s) Sleeping while on duty;
- (t) Theft of any kind inside the premises of the factory/ company or within the zone.
- (u) Giving false information regarding name, age, qualifications, previous service etc;
- (v) Carrying on money lending or any other private business, within the premises of the factory/ company;
- (w) Sabotage or wastage caused to materials & stores of the company/ factory;
- (x) Malingering and slowing down work either alone or in collaboration with others;
- (y) Conviction in any court of law for any criminal offence;
- (z) Improper use or non- use of protective clothing, uniforms (if any) while on duty;

16. Penalties:-

(1) The following are the penalties which may be imposed by the employer upon an employee-

- (a) Censure;
- (b) Stoppage of increment or promotion on grounds of inefficiency, irregular attendance and misbehaviour;
- (c) Recovery from the pay of the employee of the whole or part of a pay to defray any pecuniary loss caused to the company/ enterprise by negligence, default or breach of orders or of contract on the part of the employee;
- (d) Reduction in rank;
- (e) Dismissal from service;

(2) No penalty shall be imposed on any employee without disciplinary proceedings. If the employee concerned remains under suspension during the period of the enquiry, he will be entitled to subsistence allowance for the period of suspension equivalent to half of his average basic pay and full amount of house rent allowance and medical allowance. In the enquiry if he is found not guilty of the charges he shall be entitled to the rest of the amount of his pay for the period of suspension.

17. Enquiry procedure:

(1) When an employee is to be proceeded against for any offence under Para 15 above, the employer shall:

(a) Frame a charge sheet specifying the charges brought against an employee and communicate it to the employee concerned (hereinafter called the accused) on which it is based;

(b) Require the accused to submit within three days from the day the charge has been communicated to him, a written statement of his defence.

(2) The employer shall appoint an Enquiry officer/ Committee to hold an enquiry.

(3) The employer may nominate any person/ officer to present the case in support of the charge sheet before the Enquiry officer/ Committee.

(4) The enquiry officer/ Committee shall follow the following course of actions while conducting enquiry against any accused employee.

(a) The Enquiry officer/ Committee shall issue a notice asking the accused to appear before the Enquiry officer/ Committee at a particular place stating the specific time of appearance with

all documentary evidence and witnesses if any with a copy to the nominee of the employer/company who will present the case in support of the charge sheet before the

Enquiry officer/ Committee.

(b) The accused shall be entitled to cross examine the witnesses against him and he should be allowed to present witnesses in his defence.

(c) The Enquiry Officer/ Committee shall record the statement of the accused and witnesses of both sides and shall obtain signature of all the witnesses in their respective statements duly read over to them in the language they understand. If the accused so agrees, his signature should be obtained in the statements of all witnesses to keep a record that the evidence of all the witnesses were taken in his presence. If the accused refuses to sign the statement at the time of enquiry, this fact should also be recorded and signed by other witnesses and the Enquiry Officer/ Committee.

(5) If the accused person admits the charge against him the Enquiry Officer/ Committee will record 'Pleads Guilty' and thereafter shall give his/ its findings.

(6) If the accused Pleads 'not guilty' then all witnesses in support of the charge sheet will be examined individually in presence of the accused. No witness shall be allowed to be present during the examination of another witness.

(7) If the accused, after being duly informed, absents himself from the enquiry without proper reason or permission, the enquiry shall proceed expert.

(8) The enquiry shall be confined to the charges and no irrelevant evidence shall be admitted by the Enquiry Officer/ Committee.

(9) The Enquiry officer/ committee shall submit his/ its report to the employer with his/its findings.

(10) The employer, having regard to the findings on the charges, shall pass appropriate orders.

18. Suspension: An employee against whom a disciplinary action is proposed to be taken may be placed under suspension pending enquiry into the charges.

Provided that the company may, instead of his suspension, require him to proceed on such leave as may be due and admissible to him from such date as may be specified in that order.

19. Grievance procedure- Any individual employee including a person who was has been dismissed, discharged, laid off or otherwise removed from employment and who has a grievance in respect of any matter covered by these instructions and intends to seek redress thereof shall observe the following procedures:

(a) The employee concerned shall bring his grievance to the notice of his employer in writing within 15 days of the occurrence of the cause of such grievance and the employer shall, within 15 days of receipt of such grievance, inquire into the matter and give the employee concerned an opportunity of being heard and communicate his decision, in writing, to the said employee.

