



UNIVERSITY
OF TRENTO - Italy

School of International Studies

**ECONOMIC SECURITY FOR THE WORKING POOR?
TRADE-LINKED LABOR STANDARDS, WORKERS' RIGHTS, AND
THE POLITICS OF REPRESENTATION OF BANGLADESH'S
GARMENT WORKERS**

A DISSERTATION SUBMITTED TO
THE SCHOOL OF INTERNATIONAL STUDIES
IN CANDIDACY FOR THE DEGREE OF
DOCTOR OF PHILOSOPHY

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TRENTO, ITALY
APRIL 2012

ABSTRACT

Labor standards have been introduced in both developed and developing countries with the presumption that there is synergy at work in the relationship of labor standards and workers' rights. Standards translate into workers' rights, and enhance workers' economic security. The question I address in this dissertation is whether the inherent link in the nexus makes the transformation towards workers' economic security possible, and what factors do shape standards to transform into rights, and in turn, influence economic security. Focusing on the forms of labor standards, I argue that the choice of instruments and the transformation process determine whether the link automatically creates synergy, or produces tensions /conflicts. The dissertation shows that synergistic or conflicting relationship depends upon the internal dynamics of the institutional mechanisms, and myriad of interest groups through which workers' interests are (mis)represented. Taking labor standards installation in Bangladesh and the concomitant transformation mechanisms for the increasingly globalized garment sector workers as a case in point, I claim that the issue of workers' economic security has been lost in the whirlpool of standards, rights, and representation. This study shows that labor standards in Bangladesh installed through three routes— rights legislation, rights conditionality, and corporate codes—have hardly translated into workers' rights, and these provisions largely have failed to promote the workers' economic security. The failure to transform labor standards into workers' rights and workers' economic security is best explained by the lack of adequate and effective representation of the working poor by the various interest groups. I argue that the inability of the institutional mechanisms to address the needs of the working poor is due to acts of omission and/or commission by both the state and non-state actors. The 'standards-rights-economic security' nexus can only work for an equitable outcome for workers if there are adequate and effective forms of workers' representation in the institutional mechanisms. The politics of representation drives the outcome of the nexus.

ACKNOWLEDGEMENTS

This dissertation is the product of many years of love and labor. I could not have done it alone. A number of advisors, colleagues and friends have been helpful at various stages of the conceptualization and writing process. I have incurred many debts to them.

I recognize the persons without whom I could not have made it through the dissertation. Professor Giorgio Guido Fodor has been a gracious mentor. I express my profound gratitude to him for his extraordinary support, patient guidance, and valuable critiques throughout my dissertation work. Professor Vincent Della Sala has been a committed advisor, discussing ideas, reading drafts, and showing enthusiasm for the project. Mark Beittel has been instrumental in providing valuable suggestions, inputs and motivation in connection with the quality of the dissertation. Mariya Shisheva contributed her time and ideas, and supported in making my Ph.D. experience productive and stimulating. I put on record my appreciation to Ton Notermans and Rosaria Astarina who provided indispensable administrative support throughout.

I am indebted to some institutions as well. My appreciation first must be extended to the School of International Studies, University of Trento for the institutional and financial support for the study. I was lucky to land as a visiting fellow in the Industrial and Labor Relations School at the Cornell University, where Professors Sarosh Kuruvilla, Lance Compa, Maria Lorena Cook, and Risa L. Lieberwitz provided invaluable ideas and support to my study. The Institute of Bangladesh Studies, University of Rajshahi allowed me a study leave to carry out the research work.

I thank the participants to the sessions of the Dissertation Writing Workshop at the University of Trento who have provided critical and extremely useful comments on early drafts. I acknowledge inputs provided by numerous participants of SIS Graduate Student Conference in December 2007, seminar at the University of Rajshahi in February 2008, and ILR LR 980 & ICL Workshop at the Cornell University in April 2009. I received valuable guidance and support from Sultan Uddin Ahmed of Bangladesh Institute of Labour Studies and Professor Shelley Feldman of Cornell University. My appreciation to Afroza Akter for assisting me in data collection, and to ASM Asaduzzaman, Mizanur Rahaman, Mostafiz Ahmed, Mir Mustafizur Rahman, Ali Manash, Monower Mostafa, Nasir Ahmed, Zahangir Hassan, Mazhar Hasan Mazumder, and Syam Ali Khan for their help in organizing the study.

I owe my deepest gratitude to my parents, Abdul Wohab Talukder and Fatema Begum, for raising me in the way I am. I thank my wife Tania Ahmed and sons—Prottay Protivash and Aniruddha Anuprash—for their support during these years. After working on it for over five years, both I and they are ecstatic that I no longer have to dwell on getting my dissertation completed.

And finally, I thank all those whom I interviewed for so generously sharing their perspectives, knowledge, and experiences. I particularly thank all the garment workers in Bangladesh for offering me inspiration. In many ways they have been the source of strength and it is to them that my work is dedicated.

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ACRONYMS

ACP	African Caribbean and Pacific Countries
AFL-CIO	American Federation of Labor and Congress of Industrial Organizations
AGOA	African Growth and Opportunity Act
BDT	Bangladeshi Taka
BEPZA	Bangladesh Export Processing Zones Authority
BGMEA	Bangladesh Garment Manufacturers and Exporters Association
BILS	Bangladesh Institute of Labour Studies
BJS	Bangladesh Jatiyatabadi Sramik Dal
BJS	Bangladesh Jatiyotabadi Sramik Dal
BJSJ	Bangladesh Jatiya Sramik Jote
BKMEA	Bangladesh Knitwear Manufacturers and Exporters Association
BLA	Bangladesh Labor Act
BMSF	Bangladesh Mukto Sramik Federation
BMSF	Bangladesh Mukto Sramik Federation
BNP	Bangladesh Nationalist Party
BSCI	Business Social Compliance Initiative
BSSF	Bangladesh Sanjukta Sramik Federation
CB	Collective Bargaining
CBA	Collective Bargaining Agent
CoC	Codes of Conduct
CRC	Convention on the Rights of the Child
DFQF	Duty Free Quota Free
DIFE	Department of Inspection for Factories and Establishments
DIR	Department of Industrial Relations
DoL	Department of Labor
DSI	Development Synergy Institute
EBA	Everything But Arms
EPZ	Export Processing Zone
ETI	Ethical Trading Initiative
EWAIRA	EPZ Workers' Association and Industrial Relations Act
FDI	Foreign Direct Investment
FFS	First Field Survey
FGD	Focus Group Discussion
FLA	Fair Labor Association
FoA	Freedom of Association
FWF	Fair Wear Foundation
FY	Fiscal Year
GDP	Gross Domestic Products
GoB	Government of Bangladesh

GRI	Global Reporting Initiative
GSP	Generalized System of Preference
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ILC	International labor Conference
ILO	International Labour Organisation
IMF	International Monetary Fund
JO-IN	Joint Initiative on Corporate Accountability and Workers' Rights
JSF	Jatiya Sramik Federation – JSF
JSF,B	Jatiya Sramik Federation, Bangladesh
JSL	Jatiya Sramik League
KII	Key Informant Interview
LDCs	Least Developed Countries
LFS	Labor Force Surveys
MDGs	Millennium Development Goals
MES	Monitoring and Evaluation Survey
MFA	Multi Fibre Agreement
MFN	Most-Favored Nation
MOLE	Ministry of Labour and Employment
NAALC	North American Agreement on Labor Cooperation
NAFTA	North Atlantic Free Trade Agreement
NGOs	Non-Government Organizations
NICs	Newly Industrialized Countries
OECD	Organization of Economic Cooperation and Development
PPP	Purchasing Power Parity
RoO	Rules of Origin
RAB	Rapid Action Battalion
SADC	Southern African Development Community
SAI	Social Accountability International
SFS	Second Field Survey
SKOP	Sramik Karmachari Oikya Parishad
TCC	Tripartite Consultative Council
TDA	Trade and Development Act
UDHR	Universal Declaration of Human Rights
USTR	United States Trade Representative
WRAP	Worldwide Responsible Apparel Production
WRC	Workers Rights Consortium
WTO	World Trade Organization

INTRODUCTION

The introduction of labor standards in both developed and developing countries presumes synergistic relationship of labor standards and workers' rights. Labor standards— the minimal rules for workplace conditions and outcomes imposed by legal mandate (Freeman 2003)— translate into workers' rights, and enhance access to workers' basic needs as well as work and workplace related security, defined broadly by the ILO (2004a) as workers' economic security. The nexus between the standards, rights and economic security is heightened further with the advent of international restructuring of production in recent decades—a transformation which has brought workers in countries at very different levels of development into direct competition with each other. The competitive pressures originating from economic globalization in general and the shift from exporting primary goods and raw materials to also exporting manufactured goods and intermediate inputs in particular have challenged the abilities of both state and non-state actors to ensure workers' economic security. The inabilities to access benefits and withstand challenges have been linked to incomplete and inappropriate rules; and promoting and protecting workers' economic security through labor market regulations have been seen as a necessary corrective to the problem. The nexus between the trade-linked labor standards, workers' rights and economic security is the subject of this dissertation.

With much of the developing world plagued by persistence of the working poor,¹ unemployment and underemployment, and precarious work, the need for ensuring workers' economic security has been amply emphasized. The World Commission on the Social

¹ Working poor are those who are unable to lift themselves and their families above the poverty threshold, though conventionally they are counted as participants in the labor force. Based on World Bank's poverty estimates threshold of USD 1.25 a day in 2005 prices, about 1.4 billion people in developing countries are living in extreme poverty (950 million on previous threshold of USD 1 per day) (ILO 2009a).

Dimension of Globalization calls, "The rules of the global economy should be aimed at improving the rights, livelihoods, security, and opportunities of people, families and communities around the world" (ILO 2004b: 143). The 1995 World Summit for Social Development upheld that employment and decent work need to be at the center of economic and social policies aimed to achieve the key Millennium Development Goal (MDG) – reducing poverty by half by the year 2015.² The centrality of social protection to poverty reduction is now widely recognized, as evidenced by the inclusion of a new target to “achieve full and productive employment and decent work for all, including women and young people” in the MDGs.³ Ensuring economic security is not only about limiting the impact of uncertainties and challenges workers face but also about providing a social environment in which workers belong to a range of communities, have a fair opportunity to pursue a chosen occupation, and develop their capacities (ILO 2004a).

The justification for workers’ economic security is numerous. One of them is the constraints to workers posed by *risks* of various sorts e.g., returns to labor and production, the system of social transfer, income earning opportunities, job satisfaction, occupational health and safety, skill reproduction, and individual and collective representation. It is justified in utilitarian terms on the basis of real and potential losses arising from market failures and the ability of public action to prevent or compensate for these losses.

Workers’ economic security too is justified on the grounds of non-satisfaction of *needs* of workers e.g., income, job, skill reproduction, representation, and occupation health

² The MDGs aim to reduce poverty and hunger, and tackle ill-health, gender inequality, lack of education, lack of access to clean water and environmental degradation. It is a compact, which recognizes the efforts that must be undertaken by developing countries, and the contribution that developed countries can make as well as the importance of all countries working in partnership for the betterment of all, in particular the most vulnerable.

³ Recognizing that decent and productive work for all is central in addressing poverty and hunger, MDGs in 2008 included target 2, “Achieve full and productive employment and decent work for all, including women and young people”, under Goal 1 of halving poverty by 2015.

and safety. There are both moral and practical grounds. The moral case asserts that the satisfaction of basic needs of workers along with others is a good thing in, and of, itself. The practical claims rest on the argument that satisfaction of basic needs is good not only intrinsically, but also instrumentally since expenditure on basic needs of workers (e.g., education and training, health and hygiene, housing and sanitation) is considered as investment, not merely as consumption.

Another of the justification comes from the arguments of fulfilling *rights*. This ground asserts that workers' as human beings have legally enforceable social, economic, political and civic claims. These claims however are asserted on two grounds. One is natural law; all humans have rights because of their inherent dignity. The other ground is that rights are legally binding obligation; human rights exist, because the majority of the world's states have ratified a certain number of human rights treaties, or because national constitutions confer rights on their citizens.

In today's globalized economy, labor standards are seen as essential for ensuring that the global economy provides benefits to all workers. True, the need for ensuring economic security for the workers is not an issue only of the Least Developed Countries (LDCs) but equally important for the industrialized economies. The ILO report (2004a) finds that the global distribution of economic security does not correspond to the global distribution of income.⁴ Economic security remains out of reach for the vast majority of the world's workers. Many live in circumstances what the report calls "a world full of anxiety and anger." In developing countries, especially in the LDCs, the labor market is

⁴ Some lower-income countries have achieved higher levels of economic security than some of the rich countries. South and South-East Asia have greater shares of economic security than their share of the world's income. Whereas South Asia has about 7 per cent of the world's income, it has about 14 per cent of the world's economic security. By contrast, Latin American countries provide their citizens with much less economic security than could be expected from their relative income levels (ILO 2004a).

characterized by very low share of waged employment and tends to be rather flexible. Workers' protection is often neglected, thus, in labor markets where labor is in surplus, there must be a minimum statutory protection for workers.

Indeed, globalization and labor standards are not as enemies but complementary ways of ensuring access to workers' basic needs as well as work and workplace related security. Elliot and Freeman (2003:139), for example, refer to globalization and labor standards as 'Siamese Twins,' arguing that together they can improve working conditions, increase the benefits of trade for workers, and promote growth in LDCs. The calls for a coordinated system of labor standards, in recent years, have gained strength to address the labor market problem.⁵ The recent global financial crisis which has triggered a slowdown in world economy and recession in many industrialized countries has implications not only in terms of employment opportunities but also in terms of insecurities in and from work.

According to the proponents of a coordinated system of labor protection, basic workplace standards and fundamental labor rights must be globally institutionalized (Scheuerman 2001, Freeman 2003, Elliot and Freeman 2003). However, the debate on the scope and impact of labor standards continues to be long on ideology and rhetoric. Positions differ on the idea of a 'social clause' and how best to enforce labor standards and improve workers welfare.⁶ The arguments of both sides do not engage each other despite those propagate common goals of improving workers' well-being.⁷

⁵ ILO (2009 b) argues that reduced labor standards as a response to the current economic crisis would be both unfair and counter-productive: efforts that are focused exclusively on speeding up the labor market adjustment process to cope with the crisis run the risk of impairing long-term growth potential.

⁶ The 'social clause' refers to making trade subject to labor standards protection and promotion.

⁷ For Barry and Reddy (2008:3), both opponents and proponents of linkage affirm "whether an institutional arrangement for the governance of the global economy should be viewed as superior to another is whether it improves the level of advantage of less advantaged persons in the world to a greater extent."

Efforts to implement labor standards in national laws have been seen as institutional intervention that impairs market efficiency and increases costs of labor and ultimately lowers employment. The argument draws from neoclassical economics which views wage and working conditions as the outgrowth of an informed choice by workers and firms. Adherents to this view stress that national development policy has priority over international requirements. The importance of foreign direct investment (FDI) for national development results in demands for competitive labor market structures, where labor institutions adapt to the level of developing countries' capacities. Thus, installing a 'social clause' is a way for naïve imposition of the values of developed countries upon the poor—a form of disguised protectionism (Bhagwati, 2002).

Such claims have been questioned. Piore (2002) considers dubious the neoclassical economists' claim that prevailing standards represent the informed choice of rational agents in the face of the constraints imposed by limited resources. Finding no reasons to believe that prevailing conditions are the best that poor countries can afford, he argues that the workers and the communities are likely to be the victims of the globalization process as well as its beneficiaries. Scholars and policy makers of similar camp, highlight the danger that 'bad standards will drive out good standards', and subsequently call for regulations that affect all countries and firms with the belief that the rights of workers in developed countries can be safeguarded only when labor rights in poor countries are also protected. As the LDCs become more economically integrated, the fundamental challenge faced by the countries is to harmonize the social standards at work; otherwise, they claim that there is a risk of a global

‘race to bottom’.⁸ The supporters argue that globally enforceable standards are in the interests of all workers, particularly for those working poor who are unable to attain such standards themselves.

However, current labor regulatory frameworks lack strong coordinated systems of global labor standards (Locke *et. al.*, 2007). Most of the developing countries in general have a range of instruments to promote and protect labor rights both by state and non-state actors including national law, trade agreements and treaties, contractual obligations, collective agreements, and codes of conduct. Global production restructuring has put added pressure on the authorities to regulate standards nationally and globally. Responsibilities to regulate labor market have become dispersed not only across national borders but also among global buyers and their suppliers. This has put pressure on governments of developing countries to enforce their own labor laws (Locke *et. al.* 2007). Over the last decades, governments, global corporations, and local employers have also been under immense pressure from different forms of interest aggregation by the workers and consumers themselves or by their representatives to initiate and comply with labor standards conditions in trade agreements, government regulations and voluntary codes.

The representation of interests in myriad often conflicting forms by different interest groups (e.g., trade unions, NGOs, consumer groups) has led to introduction/ installation of workers’ rights provisions and monitoring and compliance mechanisms at a national level and across borders. The appropriate means to identify, address, and incorporate the conflicting interests into labor regulatory frameworks, however, are relatively little known. Neither is it known how effective these rights legislations (e.g.,

⁸ Race to the bottom in industrial relations refers to the negative outcome of competition between nations. When competition becomes fierce between nations over a particular area of trade and production, the nations are given increased incentive to dismantle or lower currently existing regulatory standards.

national law), standards conditionality (e.g., trade treaties), and voluntary corporate codes are in translating labor standards into workers' economic security. To what extent can labor standards facilitate access to *potential* opportunities, and provide necessary correctives to *visible* challenges originating from economic globalization? The question looms large for the working poor in LDCs like Bangladesh, for whom international restructuring of industries producing labor-intensive consumer goods like garments has opened up new opportunities, and at the same time given rise to a stream of new challenges. The empirical question examined in this thesis is whether trade-linked labor standards translate into economic security for the working poor in Bangladesh's export oriented garment sector in the era of globalization, and if not, why not?

The inherent link between the labor standards - workers' rights - economic security nexus makes the transformation possible, and standards can make a difference in workers' well-being by translating into rights and in effect influencing economic security. However, in general, LDCs including Bangladesh are still beset with workers' rights violations owing to claim that standards do not help workers and in many instances hinder the process of workers' rights promotion and protection. Such claims rely on the very dynamics of the relationship between the standards, rights and economic security which can be linear and automatic one that only creates synergy or can also produce tensions/ conflicts due to inequitable and inefficient institutional processes that render the linkages complex and producing suboptimal outcome for workers.

The question I enquire in this dissertation is whether the inherent link between the labor standards - workers' rights - economic security nexus makes the transformation of standards possible towards workers' economic security, and what factors shape standard

provisions to make a difference in workers' well-being by translating into rights and in effect influencing economic security. Focusing on the inherent strengths and weaknesses of forms of labor standards (rights legislation, rights conditionality, and voluntary codes), I argue that the choice of instruments and the transmitting process determine whether the link is an automatic synergy creating one, or that produce tensions/ conflicts leading to unintended outcome. Considering the standard-rights-economic security linkages are complex, the dissertation shows that synergy or tension/conflict in the relationship depends upon the internal dynamics of the institutional mechanisms and myriad of interest groups through which workers' interests are (mis)represented. Taking labor standards installation in Bangladesh, and transmission mechanisms for garment workers' economic security as a case, I claim that the issue of workers economic security is lost in the interplay of standards, rights, and representation of the workers by interest groups. Based on mostly primary information attained through sample questionnaire survey of Bangladeshi garment workers, interviews of workers' representatives, employers and government representatives, and drawing on critical analysis of the theoretical and legal frameworks used to understand and regulate the nexus, this study shows that labor standards in Bangladesh have not fully transformed into workers' rights, and accordingly, have failed to make impact in promoting workers' economic security.

The failure to transform labor standards into workers' rights and economic security is best explained by the lack of adequate and effective representation of working poor. I argue that the inability of the institutional mechanisms to cater to the needs of working poor in Bangladesh's garment sector and to provide them access to rights is due to acts of omission or acts of commission of various interest groups. The politics of representation

drives the outcome of the standards – rights – economic security linkages; the nexus can only work for an equitable outcome for workers if there are adequate and effective forms of workers' representation.

This dissertation is divided into three major parts. The first part provides the frame and scale of the dissertation introducing the deepening divide in globalization and labor standards debate in both global and Bangladesh context as well as setting the contours of the research problem and methodological design. The second part provides analytical frames by bridging the divide on international economic integration, labor standards and workers' representation. The third part is the analysis of to what extent labor standards translated to economic security for Bangladesh's garment workers, and what factors shape standards to translate into rights and in effect to influence economic security. The concluding chapter summarizes key findings and draws implication of the study.

PART I

ECONOMIC SECURITY FOR THE WORKING POOR: FRAME AND SCALE

This part of the dissertation comprises of two chapters.

The first chapter sets the context for the research by introducing that the ideological positions of various stakeholders have extended differing claims of worker's well-being. Both the proponents and opponents of labor standards have common goals of worker's enhanced security but propagate competing strategies. This is exhibited through claims of (in)action by various stakeholders in protecting and promoting labor standards and in effect contributing to workers' rights and in turn or directly to workers' economic security. The chapter sets out the research problem by questioning the perceived linkages between labor standards, workers' rights and economic security, and its attendant transmission mechanisms.

The second chapter scales the research contours by identifying the core research issues and strategies. The research methodology relies on both quantitative and qualitative analyses and based on secondary as well as primary data to explore the linkages and transmission mechanisms between labor standards, workers' rights and workers' economic security. The chapter provides detailed plan of the triangulation of information from various sources including secondary literature review, key informant interviews, and focus group discussions along with two large representative sample questionnaire surveys of garment sector's working poor.