(b) If the employer fails to give a decision under clause (a) or if the employee is dissatisfied with such decision, he may make a representation to BEPZA within 30 days from last date of the decision with which he is dissatisfied or within 30 days from the last date of imposition of the first penalty under para 17(10), as the case may be.

(c) On receipt of the said representation under clause (b) the Executive Chairman, may constitute a Committee of Enquiry with one or more officer of the BEPZA not below the rank of a deputy General Manager or equivalent who will enquire into matter giving due hearing to the parties concerned and submit the report to the Executive Chairman of BEPZA or to an officer designated by the Chairman for the purpose.

(d) In deciding the matter the Chairman or such designated officer may pass such orders as he may deem just and proper.

20. "Lay off"

(a) Whenever a worker (other than a badli or casual worker) whose name is borne on the muster-roll of a company and who has completed not less than one year of continuous service under the employer is laid-off, he shall be paid by the employer, for all days during which he is so laid-off, except for such weekly holidays, as may intervene, compensation which shall be equal to half of the total of the basic wages and dearness allowance, and the full amount of housing allowance, if any, that would have been payable to him had he not been so laid-off:

(1) Provided that a badli worker whose name is borne on the master-rolls of the company shall cease to be regarded as such for the purpose of this section, if he has completed one year of continuous service in the company.

Provided further that no worker shall, unless there is an agreement to the contrary between him and the employer, be entitled to the payment of compensation in the aforesaid manner for more than forty-five days during any calendar year.

(2) Notwithstanding anything contained in the above proviso, if during a calendar year a worker is laid-off for more than forty-five days, whether continuously or intermittently, and the lay-off after the expiry of the first forty five days comprises periods of fifteen days or more the worker shall, unless there is an agreement to the contrary between him and the employer be paid for all the days comprised in every subsequent period of lay-off for fifteen days or more, compensation which shall be equal to one-fourth of the total of the basic wages and dearness allowance, and the full amount of housing allowance if any, that would have been payable to him had he not been so laid-off.

(b) In any case where, during a calendar year, a worker is to be laid-off, after the first forty-five days as aforesaid, for any continuous period of fifteen days or more, the employer may, instead of laying-off such a worker retrench him under section 21.

(c) Master-roll for laid-off workers: Notwithstanding that the workers or any section thereof employed in a company have been laid-off, it shall be duty of every employer to maintain a master-roll, and to provide for the making of entries therein by or for the laid-off workers who may present themselves for work at the company for work at the company at the appointed time during normal working hours.

(d) Workers not entitled to compensation in certain cases:-

(I). If he refuses to accept, on the same wages, any alternative employment not requiring any special skill or previous experience, in the same shop or the commercial or industrial establishment from which he has been laid-off, or in any other company belonging to the same employer and situated within a radius of five miles from the company.

(II). If he does not present himself for work at the company at the appointed time during normal working hours at least once a day if so required the employer; or

(e) If such lay-off is due to unauthorized absence from work by workers in another part of the company.

21. Retrenchment:

(1) Where an y employee is to be retrenched on ground of redundancy and he belongs to a particular category of employee, the employer shall ordinarily follow the procedure of 'Last Come First go'.

The employer may deviate from this order for reason of special efficiency of an employee and in exceptional circumstances.

An employee who has rendered a continuous service for not less than one year under his employer shall be given one month's notices or one month's pay in lieu of such notice for his retrenchment.

(2) Re-employment of retrenched employee-where any worker is retrenched, and later on the company proposes to recruit any person within a period of one year from the date of such retrenchment, the employer is expected to give an

opportunity to retrenched employee belonging to the particular category concerned.
(3) A retrenched employee shall be entitled to receive one month's pay as compensation for every completed year of service or for any part thereof in excess of 6 month.

22. Discharge:-

An employee may be discharged from service for reason of physical or mental incapacity or continued ill-health or such other reasons not amounting to misconduct. Such employee having completed one year of continuous service, if so discharged, shall be paid compensation by the employer at the rate of one month's pay for every completed year of service or for any part thereof in excess of 6 months.