CHAPTER I

FRAMING THE RESEARCH PROBLEM

The economic globalization linked restructuring of international production has brought workers in countries at very different levels of development into direct competition with each other. Confronted with formidable structural problems, weak institutions, low levels of development of human resources, and limited capacity of governance, a large number of developing countries including Bangladesh are finding themselves increasingly challenged as producers as well as exporters to ensure workers' economic security. These inabilities have served to reinforce the sense that globalization is not functioning as expected. Instead of producing faster, more stable and widely-shared growth, globalization appears to have produced dis-equalizing jobless growth in many developing countries and at the same time jeopardized the livelihoods of the workers. The outcome is often framed in terms of whether we need more or less globalization. While some have argued that globalization may have 'gone too far', others maintain that it has not gone far enough.

The question is not whether globalization is good or bad or should be supported or not. It is whether integration between countries in terms of openness, trade, increased flow of goods and services, labor and capital causes specific difficulties or scopes for the achievement of workers' economic security. The debate over globalization and labor standards indeed has been polarizing. In recent decades, the dividing distinction has to a large extent deepened. The claims over outcome too have diverged in Bangladesh leading to quite unexpected groupings of opponents and proponents of labor standards. This chapter lays down the contours of the research problem by showing that differing claims have common goals of worker's enhanced security but propagate competing strategies.

GLOBALIZATION AND LABOR STANDARDS: THE DEEPENING DIVIDE

The debate over globalization and labor standards remains deeply divisive on ideological grounds. One of the prominent groups of this ideological divide, free market advocates, consider labor standards to be incompatible with market principles and believe that unrestrained labor markets best protect the general welfare. Labor standards, in their view, do not increase, and may actually diminish the aggregate welfare of workers because standards interfere with free trade, thereby impeding efficiency, creating suboptimal allocations of labor, stifling competition, deterring investments, and constraining growth (Alston 1994). Their main argument is that market outcomes cannot be successfully manipulated either through national or international labor standards. They argue that the free forces of markets will lead to an efficient degree of observance of labor standards. Government interference leads to less efficient outcomes. .

On the other side of the divide, critics of free trade argue that it is unfair that producers in the developed countries should have to compete with imports from countries with very low wage rates and poor labor standards (Singh and Zamit 2000). Lack of standards leads to ‘social dumping’: governments are under pressure to lower their labor standards because the increased mobility of capital has provided firms freedom to locate their fixed investments almost anywhere in the world (Langille 1994; Caire 1994). Heintz (2002:3) argues “Labor should not be subjected to the unfettered plotting of a market economy and labor markets should be embedded in the larger society and must be governed by rules, norms, and ethical standards.”

LABOR STANDARDS AND WORKERS' WELLBEING: CONTRASTING CLAIMS

The two opposing camps and their variants spark contrasting claims. The debate whether labor standards are *market intervening facilitating forces* or *hindering tools for market functioning* for the workers wellbeing is far from over. Though expressing strong views in favor or against installing labor standards, both advocates and opponents *claim* to serve the interests of workers.

For free trade advocates, the best protection for workers lies in a highly competitive, unregulated labor market that entirely is unrestrained by artificially imposed minimum standards. To them, regulatory diversity is one dimension of comparative advantage; developing countries with structural weaknesses find comparative advantage in competing with low-cost labor. They argue that low-wage competition benefits workers in developing countries and is, in many instances, an important element in the economic growth that is needed to improve living standards and ultimately social protection in those countries. Employers who offer low wages, abysmal working conditions, inadequate leave and other benefits will be unable to retain their workers and will, as a result, lose the skills, experience, and other benefits of a stable workforce (Alston 1994).

The proponents' of labor standards claim that, in a global economy, the rights of the workers in developed countries can only be safeguarded when labor rights in poor countries are also protected. As the developing countries become more economically integrated, to them, the fundamental challenge faced by both developed and least developed is to harmonize the social standards at work. The proponents' believe that optimal social protection requires political negotiation and standard-setting, which cannot be left entirely to market forces.

For proponents of fair trade, labor standards cannot be regarded as an issue exclusively dealt with by national policy makers any longer. The argument is that, when the mobility of capital in the globalized economy presses countries to lower their labor standards implies that the power of nation states to regulate their industry is reduced and so are reduced their autonomy and sovereignty over these matters (Wedderburn 1994). In the absence of international cooperation, individual countries will find it difficult to raise labor standards without jeopardizing their competitive advantage. Sengenberger (1994) argues that international cooperation for standards could produce a better outcome than the competitive advantages derived from weak labor standards.

The structural considerations related to changes in the world economy and increasing prevalence of industries that shift their location and mode of operation in short periods of time have intensified the demands for social protection. Furthermore, there are certain universal values such as protection of human rights that justify transcending national borders to attain certain values. The developed countries see it as both morally unacceptable and economically threatening, and they argue that low labor standards violate the basic human rights of workers in developing countries and threaten the living standards of workers in developed countries (Bhagwati 1996). These arguments draw from the fact that many of the labor standards are actually civil, human, or political rights. These interrelated considerations extend to implications of installing standards in poor countries such as Bangladesh in general and trade-linked economic functions in particular.

PREFERENTIAL MARKET ACCESS AND LABOR STANDARDS LINKAGES

The issue of trade-linked labor standards in Bangladesh's export oriented garment industry came to the fore with its trade officials and export industry leaders' submission to the

United States Trade Representative (USTR) highlighting Bangladesh's improved performance in industrial compliance. The submission followed the hearings by the USTR office on October 4, 2007 of a petition to remove Bangladesh from the eligible beneficiary of Generalized System of Preference (GSP).⁹ The petition requesting removal of Bangladesh from the eligible beneficiary of the US GSP was filed with the USTR by the American Federation of Labor and Congress of Industrial Organizations (AFL-CIO) on June 22, 2007. Alleging violation of labor rights in Bangladesh's export-earning sectors including garment, the AFL-CIO filed the case with the USTR.¹⁰

Bangladesh's exporters received immediate relief from the two consecutive one year extension by the USTR for deciding whether or not to continue with offering Bangladesh the GSP facilities in the US market. The second and third hearing held in October 2008 and October 2009, and the review by the USTR continues. The small size of the GSP program for Bangladesh (only around 1 percent of its total exports to US), however, raises question about the nature of the leverage the possible trade sanctions may have on Bangladesh. But what is important is that the public attention and the glare of the spotlight of such threats of withdrawal of benefits may be linked with Bangladesh's demand of Duty Free Quota Free (DFQF) market access in the US. Bangladesh has been trying for a long time to get DFQF market access of its products to the US market; a bill

⁹ The GSP is part of 'enabling clause' for differential and preferential treatment allowed under the WTO—a non-reciprocal arrangement whereby the developed countries provide tariff preferences to the LDCs without having to extend the facility on a most-favored nation (MFN) basis.

¹⁰ The US labor federation alleged violation of domestic and internationally recognized workers rights in the Export Processing Zones (EPZs) and in the readymade garment sector. The United States labor body also drew the notice of USTR to harassment and negation of rights by government security forces against the trade union leaders and activists. US import lobbies, too, complained about prevalence of child labor in Bangladesh's garment sector.

seeking duty-free access of products of Bangladesh and other LDCs to the US market was raised in the US Congress on several occasions but is yet to make any headway.

LABOR STANDARDS AND WORKERS' RIGHTS: CLAIMS OF (IN)ACTIONS

The AFL-CIO's urge to remove Bangladesh as beneficiary to the GSP is a follow-up to previous petitions — the first in 1990 and second in 1999 —asserting violation of labor rights in the export-oriented garment industries. An amendment to the 1974 US Trade and Tariff Act requires that countries receiving GSP benefits enforce internationally recognized labor standards. These include right to form associations, right to organize and bargain collectively, prohibition against compulsory labor, minimum age for employment of children, and regulations governing minimum wages, working hours, and occupational safety and health.

During the hearing, Bangladesh delegation, comprising representatives of government and industry, highlighted achievements and measures in industrial compliance, such as extension of labor rules for the workers in export processing zones (EPZs) and enhancement of the wage structure in the garment sector. In 2004, Government of Bangladesh (GoB) enacted the EPZ Workers' Association and Industrial Relations Act (EWAIRA) with the objectives of guaranteeing the rights of workers in EPZs and progressively achieving workers' rights instruments that are currently instituted. Regarding the labor violations in the garment industry, the official claim from Bangladesh side is that there have been enormous efforts undertaken jointly by the GoB, industrial management, NGOs and trade unions to attain internationally recognized workers' standards.

ECONOMIC SECURITY: COMMON GOALS BUT CONFLICTING STRATEGIES

The complexities of the issues involved by the claims of (in)action have led to quite unexpected groupings of opponents and proponents of standards in Bangladesh. The opponents include not only the government of Bangladesh and employers but also trade unions and NGOs and larger section of civil society who in principle support labor standards for promoting and protecting workers' rights. Many of the workers' rights organizations are concerned that the AFL-CIO's charges have been made when the US Department of Labor through US Embassy in Bangladesh is directly engaged with regular monitoring of labor situation in Bangladesh and overseeing the improvements in the right of association and collective bargaining in the EPZs. Various international organizations such as IFC-SEDF, GTZ are working with major trade associations in the garment sector to ensure compliance with the standards at the factory level. Major international buyers and buying houses in Bangladesh also take into account compliance issues when placing orders to Bangladesh's garment factories. Government along with the garment entrepreneurs strongly feel that any concern with regard to labor rights related problems should be taken up by appropriate bodies such as the ILO. The delegation to the USTR argued that the threat of sanctions will harm those very workers whom the AFL-CIO is ostensibly trying to help.

The issue at stake for Bangladesh's major export is also seen by the GoB and exporters as a clearly purposeful and intentional form of disguised protectionism. To them, the AFL-CIO petition has been lodged, and hearings have been set at times when Bangladesh has been facing formidable challenges in the global market in the context of elimination of export quotas (after Multi Fiber Agreement-MFA). Exporters argue that if on the basis of the AFL-CIO petition, Bangladesh is deprived of GSP facility in the US, its

export-oriented sector will suffer. This could result in the mass retrenchment jeopardizing the economic security of the garment workers.

The view matches with widely held perception of different stakeholders in Bangladesh on outcome of possible trade sanctions. The widely held view is that enforcement of labor standards with trade sanctions could cause either lower employment or job transfers to the informal sector that has little or no labor standards in force, and so is likely to widen inequalities in the labor market (Kabeer 2004). The argument ‘bad jobs are better than no jobs at all’ continues to be persuasive to many in the divide in Bangladesh’s case. For Razavi (1999), no matter how poor the conditions are, keeping export-oriented jobs is a policy priority over concern about working conditions. Many of the workers’ rights NGOs and civil society organizations in Bangladesh even think that raising the labor rights violation is geared to distract attention from the issue of the DFQF market access in the US. Thus, they argue that "punishing" Bangladesh by cancellation of GSP in the US market in response to allegation of labor rights violation is counter-productive, when the goal of the AFL-CIO petition is to *protect, promote* and *ensure* workers’ rights in Bangladesh.

CONTOURS OF THE RESEARCH PROBLEM

Labor standards provisions have been put in place in Bangladesh and also in most developing countries in various forms. Most developing countries accept the labor standard provisions as rights that need to be uphold and enforced (e.g., enactment of national labor standards for citizens). Nearly every developing country has ratified some of the Conventions of the ILO. Countries also accept some of the labor standards provisions as requirements to access developed country markets and/or to access preferences in the

bilateral and multilateral trading arrangements from its partners (e.g., GSP in the US and EU), and also from various non-governmental groups (e.g., voluntary codes of conduct of multi-national companies).

The installation of labor standards provisions at various levels—multilateral, regional/bilateral, national, local, and corporate—is to a greater degree done with the understanding that there is synergy at work in the relationship between labor standards, workers' rights, and economic security: labor standards translate into rights and, in turn or directly promote economic security of workers. The promoters of labor standards believe that labor standards can be instruments for societal transformation by promoting and protecting rights of the workers and in turn workers' well-being at large. The AFL-CIO's case to remove Bangladesh as beneficiary to the US GSP explicitly builds on the perceived linkages between standards– rights–economic security. It is assumed that the possible withdrawal of preferential treatment in the US market would act as credible threat for Bangladesh to deter from workers' rights violation.

Indeed, the threats of withdrawal of preferential treatment in trade, and consumer boycotts have often been linked to the failure to meet minimum labor standards in many developing countries. Bangladesh case is no exception to that. However, the effectiveness of such workers' rights provisions and conditions in place in Bangladesh is yet to be determined. The issue at stake for Bangladesh's garment workers merits to be juxtaposed with the desired outcome (i.e., labor rights promotion and ensuring economic security) of these provisions. It is important to analyze whose interests are at stake – governments, exporters (employers), or workers? The possible withdrawal of preferences may have an impact on the working poor in the garment sector disproportionately. Is the threat of

sanction credible enough to facilitate provisions for promotion and protection of workers' rights? Are the institutional mechanisms and legal provisions put in place sufficient to ensure workers economic security? Do the groupings of opponents and proponents of standards in Bangladesh represent workers' interests and can they channel workers' interests for an efficient and equitable outcome for the working poor?

In this context, the overall question addressed in this dissertation is whether trade-linked labor standards translate into workers' rights and into economic security for the Bangladesh's working poor in garment sector in the era of globalization, and if not, why not? The objectives of the dissertation are twofold. The first is to explore whether the interplay between trade-linked labor standard, workers' rights, and economic security is plagued with synergy or conflict. The second is to examine what factors shape the relationship between standards, rights, and economic security for transforming trade-linked labor standards into workers' rights and into workers' economic security for the working poor in Bangladesh's garment sector.

CHAPTER II

SCALING OF RESEARCH CONTOURS

This chapter scales the research contours by identifying the core research issues and strategies. Both quantitative and qualitative analyses based on secondary as well as primary data to explore the linkages and transmission mechanisms between labor standards, workers' rights, and workers' economic security is central to the research methodology used in the study. This chapter provides detailed plan of triangulation of information from various sources including secondary literature review (SLR), key informant interviews (KIIs) and focus group discussions (FGDs), along with two representative sample questionnaire surveys of garment sector's working poor in Bangladesh.

RESEARCH ISSUES AND STRATEGIES

The dissertation focuses on three key issues: first, labor standards, workers' rights and economic security linkages; second, the extent to which trade-linked labor standards translate into workers' rights and into economic security; and third, identification of the factors responsible for the synergy or conflict in the relationship in workers' rights-economic security linkages. The dissertation covers all the three issues in detail and offers answer to each issue in question by using a mixed research strategy. The overall general approach to the research process as a whole relies on both quantitative and qualitative strategies. The quantitative strategy emphasized the general nature of findings as well as the search for explanations and causal relationships between variables, and the qualitative strategy underlined in detail social descriptions to enrich understanding.

The first of the key issues led to exploration of linkages between standards, rights, and economic security. This part of the dissertation is based on the secondary literature on globalization and labor standards, economic security, and representation.

The second of the key issues has three core components: (i) labor standards for Bangladesh's garment sector; (ii) state of workers' rights for Bangladesh's garment sector; and (iii) state of workers' economic security. These components are addressed with the aid of a mix of methods. Secondary literature on Bangladesh's garment sector provides information for the first component. For the other two, a number of research tools including KIIs, FGDs, and sample questionnaire surveys are used.

The third of the key issues comprises four core components: (i) institutional structure and processes to induce participation; (ii) institutional commitments to empower workers; (iii) formation of different workers' groups, their means and strategy for representation, and their experiences of interacting within the institutional structure; and (iv) tripartite negotiation process and outcome. Along with the SLR on institutional structure and workers' participation, information was collected from a number of organizations and persons.

The study relies on triangulation of information from various sources. While questionnaire survey and FGDs with garment workers, and KIIs of different stakeholders including trade union representatives, garment owners/ top level managers, government officials, and NGO leaders form the primary source of information for this study, a substantial portion of the information comes from secondary literature on garment sector in particular and workers' rights in general.

DATA SOURCES AND METHODS

A number of sources provided data for this study. These include written document analysis, sample questionnaire survey, KIIs, and FGDs.

Secondary Literature Review

To capture the debate on globalization and labor, labor standards, economic security, and interest representation in the global context and also in the context of Bangladesh's integration into increasingly globalised textile and clothing market, a thorough review of available secondary literature has been done. Secondary information sources included published reports, monographs, books, websites, articles, databases, newspaper reports. The analysis ensued through the secondary literature review provided the basis for questionnaires and guidelines for the sample survey, FGDs and KIIs with different stakeholders including the workers, employers, and trade union representatives.

Sample Survey

As the interview was the primary data collection instrument for the research, a semi-structured interview was chosen where questions were carefully designed to ensure adequate coverage for the purpose of the research. In accordance with the objectives of the study, a survey questionnaire was developed for collecting primary data from the selected respondents. The level of data aggregation during the subsequent analyses (unit of analysis) for the descriptive survey research aiming at understanding the relevance of a certain phenomenon in a population was decided to be individual garment workers. Major questions were developed in the form of general questions which was then followed by a sequence of sub-questions for further authenticity. The final questionnaires made use of both open ended questions (allowing respondents to answer in any way they like) and

closed questions (limiting respondents to a choice among alternatives). The closed questions were combination of direct questions requiring numerical answer, simple two-category questions, multiple choice questions and scaled questions (See Appendix 2.1 for the sample questionnaire).

The draft questionnaire was prepared and tested to assess its suitability as an instrument of face-to-face interviews with the key informants and also to identify ambiguities, helping to clarify the wording of questions and permitting early detection of necessary additions or omissions. In formulating the questions, the language of the questionnaire was Bengali and made consistent with the respondents' level of understanding. After the pre-test of the questionnaires, several questions were modified. The leading questions to socially desirable responses were avoided. The double-barreled questions that may lead to different answers to its subparts were avoided by incorporating several separate questions. In addition, the questionnaires were designed in both positively and negatively worded questions in order to minimize the tendency of respondents to mechanically answer the points towards one end of the scale.

The survey was conducted at and nearby the residence of the workers and at their suitable time, especially in between or after the working period at the factory. The issues of positionality and language did not pose significant limitations to the comfort and openness of the interviewees since I myself speak the same language and had taken a lot of time for rapport building. Broad questions were followed up with more specific answers and also validated through answers by the larger group of interviewees in the FGDs in view of the fact that some participants may well articulate what they thought interviewers wanted to hear, or what they thought would best serve their or their employers' interests.

Sample Selection

Stratified random sampling was used as a sampling strategy. A representative sample was drawn from the population of workers in all types of garment factories.¹¹ It required the selection of the sample in a manner that ensured an acceptable level of confidence.¹² The field survey obtained information from 388 garment workers in the first survey and 171 respondents in the second survey.

The first sample survey (FFS) was carried out during July 2008 to October 2008. The subsequent follow-up second sample survey (SFS) was carried out during the same months in 2009. For both the sample surveys, respondents were selected from different factories located across Bangladesh's four major districts i.e., Dhaka, Chittagong, Narayanganj and Gazipur.¹³ The spatial distribution of respondents was kept same in both the surveys.¹⁴ For wider spatial coverage within each study area, specific areas where the garment factories are located but have close proximity to other locations were taken together as one sub-study area within each study area. The detailed study area and distribution of respondents are presented in Annex Map 2.1 and Annex Table 2.3.

¹¹ The total number and their distribution are based on reported membership of garment employers' associations. About 4693 units were members of the BGMEA, and around 1500 units were members of the BKMEA in 2007-08. The total figure, however, does not reflect the factories' joint membership to both organizations due to non-availability of such information. The joint membership implies that the number of total factories might be less than the reported total number. Nonetheless, for the sake of drawing a representative sample, the total number of Bangladesh's garment workers (over 2.2 million workers) has been treated as universe.

¹² The spatial distribution of RMG units across Bangladesh shows that highest concentration of units is in Dhaka (51.15 percent), followed by Narayanganj (20.02). The distribution of units in Chittagong and Gazipur is close to 14 percent (13.69 percent and 14.84 percent respectively), and a meager 0.28 percentage of units are located in Mymensingh. With most desirable sampling size with 95 percent confidence level and with 5 percent deviation, the minimum sample size is 385. With 7.5 percent deviation, the minimum sample size is 171. See for detail sampling measures in Annex Table 2.1.

¹³ Due to fraction, respondents were not selected from factories based in Mymensingh, and the fraction was rounded up with number of respondents of other four districts.

¹⁴ Out of 388 respondents, 197 (50.7 percent) have been interviewed from Dhaka, 54 (13.9 percent) from Chittagong, 79 (20.3 percent) from Narayanganj and 58 (14.9 percent) from Gazipur. The second sample survey also has same percentage of respondents. Out of 171 respondents, 87 respondents were from Dhaka, 24 from Chittagong, 26 from Narayanganj, and 34 from Gazipur study area (Annex Table 2.2).

Sample Distribution

The sample is distributed in accordance with factory and job coverage, gender, age, education level, and family size.

Factory and Job Coverage: For both the surveys, respondents' distribution according to the types of factories was kept to the same range. Respondents from knit factories are 39 percent, from oven factories 49 percent, 6 percent from sweater factories and 6 percent from both knit and oven factories (Table 2.1). The respondents are mostly entry level workers in the garment factories. In the SFS, 46 percent workers are helper in their current factory, and 54 percent are junior operators. In the FFS, 80 percent and 19 percent of respondents are respectively helpers and junior operators (Table 2.2).