23. Stoppage of work:-

The employer may at any time, in the event of fire, catastrophe, break-down of machinery or plant, or stoppage of power supply, epidemics, civil commotion or other causes beyond his control, stop the work of any section of the company wholly or partly for any period. An employee who has completed not less than one year of continuous service under his employer may be laid-off in case of this stoppage of work, but he shall be paid compensation for all days during which he is so laid-off, at the rate of half of his basic pay including full amount of house rent and medical allowance if such allowances are paid as part of the pay every month as per rules of the company, provided that no employee shall be entitled to the payment of such compensation for more than 45 days unless there is an agreement between the parties. After 45 days of "lay off", if there is no agreement, the employees may be retrenched by giving him 30 days pay as notice pay and compensation @ one month's pay for every completed year of service or for any part thereof in excess of 6 months if the stoppage of work so continues after 45 days.

24. If an employee refuses to accept any notice, letter, charge sheet, or an other order or document addressed to him by his employer, it shall be deem that such notice, letter, charge-sheet or document has been delivered to him if a copy of the same has been exhibited on the Notice Board and another copy has been sent to the address of the employee, as available from the record of the employer, by registered post.

25. Provident Fund:-

No employee, who is a member of a Provident Fund of the company shall be deprived of his subscription to Provident Fund due to retrenchment, dismissal, discharge or termination from service, if he is so entitled to it under the rules of the Fund.

26. If the services of an employee are dispensed with as a result of retrenchment, termination, retirement or by reason of his resignation before he has availed any of his earned leave, the employer shall pay in lieu of the unavailed Earned Leave.

27. In case of any general disagreement on any common issue between the employer and the employees, the matter may be referred to BEPZA in which event BEPZA may appoint an officer, not below the rank of a Deputy Secretary or equivalent to act as an Arbitrator or conciliator for settlement of such an outstanding issue.

28. Notwithstanding anything contained hereinabove, an in-case of an unauthorised absence from work or slowing down of work by a group, the company may discharge or dismiss some or all of such employees or inflict such other punishment on them by notice posted on the Notice Board, after obtaining written permission from the BEPZA. Before giving such permission, BEPZA may endeavour to cause an amicable

settlement of the point at issue.

29. Settlement of individual grievances- In case of any individual grievance.

(1) The employee concerned shall place his grievance before the competent Authority of the company through proper channel.

(2) If the employee is not satisfied with the decision of the employer he may make a representation to the Manager (Industrial Relations) of the Zone who may dispose of the case himself or in appropriate cases refer the same to BEPZA for decision and BEPZA will give a decision in the matter after hearing the parties.

CHAPTER-VIII

Welfare

30. Washing facilities-

There shall be provided and maintained in every company a reasonable number of toilets and washing facilities.

31. FIRST AID to the injured-

There shall, in every factory, be provided and maintained, so as to be readily accessible during all working hours, FIRST-AID boxes or FIRST-AID Cupboards equipped with at least-

(i). Sterilized dressings items.

32. REST ROOM/CANTEEN:

In every company there shall be a suitable rest room where employees can take rest or can eat their meals brought by them and where the number of the employees is more than 100 the employer shall provide canteen facilities for the employees. Rest room/ Canteen must have adequate drinking water available for the employees.

33. Protective Clothing: The Management shall provide proper protective clothing gears etc. to employees, who work on machines, handle toxic chemicals or perform specialized job or in cases where the Management considers protective clothing's or uniform necessary for them in the interest of preventing accidents.

34. Each company shall contribute a sum of money of BEPZA per year as prescribed by the Authority for the maintenance of EPZ Medical Centre established for providing First Aid medical services to the employees of the companies within EPZ.

CHAPTER-IX

SOCIAL SECURITY

35. COMPENSATION FOR INJURY SUSTAINED WHILE ON DUTY

The relevant laws of the country shall apply.

CHAPTER-X

PAYMENT OF WAGES

36. Payment of Wages:

(a) For employees paid on monthly basis, salary shall be paid by the 7 day of the following month.

(b) For employees paid on weekly basis, wages shall be paid by the 1 working day of the following week.

(c) For terminated employees, termination benefit and any other dues payable to the terminated employees shall be paid within 7 days from the date of termination.

37. The Authority may determine from time to time the minimum wages of the employees of any company operating within EPZ. The Authority shall communicate its decisions in this regard from time to time to the company concerned for implementation.