Table 2.1 Type of Factory and Distribution of Respondents

Type of Factory	Respondents			
	First Field Survey		Second Field Survey	
	N	%	N	%
Oven	192	49	84	49
Knit	150	39	51	30
Sweater	22	6	23	13
Both Knit and Oven	24	6	13	8
Total	388	100	171	100

Table 2.2 Respondents' Current Position in Factory

Position	Number and percent of Respondents			
	First Field Survey		Second Field Survey	
	N	%	N	%
Trainee	7	1.8	0	0
Helper	309	79.6	78	45.6
Junior Operator	72	18.6	93	54.4
Total	388	100	171	100

Gender Distribution: Gender distribution of respondents in both surveys is almost even. In the FFS, among 388 respondents 66 are male and rest 322 is female comprising 17 percent and 83 percent respectively. The SFS also has gender distribution of similar magnitude. Amongst 171 respondents, 40 are male and rest 131 are female comprising 23 percent and 77 percent respectively (Table 2.3). Detailed study area wise gender distribution is presented in Annex Table 2.3.

Table 2.3 Study Area wise Gender Distribution of Respondents

Study Area	Gender Distribution											
	First Field Survey						Second Field Survey					
	Male		Female		Total		Male		Female		Total	
	N	%	N	%	N	%	N	%	N	%	N	%
Dhaka	24	36.4	173	53.7	197	50.8	24	63.2	63	47.4	87	50.9
Chittagong	4	6.1	50	15.5	54	13.9	4	10.5	20	15.0	24	14.0
Narayanganj	23	34.8	56	17.4	79	20.4	9	23.7	25	18.8	34	19.9
Gazipur	15	22.7	43	13.4	58	14.9	3	7.9	23	17.3	26	15.2
Total	66	100	322	100	388	100	38	100	133	100	171	100

Age Distribution: Most of the respondent workers are young belonging to 16 to 25 age-groups. About seven percent of the workers in the FFS, and one percent in the SFS are from the below 15 age group. A total of 7 respondents in two consecutive surveys are below the age of 14—minimum age allowable for work in Bangladesh. Out of seven child laborers, six of them are currently working in the knit factories, while another respondent is engaged in woven factory (Table 2.4). The age distribution of respondents according to spatial locations reveals that there is a high concentration of young workers (below 15 years) in Narayanganj—place of high concentration of knit factories. Age of respondents according to the study area distribution, and factory type and gender is presented in Annex Table 2.4 and Annex Table 2.5.

Table 2.4 Age Distribution of Respondents According to Factory Types

Age of Respondent	Distribution of Respondents											
	First Field Survey						Second Field Survey					
	Knit	Woven	Sweater	Composite	Total	Percent	Knit	Woven	Sweater	Composite	Total	Percent
Below 14 Years	5	0	0	0	5	1.3	1	1	0	0	2	1.2
Above 14 - 15 Years	16	7	0	0	23	5.9	0	0	0	0	0	0.0
16-20 Years	81	95	7	15	198	51.0	21	37	8	3	69	40.4
21-25 Years	34	56	11	7	108	27.8	18	34	10	7	69	40.4
26-30 Years	5	23	3	2	33	8.5	11	7	5	2	25	14.6
31-35 Years	7	10	1	0	18	4.6	0	2	0	1	3	1.8
36-40 Years	1	0	0	0	1	0.3	0	2	0	0	2	1.2
41-45 Years	0	0	0	0	0	0.0	0	1	0	0	1	0.6
Above 45 Years	1	1	0	0	2	0.5	0	0	0	0	0	0.0
Total	150	192	22	24	388	100	51	84	23	13	171	100
Percentage	38.7	49.5	5.7	6.2	100	-	29.8	49.1	13.5	7.6	100	-

Education Level: The level of education attainment is low among the respondents. In the FFS, 21.6 percent respondents are functionally literate (can read and write short phrases and count small sum) and 38.9 percent respondents have education up to primary (grade V) level. Some 16 respondents, all female, comprising 4 percent of the respondents are illiterate. In the SFS, 20 percent respondents are functionally literate, and 2.3 percent (1 male and 3 female) respondents are illiterate (Table 2.5).

Family and Dependant Composition: Even though the respondent workers in the FFS have family members as high as 10, on an average the respondents' family member size is 3.86. Number of dependant family members of the respondents range from 1 to 7 members and on an average respondents' dependent family member size is 2.04. In the SFS, respondents' family members range from 1 to 11, the average family member size is 4.80, and the average dependant family member size of the respondents is 2.44. While about 16 percent in the FFS and 11 percent in the SFS have two member families, about 37 percent

and 53 percent of respondents in the respective surveys have over two dependent family members (Table 2.6).

Table 2.5 Education Level of Respondents

Education Level	Sex of Respondents											
	Field Survey 2008						Field Survey 2008					
	Male		Female		Total		Male		Female		Total	
	N	%	N	%	N	%	N	%	N	%	N	%
Illiterate	0	0.0	16	5.0	16	4.1	1	2.5	3	2.3	4	2.3
Functionally Literate	9	13.6	75	23.3	84	21.6	1	2.5	33	25.2	34	19.9
Primary	18	27.3	133	41.3	151	38.9	20	50.0	67	51.1	87	50.9
Below Secondary Level	26	39.4	84	26.1	110	28.4	14	35.0	22	16.8	36	21.1
Secondary Level	12	18.2	14	4.3	26	6.7	3	7.5	5	3.8	8	4.7
Higher Secondary Level	1	1.5	0	0.0	1	0.3	1	2.5	1	0.8	2	1.2
Total	66	100	322	100	388	100	40	100	131	100	171	100

Table 2.6 Number of Family Members and Dependents of Respondent Workers

Members in Respondents' Family	Number of Dependent Family Members																
	First Field Survey								Second Field Survey								
	None	Two	Three	Four	Five	Above Five	Total		None	Two	Three	Four	Five	Above Five	Total		
							N	%							N	%	
Alone	59	0	0	0	0	0	59	15.2	3	0	0	0	0	0	3	1.8	
Two	44	18	0	0	0	0	62	16.0	0	18	0	0	0	0	18	10.5	
Three	38	15	2	0	0	0	55	14.2	3	14	5	0	0	0	22	12.9	
Four	15	54	5	0	0	0	74	19.1	2	17	13	10	0	0	42	24.6	
Five	4	23	20	4	0	0	51	13.1	4	5	10	4	5	0	28	16.4	
Above Five	2	11	28	31	9	6	87	22.4	1	13	18	10	4	12	58	33.9	
Total	N	162	121	55	35	9	6	388	100	13	67	46	24	9	12	171	100
	%	41.8	31.2	14.2	9.0	2.3	1.5	100		7.6	39.2	26.9	14.0	5.3	7.0	100	

Focus Group Discussions

The eleven focus group discussions in different part of study areas provided part of the qualitative information. Participants were recruited by open invitation from and nearby the residence of the workers at their suitable time, mostly in the evening. Most FGDs consisted

of between 8-13 people. The number of questions discussed was eight to ten. The questions were ordered from more general to the more specific. Unstructured, open-ended questions allowed respondents to answer from a variety of standpoints. A checklist of the FGDs conducted is appended (Appendix 2. 2). FGD places and number of participants are provided in Annex 2.7.

Key Informant Interviews

Key informant interviews followed much like a dialogue—questions were open-ended using an interview guide. However, the relevant topics were explored as the informant brought them up during the interview. Respondents of the 45 KIIs comprised trade union representatives, garment owners/ managers, government officials, NGO leaders, and members of the minimum wage board. The same guideline of that of FGD was used (Appendix 2.2). Annex 2.2 provides a list of key informants.

Data Analysis

Data analysis process included (a) registration of questionnaires, (b) data processing, and (c) computerization of data. As soon as the filled-in questionnaires were received from the field, they were entered into registration books and kept into files. The interview questionnaires were edited and checked carefully with the purpose of verifying that the survey questionnaires had been correctly filled-in, answers have consistencies with one another and all the questions have been asked, answered, and noted properly. During each interview, I wrote abbreviated notes. On the same day of the interview, these raw field notes were re-written in expanded formats. At weekly intervals, qualitative data was reviewed based on which decisions were made about specific questions to ask, what to observe, which methods to use, and types of informants to interview.

Collected quantitative data have been processed with the help of SPSS program—a fully integrated data entry, cleaning and editing tool with user defined skip logic, rules, and input screens as well as the built-in mechanism to guard against erroneous entry. Validation checks have been made to ensure that data are correctly input into the program. Data table has been properly checked for internal consistencies before constructing the output tables. Data analysis was performed by checking central tendencies, dispersion, and frequency distribution.

PART II

ECONOMIC INTEGRATION, STANDARDS–RIGHTS–SECURITY LINKAGES, AND REPRESENTATION: BRIDGING THE DIVIDE

This part of the dissertation has three chapters.

Chapter three explores the linkages between and drivers of economic integration, labor standards and economic security. By showcasing the opportunities and challenges arising out of international economic integration, this chapter identifies the reasons of differential outcomes of economic integration in general and labor standards in particular. In order to bridge the divide on the debate on trade-linked labor standards and economic security, this chapter questions the conventional wisdom of the linkages and tries striking a balance between the efficiency and equity tradeoff widely perceived to be at work for labor standards to promote workers' security in the era of international economic integration.

Chapter four analyzes the forms and instruments of trade linked labor standards - workers' rights - economic security linkages. This chapter exhibits framework for analysis of labor standards-workers' rights-economic security linkages by documenting different forms of labor standards in place and possible routes of labor standards to workers' economic security, as well as the transmitting process.

Chapter five explores the workers' representation and institutional mechanisms for an analysis of workers' representations in workplace governance. The chapter looks at channels of workers' representation, nature of workers' participation and system of interest representation in order to draw a frame of reference to be followed in the case of workers' in the Bangladesh's garment sector in subsequent chapters.

CHAPTER III

INTERNATIONAL ECONOMIC INTEGRATION, LABOR STANDARDS, AND ECONOMIC SECURITY: LINKAGES AND DRIVERS

The world economy is increasingly becoming integrated. Globalization enthusiasts believe that all countries benefit from interaction in the process through its wider beneficial impacts (Collier and Dollar 2002; World Bank 2002; Bhagwati 2004). Low-income groups too come out as winner from a rising tide of income. However, to ask whether the working poor are better off as an outcome to such interaction is to pose the wrong sort of question. “Even if the poor were to get just a little richer” Sen (2002: 5) argues, “this would not necessarily imply that [poor] were getting a fair share of the potentially vast benefits of global economic interrelations.” The question, thus, is not of who wins or loses, rather whether the distribution of the potential gains is fair and equitable. Indeed, there is growing concern in developing countries that in its current form, economic globalization has not worked, as predicted, to enhance equity as much as efficiency. As such, the linkage between the economic integration and workers’ economic security is in contested terrain.

Without question, the efficiency-equity debate is at play in the labor market outcome. Globalization enthusiasts’ believe that the international economic integration is about market competition and efficiency. The critics, on the other end, argue that to pursue equity goal, many of the principle of efficiency has to be sacrificed. I argue in this chapter that trade-offs between equity and efficiency goals are often exaggerated by both camps; arguments for and against labor standards as a tool for workers’ economic security accordingly have diverged. While economic security of the working poor in a given society is an equity goal, the existence of large number of working poor in a society itself has

efficiency consequences. Questioning the conventional wisdom on the linkages between and drivers of economic integration, labor standards and economic security, this chapter develops an analytical framework to strike a balance between the efficiency and equity trade-offs widely perceived to be in action for labor standards to promote workers' economic security.

INTERNATIONAL ECONOMIC INTEGRATION, LABOR STANDARDS, AND WORKERS' ECONOMIC SECURITY LINKAGES

The outcome of international economic integration is that countries at very different levels of development are currently in direct competition with each other. Motivated by the entrepreneurial goal of enhancing efficiency through reduced labor costs and increased flexibility,¹⁵ the competitive pressures have accelerated the process of job creation and destruction (Kaufman 2005). This process also involves sharing economic risks and costs between firms and workers through subcontracting and other arrangements, and the proliferation of non-standard forms of employment—temporary, part-time, or informal employment (Rani 2008). The growing exchange of labor affected through trade, investment flows and the sub-contracting while is forging closer links amongst labor markets, the segmentation in the market by their very nature of employment creation and destruction exacerbates existing income inequality. In most developing countries, poverty results not only from unemployment but also from the inability of the employed to secure decent standard of living. Changing work practices mean firms no longer promise

¹⁵ Flexibility of labor takes many different forms. Munck (1999) identifies five main forms: (1) external numerical flexibility—employers decide how many workers they want at any given time; (2) internal numerical flexibility—working hours and shifts, etc. decided according to employers' needs; (3) externalization—various forms of sub-contracting or putting out of work; (4) functional flexibility—job assignment and rotation according to employers' needs; and (5) wage flexibility—wages adjusted according to performance and productivity.

employees lifetime job security, but rather seek flexible employment relations that permit to increase or reduce the workforce, and reassign employees with ease (Stone 2006).

These induced changes in the labor market affect both the workers and employers. The outcome is, however, not homogenous. The issue of trade-linked labor standards becomes important for the working poor who face unacceptable conditions of work environments, long work hours, low wages, discrimination, and suppression of expression and association rights. These are also outcomes of the very transformations that have made possible higher quality and cheaper products for the global market.

The trade-linked labor standards chains are complex and vary enormously within the heterogeneous group of developing countries. For some, labor standards are institutional interventions that impair market efficiency, and ultimately reduce economic wellbeing due to an inefficient allocation of resources. On the other hand, there are believers in standards who strongly argue that the promotion of labor standards can improve the lives of workers. The proponents of labor standards reach this conclusion either by rejecting entirely or, more often, by highlighting scope for progress in the conventional wisdom of trade-linked labor standard chains—stricter labor standards lead to an increase in production costs, then to increased prices for consumers, then to lower sales of the goods, and ultimately to fewer jobs producing these goods.

The chains emphasize the costs to employers for complying with legislation that protects workers (Nataraj, Rodgers and Zveglic 1998; Rodgers and Berik 2006). Employers who compete on the basis of labor costs may relocate production to countries with weaker workers' protection; hence, standards add pressure on employers that offer stronger workers' rights. The inefficiency claim against labor standards is attributed against

any interference with market forces, including child labor laws, minimum wages legislation, health and safety standards, and other regulations that are standard features of developed economies. These are the features that developed countries have decided as essential in advancing important social values. Thus, the stricter standards need not promote inefficiency (and therefore higher prices), particularly when the values in question have the status of universal rights. Also, not all labor standards promote inefficiency. A non-discrimination standard increases the efficiency of resource allocation; health and safety provisions may well increase the productivity of workers through higher motivation, decreased absenteeism, and improved worker-management relations. In addition, there are ways to keep higher production costs from leading to higher prices. The higher costs may be covered from corporate profits, especially in cases where the relatively low percentage of the retail price of goods is attributable to factory labor.

The next link in the chain “higher prices lead to lower sales” does not always progress in that fashion. If consumers prefer to purchase goods that are produced under decent conditions and are willing to pay a premium to purchase them, then production of goods under a strong code of standards might lead to an increase in demand sufficient to offset the effect on demand of a higher price. In addition, the relationship is not linear in cases of inelastic demand of goods for which a strong brand loyalty (such as for fashionable garment products) exists.

The final link in the chain predicts that the stricter standards would lead to fewer jobs. But evidence from the developed countries indicates that standards such as minimum wage are usually not accompanied by significant job losses. Card and Krueger (1995) find insignificant or even positive employment effects of the minimum wage. Even if one

accepts that the cost of business increases by implementing minimum wage, the impact of wage increases is not substantial in labor intensive industries since labor comprise only a small part of the production cost. Increases in minimum wage are associated with poverty reduction in developing countries; poverty intensity is low in those countries where the minimum wage has been implemented (Lustig and McLeod 1996). Through minimum wage legislation, the economy benefits; huge number of new workers graduate over the poverty line, the skilled workers feel interested to come to the labor market and the other rights and benefits of the workers become easy to be materialized (Setherland 2001). Also, job losses, if any, can be avoided if the demand for labor grows in higher proportion than the increases in wage.

True, attempts to raise labor standards such as minimum wage above market-determined levels generate inefficiencies. But this principle of automatic determination of wage occurs only in an ideal situation where the factors of production and market work freely. In a country with abundant labor like Bangladesh, the weaker group (workers) is compelled to work for lower wages. Moreover, they lack sufficient skills to earn higher wages and also lack the information, knowledge, and techniques to bargain with the highly qualified and educated employers.

The trade-linked chains have been explored in several empirical studies. Aggarwal (1995) fails to find any significant correlation between standards and export competitiveness; it is common in developing countries for labor standards to be higher in export-oriented sectors than in less export-oriented or non-traded sectors.¹⁶ Kucera (2001, 2002) too reports no substantial evidence showing a link with labor costs or FDI. However,

¹⁶ Examining growth rates of imports of labor-intensive goods to the US and the observance of core labor standards of 10 developing countries, she finds that developing countries with higher labor standards do not have lower import-penetration rates than countries with lower standards.

Flanagan and Gould (2003) find a weak but positive relationship, and argue that labor standards do affect foreign investment in developing countries. The principal finding of an often-cited study by the OECD (1996), nonetheless, is that there is no evidence that countries with low labor standards enjoy better global export performance.¹⁷ As regards the links between labor standards and FDI, the study finds that that standards are not primary factors in the majority of investment decisions of OECD companies, although core labor standards may not be systematically absent from investment decisions of OECD investors in favor of non-OECD destinations.

The OECD approach delineating links between labor standards and export performance has been questioned. Busse (2002a) argues that the study's results are based on subjective judgment rather than objective statistical methods. Mah (1997) finds that export shares are negatively correlated with union rights such as Freedom of Association (FoA) and Collective Bargaining (CB) rights and also non-discrimination in employment and the abolition of forced labor. Van Beers (1998) argues that strict labor standards in OECD countries are associated with reduced exports of labor and capital intensive goods produced with skilled labor. For non-OECD countries, Hasnat (2002) finds that only one core standard—the right to organize and collective bargaining—has a statistically significant negative impact on exports. His main conclusion is that, ignoring the right to organize and collective bargaining, core labor standards do not play a significant role in

¹⁷The study explored the relationship between basic union rights, such as FoA and CB rights, and measures of export performance (percentage change of share of manufacturing exports in world markets) over the period 1980-1990 in 78 OECD and non-OECD countries. Failing to prove that the non-observance of labor standards gives rise to unfair trading practices, the study finds that no clear relationship exists between labor standards and sectoral trade patterns or export performance. The difference in the degree of adherence to labor standards plays insignificant role in determining export prices, and thus in the patterns of specialization, and export performance. Most low to medium-income countries have exhibited export dynamism irrespective of their level of adherence to labor standards.

trade performance. Focusing on the comparative advantages in unskilled-labor-intensive goods, Busse (2002b), however, argues that while by lowering some labor standards e.g., forced and child labor, union rights, a developing country can easily improve its comparative advantage in unskilled-labor-intensive goods; but some standards e.g., discrimination against women would have the opposite result.

The empirical evidence indicates that the outcome apparently varies with respect to the choice of standards and the level of development. Rodrik (1996) observes that labor standard is not a significant determinant of comparative advantage, though when countries are divided into rich and poor income countries, child labor appears to be an important factor. He finds that a longer working week is positively associated with an improved comparative advantage in textiles and clothing. However, using a similar model and data, other studies have found that child labor was an insignificant factor but suppression of union rights (Morici and Schulz 2001) and gender discrimination (Elliot and Freeman 2003) were correlated. Showing that standards have no significant influence on economic performance of nearly 100 countries at different levels of development, Flanagan and Gould (2003), nevertheless, argue that there is very little evidence of a race to the bottom; instead, over 90 percent of the variation in international competitiveness can be attributed to productivity gaps or differences in technology.

The claims are contradictory, and accordingly fail to establish certain outcome to follow from the trade-linked labor standard chains. These empirical findings challenge the validity of the theoretical arguments put forward either in favor or against labor standards. These indicate to fact that the distributional outcome is dependent on the choice of the standards. The contradictory empirical evidence above reflects varied empirical

approaches, as they have either chosen questionable labor standard variables—for example, ratification of ILO conventions instead of enforcement, or core labor standards instead of broad set of standards that have direct impacts on workers. Thus, labor standards need not to be viewed as either market intervening facilitating forces or hindering tools for market functioning for the workers well-being.

The argument that labor standards are best achieved by market forces alone, and accordingly workers economic security should be left to the functioning of the market forces is unconvincing. Companies do not always respond to incentives to increase productivity; higher output does not automatically lead to improved living standards. Competitive pressures do not always entail low labor standards. At the same time, the low standards are not always looked as an optimum for firms since the standards have linkages to work intensity, workers' commitment, and firms' productivity. The poor standards are neither desirable for workers nor for the firms. Fairer labor conditions and contacts may enhance worker commitment and productivity to improve both farm productivity and worker welfare (Boyer 2007).¹⁸ There are, thus, good reasons to believe that balancing flexibility of employment and workers' economic security may deliver better economic performance and employment growth than maximum flexibility in production and employment chains. Accordingly, the current debate should not focus on whether to observe labor rights, but instead on how this observance should be put in place, strengthened, enforced, and monitored effectively.

¹⁸ The balancing of efficiency and equity is amply highlighted in the Scandinavian countries. The extended security promoted by welfare systems has not been detrimental to growth, innovation, and job creation. This finding by Boyer (2007) is remarkable in contrast to the countries that had more fully deregulated their labor markets and were expected to be best performers in terms of job creation, innovation and growth. He argues that macroeconomic outcome in these economies was the result of generous income security associated with the wide freedom granted to firms concerning employment decisions.

ECONOMIC INTEGRATION LINKED DRIVERS OF WORKERS' (IN)SECURITIES

The employment relations in developing countries particularly in the areas of actual returns to labor *vis-à-vis* capital, system of social transfer, job protection and satisfaction, skill enhancement scopes, occupational health and safety stands, and individual and collective representation provisions are influenced by country's level of integration into and interaction with the global market. The economic integration linked channels of influence are reflected in structural changes in the labor market, bargaining power and regulatory capacity of state and non-state actors. These channels of influence create drivers of (in)security for workers in the areas of returns to labor and production, social transfer, protection and satisfaction, skill enhancement opportunities, occupational health and safety, and individual and collective representation provisions.