38. Every employee, having completed a minimum of six months continuous service, shall be entitled to

2(two) months basic wages as festival bonus in a year payable in 2 (two) installments i.e. one on the eve of Edi-ul-Fitre & the other on the occasion of Eid-ul-Azha for Muslim employees. For employees belonging to other communities, the festival bonus may be paid on the eve of their major religious festivals

39. Management of each company operating in EPZ shall establish a Provident Fund for the employees of the company and required rules shall be framed therefore for the operation of the said Fund.

40. BEPZA may, in its discretion, revise or amend the above instructions if it so likes or may issue, from time to time, such additional instructions, as it may deem fit, covering any matters pertaining to employees and such instructions shall be complied with by companies operating in EPZs of Bangladesh.

Some evidences on violation of trade union rights in Bangladesh

A: Regarding Employers power and repression

Abstract from Annual survey of violation of trade union rights in Bangladesh . available at official website of International Trade union Confederation at <http://survey07.ituc-csi.org/getcountry.php?IDCountry=BGD&IDLang=EN> (All the reporting dates relates to the year 2007)

Systematic firing of leaders organising WRWC in factories in EPZs: Employers routinely harassed, intimidated, suspended and fired the leaders of WRWCs and the BEPZA systematically failed to protect WRWC leaders from these campaigns.

WRWC committee members were routinely suspended by employers without prior approval from BEPZA, making those suspensions illegal – but in most cases, BEPZA took no action to overturn those suspensions. Factory owners' systematic effort to repress workers' exercise of the limited freedom of association rights provided to them by the EPZ law is clearly indicated by the extraordinary number of violations. The total and systematic failure of government officials and BEPZA authorities to protect WRWC leaders significantly undermined the extension of associational rights to workers promised by the EPZ law.

For example, at Honorway Textiles and Apparels, a WRWC election scheduled for May was postponed and in July, before the election could be held, management compelled 37 workers (including 11 WRWC candidates) to resign. Local police were called in by management to ensure that the 37 workers did not resist management's order. Over the ensuing months, management continued to delay the WRWC election. Finally, in October, workers stated that BEPZA official Tahera Begum visited the factory several times, and told workers it was too close to the 31 October deadline to hold an election and therefore WRWC committee members would have to be appointed. The workers refused, and insisted on reinstatement of the 11 fired workers and an election.

At the Shaha Denims Ltd factory, Aminul Islam, the WRWC convener elected in April, was terminated soon after his election based on a charge of unspecified 'misconduct' filed by management. While admitting the firing was wrong, the BEPZA officials claimed to labour advocates raising the case that the officials could do nothing because the factory was owned by an ex-Minister who was too influential for them to compel to follow the law. On 26 July, management charged another WRWC leader, Mohammed Nurul Islam, with 'misconduct' and suspended him indefinitely. Despite receiving a written appeal, BEPZA failed to investigate, intervene, or take any other action in this case.

Meanwhile, Alfa Package Ltd. suspended the WRWC convener, Masud Munshi, and another WRWC committee member, Nurul Amin, on unsubstantiated 'misconduct' charges which workers claimed were connected to their work as leaders of the WRWC. When these workers filed complaints to the BEPZA and to the General Manager of the Dhaka EPZ, no action was taken to resolve the case, and no formal reply to their written appeals was made. Finally, on 8 October, Nurul Amin was informed by factory management that the BEPZA Chairman had agreed to Amin's firing – despite the fact that at no time was Amin given the opportunity by BEPZA to provide evidence or reply to the company's allegations against him.

Zong Shine Textile Industries Ltd temporarily suspended WRWC leader Rezaul Karim in March for unspecified 'misconduct' charges, and then in May extended his suspension without pay indefinitely, effectively firing him. Rezaul Karim made repeated requests to the BEPZA and the General Manager of the Dhaka EPZ to set aside this illegal suspension order but his appeals were apparently ignored.

Red Point Jackets Ltd factory owner Masud Rana filed criminal cases in July against WRWC convener Ramjan Ali, and six other WRWC committee members, for alleged crimes, presumably committed during their work as labour activists. Management then issued suspension orders without prior BEPZA approval. Ramjan Ali was jailed by police and refused bail for months, while the remaining six workers were allowed to post bail and were released. In November, workers stated that BEPZA officials told the seven workers it could never force Red Point management to accept them back into the factory and so the seven workers should resign in exchange for a termination payment.