Structural Changes in Labor Market

Structural changes in economy in line with competitive advantage may cause decline in some economic sectors and the growth in others. Such changes compel workers to survive a period of unemployment while looking for new jobs and possibly acquire new skills. Indeed, the changes in the labor market are the outcome of responses by nationally based and transnational enterprises to increased competition. Heightened competition leads to cost-minimization strategies including corporate restructuring and downsizing, changes in the collective bargaining institutions and policies, and relocation of operations to lower cost locations; all of these have potential adverse effects on wages and on the levels and conditions of employment. Several authors including Rodrik (1999), Torres (2001) have alerted to potential impact leading to job insecurity. The fluctuations in the price of products in the international economy can translate into variations of employment levels.

The short-term capital flows can have a major impact on countries' exchange rates which in turn can endanger the competitiveness and subsequently cause job insecurity.

The changing pattern of employment contracts showcases the structural changes in developing countries labor markets. Stone (2006:80) argues, "Work has... become contingent, not only in the sense that it is formally defined as short-term or episodic, but also in the sense that the attachment between the firm and the worker has been loosened". In the past, in most industries, workforces were organized into internal labor market where jobs were arranged into hierarchical ladders provided each employee the training for the job on the next upper position. Employers who utilized internal labor markets hired only at the entry level, then utilized internal promotion to fill all of the higher positions in the ladder, and accordingly provided employees an implicit promise of long term employment and of orderly and predictable patterns of promotion with attendant wage and benefits. In recent years, employers have dismantled their internal labor market job structures and abandoned the implicit promises, and in its place, employers are using, according to Stone (2006:80), "flexibility to crossutilize employees and to make quick adjustments in production methods as they confront increasingly competitive product markets".

The increased contingency in the employment relationship is visible through the increase in different forms of atypical (non-standard) work e.g., temporary, part-time (Stone 2006). These forms of employment, however, yet remain a reality for a small portion of the workforce, despite the fact that these types have indeed been growing rapidly over the years. The more significant structural change in labor relations relates to the change in the nature of regular, full-time work. The 're-casualization of work' as Stone (2006) terms it, has important consequences for the employment relationship.

Bargaining Power of State and Non-State Actors

Weakening of the bargaining position of state and non-state actors generates pressures to lower labor standards. With increased competition, employers can easily substitute workers by relocating production (often abroad) or by replacing workers' from the pool of unemployed and underemployed. Singh and Zammit (2000:78) note that "the ability... to move... investment anywhere, North and South, weakens the bargaining power of labor." Competition enhances employer's bargaining position either by actually choosing the options or merely by threatening to do so. Globally, apparel firms have regularly used such threats of relocation. In fact, the use of relocation threats throughout the world against workers has been so frequent that the ILO has classified it as a pervasive form of harassment. The prospect of races to the bottom places workers and their representatives in a dilemma: they want domestic protective legislation to improve labor standards but is acutely vulnerable to capital flight that increased labor standards can trigger.

The dilemma is intensified as economic activities become more globally connected. It, according to Stone (1999), renders workers less effective as a political actor. With the increased capital mobility when firms can relocate easily, unions have less power at the bargaining table because they have to bargain on workers' rights claims against the threat of relocation. In practice, this means that companies are less likely to yield to union demands, and unions are hesitant in making strong claims even on legitimate demands out of fear of triggering business flight. Furthermore, the subcontracting and casualization of employment relations have eroded the basis on which workers can make claims on their employers (Collins 2003).

Regulatory Capacity of State and Non-State Actors

In the face of heightened international competition, weakening of the regulatory capacity of governments can be the source through which pressures to minimize labor standards operate. When countries compete for export markets and FDI, the regulatory capacity of the state actors is weakened. The threat of relocation abroad by locally placed enterprises limits the capacity of governments to impose regulatory mandates. Regulatory competition occurs when nations compete for business using lower labor standards to attract businesses. This leads non-labor groups to oppose labor regulation on the ground that business flight hurts them.

The regulatory competition can trigger a downward spiral, in which countries compete with each other for lower labor standards, and workers lose its allies at the domestic level, and are, thus, rendered powerless to resist. Similarly, the ability of transnational enterprises to shop around in prospective investment sites generates competitive bidding by countries in terms of tax and regulatory concessions (Lee 1996). Furthermore, companies prefer to produce in legal environments that offer the least protections for labor and, when feasible, they shift production to capture the resultant lower labor costs.

In sum, these channels of influence create drivers of (in)security for workers in several areas (Figure 3.1). Workers' wage and non-wage benefits, regularity of income, and protection from falls in income are related to income (in)security. The opportunity for adequate income and benefits earning activities in job relates to labor market, while safe working condition, occupational health and safety, protection from occupational hazards, diseases, injuries, overwork, and harassment, limits on working time, provision of leave

and holiday are related to employment (in)security. The provision of promotion, increment and pay scales, and career prospect (job related), access to training, and skills (skill reproduction), and provisions of individual and collective representation, access to institution, opportunity to represent a body to bargain on benefits and rights (representation related) are also influenced by the drivers of (in)securities arising out of three channels of influence of the international economic integration and restructuring.

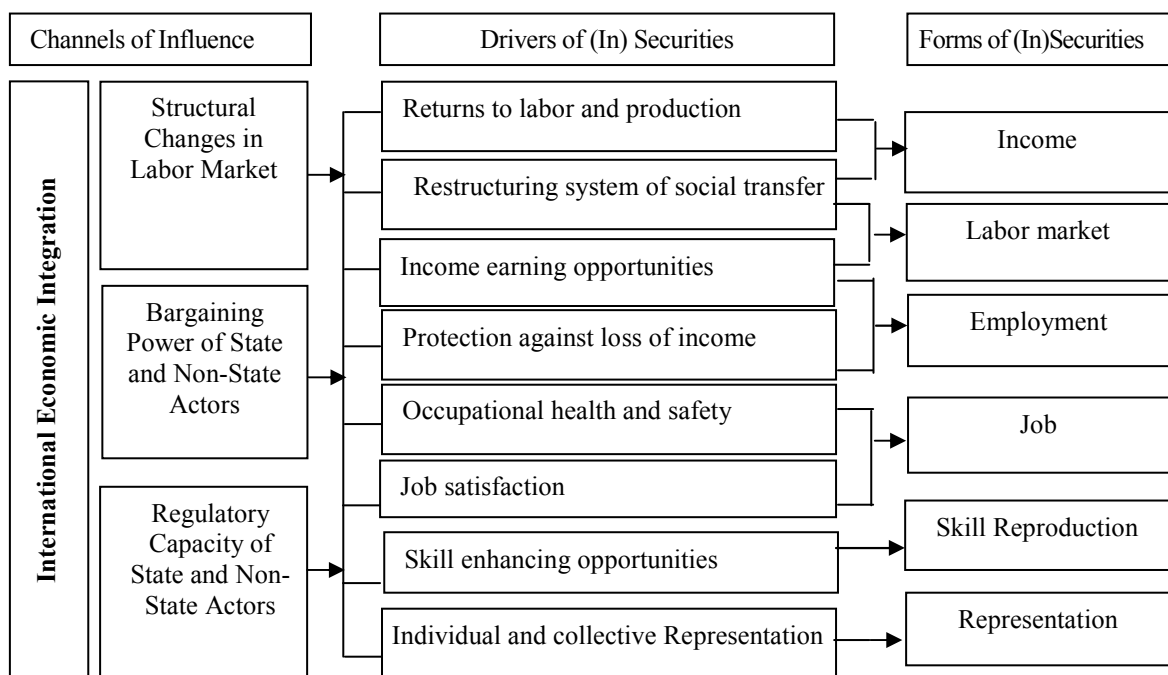


Figure 3.1 Integration-linked Channels of Influence, Drivers, and Forms of (In)Securities

CONCLUSION: LABOR STANDARDS AND ECONOMIC SECURITY FRAMEWORK

The working poor are faced with range of opportunities to secure their livelihood (by reducing risks, fulfilling needs, and promoting rights) and at the same time are vulnerable to insecurities (greater risk, unfulfilled needs and interests, and lack of rights). Workers’ interests and needs include (a) income security—adequate actual, perceived and expected

income, either earned or in the form of social security and other benefits; (b) representation security—individual representation and collective representation; (c) labor market security—opportunities for adequate income-earning activities; (d) employment security—protection against loss of income-earning work. and salary workers; (e) job security—presence of niches in organizations and across labor markets allowing the workers some control over the content of a job and the opportunity to build a career; (f) work security—shielding workers from unsafe working conditions in organization; (g) skill reproduction security—workers’ access to basic education as well as vocational training to develop capacities and acquire qualifications. Labor standards enable the working poor access opportunities, and address vulnerability by channeling their interests of *risks reduction*, *needs fulfillment*, and *rights promotion*.

Labor standards as market intervening facilitating forces have implications for not only economic (in)securities arising from the globalization forces but also for other sources of (in)securities many of which are structural in nature e.g., age, gender, education, overall income/asset distribution. In this analytical framework, (in)securities arising from structural reasons have been termed as basic (in)securities on which institutional measures have longer term impact. Both types of securities are also vulnerable to periodic / transient shocks which could be economic like price hike and / or natural like flood or drought. The shocks periodically or transiently may erode economic securities achieved through work. The extent of the vulnerability of workers to such shocks will depend upon the level of economic security achieved over the years. Invariably, ability to withstand shocks is different for different kinds of economic security instruments (Figure 3.3).