At LSI Industries, Kabir Hossain, the convener of the WRWC, was issued by management with a letter of misconduct after forming the WRWC in May, and then was terminated in mid-June. After strong representations by Solidarity Centre (the AFL-CIO's American Center for International Labour Solidarity) and other worker advocates, BEPZA issued a letter to LSI industries informing them that the termination was contrary to the law .

Shah Alam, a core member and activist of the WRWC, was suspended indefinitely on specious grounds of 'misconduct' by Youngone Hi-Tech Sportswear Industries Ltd in October. An appeal was filed with BEPZA.

SG Wicus (BD) filed a criminal case against 16 workers in the factory, including four WRWC members, on 26 August. The WRWC members were suspended without pay.

B : Repression against recent industrial action

Abstract from the Annual survey of violation of trade union rights in Bangladesh

Available at official website of International Trade Union Confederation (ITUC) at <http://survey.ituc-csi.org/Bangladesh.html#tabs-5>)
(All the reporting dates relates to the year 2010)

Garment workers including EPZ workers began protests in April to demand a minimum wage of BDT 5,000. These protests continued throughout the year, and many were met with violent repression. Trade union leaders were arrested, tens of thousands of workers charged in connection with the protests.

Raids threats for labour activists reported : On 30 July plain clothes police raided the house of the Bangladesher Samajtantrik Dal General Secretary Khalequzzaman and that of the Jago Bangladesh Garment Workers' Federation President, in Dakha. Police were also looking for Garment Workers' Unity Forum President; General Secretary of the Bangladesh Textile Garments Workers Federation. President of the Bangladesh Textile and Garment Workers Federation; Bangladesh Garment Sramik Trade Union Kendra General Secretary and others, as they were accused in complaints filed with the Tejgaon police. On 31 July, Garment Sramik Oikkyia Parishad President Mushrefa Mishu said that she had received several telephones threats on the night of

30 July from a person who claimed to be a Special Branch officer who said that she would be arrested .

Police violence against protesting garment workers :

Protests at garment factories were widespread throughout the year and were often met with police brutality. Workers protesting over wage demands were frequently injured due to the use of batons and rubber bullets by the police to break strikes. Some of the incidents included the following: in Ashulia, nearly 50 garment factories suspended operations on 11 January when 40 people were injured during a demonstration of about 9,000 garment workers from three factories of the Envoy Group; about 40 workers of Navana Textiles Ltd (Navana) were injured on 12 April during a demonstration of 2,300 protesting Navana workers.

Numerous arrests of union leaders/workers:

Numerous union leaders and workers were arrested in connection with garment workers' protests during the year. Some went into hiding. Among those arrested were Garment Workers Trade Union Centre adviser Mantu Ghosh on 31 July; Mohammad Shahidul Islam, President of the Kendriya Garments Sramik Dal; and six Florate Fashion Wear Ltd garment workers on 8 and 9 August; Jatiyatabadi Garments Sramik Dal President Haji Shahidul Islam was arrested on the morning of 9 August; Garment Labour Trade Union Centre (GLTUC) Vice-president Tuhin Chowdhury on 2 September; Garment Sramik Oikkya Parishad President Mosrefa Mishu on 14 December; Baharane Sultan Bahar, President of the Jago Bangladesh Garments' Workers' Federation on 16 December; and Evergreen Products Factory (BD) Ltd factory workers Noor Alam and Motiur Rahman on 18 December.

Factories close, dismiss workers amid protests:

Numerous garment factories closed and dismissed their workers, citing "worker unrest" as the reason for such actions. Some of the factories that closed and/or dismissed workers include the following: Pearl Garments Company Ltd of Indian-owned Epic Group in Ashulia dismissed 148 workers out of its total workforce of 1,350 on 17 April; on 10 June, Shomahar officials suspended operations for five days after workers demanded a wage increase; on 20 June, garment workers at the Oceanian Sweater Ltd at Dendabar, Savar, Dhaka, protested over the payment of wages; and three Envoy Group factories also announced layoffs after their workers demanded release of their co-workers arrested in the 13 June protests.

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