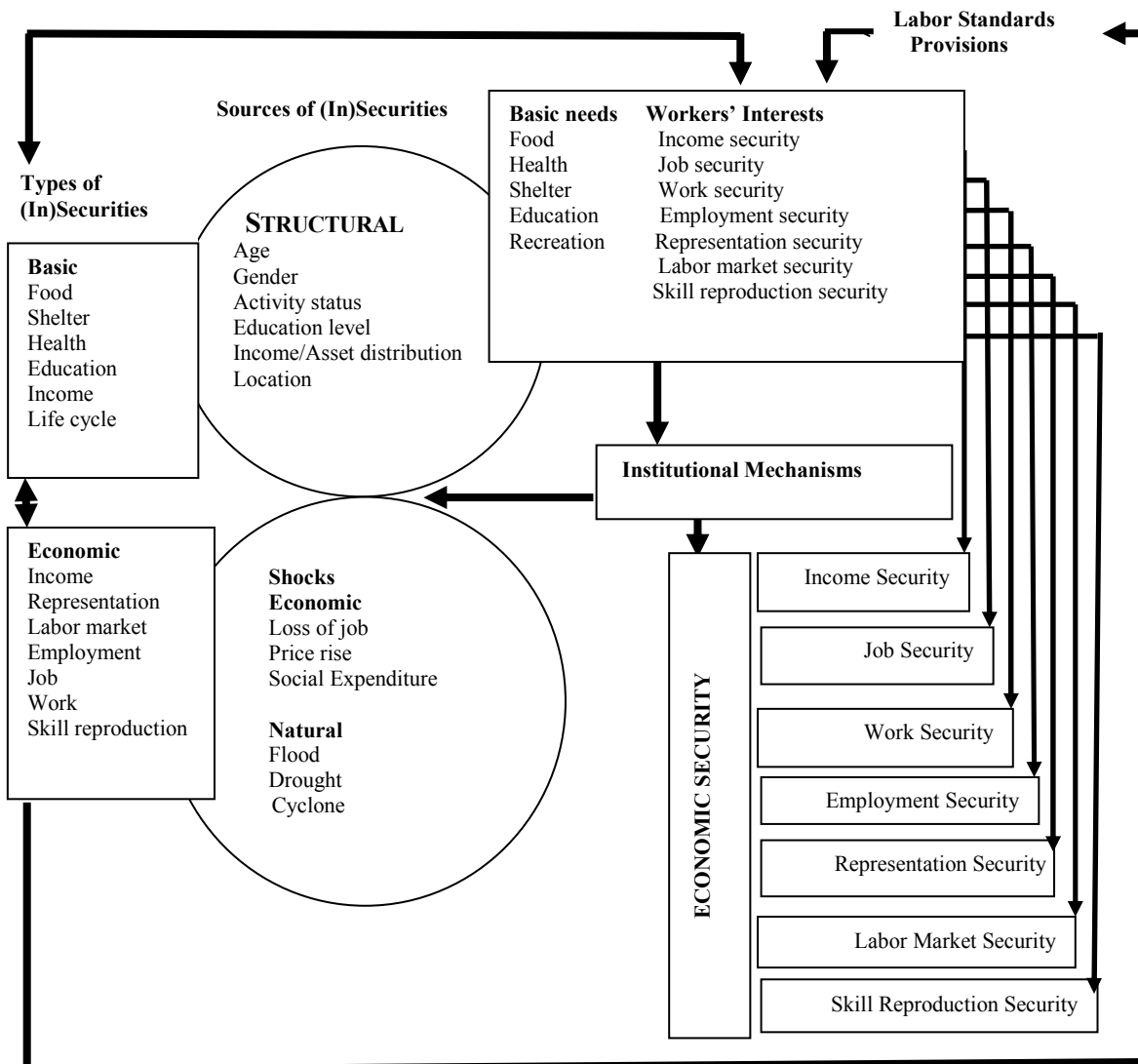


Figure 3.2 Labor Standards and Economic Security Framework

Overall, institutional mechanisms influence the process of enforcing labor standards in different forms for different purposes, i.e., reducing risks, fulfilling needs, and promoting rights. It ensures which forms of standards are to be accepted and enforced, and for what purposes. Labor standard instruments and process of enforcement, and also lack thereof, influence the institutional mechanisms put forward for workers' rights protection. The type and quality of institutional mechanisms determine the process of initiating and enforcing standards and its contents.

CHAPTER IV

THE NEXUS OF TRADE–LINKED LABOR STANDARDS, WORKERS’ RIGHTS, AND ECONOMIC SECURITY: FORMS AND TRANSMITTING MECHANISMS

The balancing act of the efficiency-equity tradeoffs through labor standards is closely related to forms of standards and the transmitting mechanisms of standards into rights and workers’ economic security. The forms and the mechanisms vary in the chains of linkage between standards–rights–security. These range from formal and informal instruments relying solely on action of market or state or both actors. Developing countries either have accepted the labor standard provisions as rights that needed to be uphold and enforced, or as requirement to access markets of developed countries, or as corporate codes of conduct due to pressure, demands and responsiveness of various stakeholders. Despite numerous provisions of labor rights in local laws as reflection of global accepted norms or through imposition by unilateral/bilateral/ multilateral action or threat of it, or through corporate routes in the form of voluntary codes, we hardly know whether labor rights provisions at the local level translate into workers economic security.

This chapter explores the forms and transmitting mechanisms of standards in the chain of linkages among trade-linked labor standards, workers’ rights, and economic security. Analyzing various forms of labor standards and the possible routes from labor standards to workers’ economic security, as well as the transmitting process of labor standards to workers’ economic security, the chapter provides a framework for analysis of the ‘labor standards-workers’ rights-economic security’ nexus.

FORMS OF LABOR STANDARDS

Developing countries through various routes accept, uphold, and enforce labor standards of different forms. Three such routes, however, are prominent. Standards which have been accepted as rights that needed to be upheld and enforced are *rights legislation*. Standard provisions accepted as requirement to access markets of developed countries, or to access market preferences are *rights conditionality*. Another of the type is the *voluntary codes* accepted as corporate codes of conduct due to pressure, demands and responsiveness of various stakeholders.

Rights Legislations

Most countries, including the LDCs, have enacted labor standards for their citizens, and nearly every country has ratified some of the Conventions of the ILO.¹⁹ The ILO defines and guarantees labor rights through Conventions (binding international treaties), recommendations (non-binding guidelines) and Codes of Practice. As of October 2011, ILO promoted 189 conventions (25 of which are shelved or withdrawn). Though ILO advocates the ratification of all conventions, not all ILO members are required to ratify each convention. Since the ratification of a convention makes it law in a ratifying country, many countries do not ratify conventions even when they agree, and already generally comply, with the terms of convention.²⁰

¹⁹ Countries which strongly oppose any link between labor standards and trade, and contest social clause in the WTO rules, agree to leave the standards in the hands of the ILO. At Singapore in WTO Ministerial Meeting, members renewed their commitment to the observance of internationally recognized labor standards, supported collaboration between the WTO and ILO Secretariat, rejected the use of labor standards as protectionist purposes, and recognized that ILO is the competent body to set and deal with labor standards.

²⁰ For example, the US has ratified fewer Conventions, only 14 out of the 187 conventions adopted by the ILO since its inception. In contrast, Bangladesh has ratified 33 of the Conventions.

The ILO convened labor standards covers wide range of issues and workers.²¹ The Declaration of Philadelphia has emphasized the dignity of labor; labor is not to be treated as a commodity. The ILO Declaration on Fundamental Principles and Rights at Work obliges all ILO member states to respect, promote and realize certain principles. Article 2 of this declaration states, “(A)ll Members, even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the [international Labor] Organisation to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are subject to those conventions.” These are: (a) Conventions 87 and 98: freedom of association and the effective recognition of the right to collective bargaining; (b) Conventions 29 and 105: elimination of all forms of forced or compulsory labor; (c) Conventions 138 and 182: effective abolition of child labor; and (d) Conventions 100 and 111: elimination of discrimination in respect of employment and occupation. A useful typology, provided by Sengenberger (1994) distinguishes among protective, participatory and promotional ILO conventions. For example, Conventions addressing working time, employment protection and minimum wages are protective; Conventions addressing freedom of association and collective bargaining are participatory; and Conventions addressing training, employment and the establishment of labor administrations are promotional.

Countries are also obliged to uphold workers’ rights through numerous international human rights instruments, particularly under the aegis of the United Nations.

²¹ The subject of both the binding and non-binding instruments touch on freedom of association, collective bargaining, elimination of forced and child labor, protection of young, equality of opportunity and treatment, tripartite consultation, labor administration and inspection, employment policy and promotion, vocational guidance and training, employment security, wages, working time, occupational safety and health, social security, and also on specific categories of workers (migrant workers, seafarers, fishermen, dockworkers, indigenous and tribal people).

International human rights instruments are expressed in treaties and protocols.²² Accepting that human rights are the rights inherent to all human beings, UN member countries collectively agreed upon a body of fundamental rights and freedoms to all persons. Currently, there are over 100 international human rights instruments. The foundational document of the system is the Universal Declaration of Human Rights (UDHR).²³ The UDHR has inspired a large number of legal documents at the national, regional and international levels. The International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR), in particular, have effectively translated those rights into binding treaty law for the states that ratified these instruments. There are nine core treaties adopted over the years and came into force.²⁴ Overall, the international human rights instruments have created obligations on states to establish and enact laws promoting and protecting human rights.

Political and civil rights under the ICCPR include the right to life, liberty and security of person, freedom from slavery and servitude, freedom from torture and cruel, inhuman or degrading treatment or punishment, the right to recognition before the law, and the freedoms of thought, conscience, religion, expression, opinion, assembly and association. The essential rights through this instrument are of “negative” nature, they are

²² A treaty enters into force once a certain number of States (as determined by the treaty itself) have ratified or acceded to it. Some treaties are supplemented by optional protocols (containing provisions of specific issue and/or procedures). Treaties may be known by many other names—for example, agreement, convention, protocol, pact, and covenant—but the name chosen generally does not affect the legal binding status of the agreement.

²³ Adopted by the General Assembly on 10 December 1948, G.A. Res. 217A (III), U.N. Doc. A/810 at 71 (1948). Although the UDHR is not a legally binding instrument, it has over time been widely accepted as a universal agreement on fundamental human rights norms that duty bearers are expected to respect, protect and fulfill.

²⁴ Many of these cover political, civil, social, economic and cultural rights relevant to workers as human being, while there are instruments that focus on specific issues e.g., prevention of discrimination, torture and other cruel, inhuman or degrading treatment or punishment, slavery, traffic in persons, forced labor, freedom of information and expression, as well as protection of specific groups of people e.g., women, children, migrants, ethnic minorities, person with disability.

to guarantee freedom from being coerced into doing things. Economic, social and cultural rights under the ICESCR include among others the rights to social security, work, education, and to a standard of living adequate for health and well-being are of positive nature requiring action on the part of the states to ensure jobs, education, shelter, and healthcare.

Rights Conditionality

The efforts to link trade and labor standards continue on different fronts including unilateral, bilateral and plurilateral negotiations and actions. A wide range of such agreements covering many developed and developing countries are in place. The US Child Labor Deterrence Act 1993 (popularly known as Harkin Bill) to outlaw the importation of products made with child labor is an example of unilateral action. The EU wide standards are available. EU social charter covers improvement in health and safety, equal pay, working conditions, right to join trade union and the right to bargain collectively through a principle of upward harmonization of labor legislation (Kuruvilla and Verma 2006). There have been moves to include social clause in the Lome Convention—an international aid and trade agreement between the African Caribbean and Pacific Countries (ACP) group and the European Union. The partnership agreements of the EC member states with the ACP countries, and also with the South Africa include reaffirmation of the signatories' commitment to core labor standards.

On bilateral and regional agreements, Peru Free Trade Agreement ties US trade policy to enforceable labor standards. Both the US and Peru are required to adopt and maintain domestic laws to implement the standards incorporated in the 1998 ILO

Declaration on Fundamental Principles and Rights at Work. The North Atlantic Free Trade Agreement (NAFTA) also conditions member countries to respect, and to enforce each other's labor laws through the procedures set out in its side agreement North American Agreement on Labor Cooperation (NAALC). The provisions of Canada-Chile Agreement on Labor Cooperation mirror the procedures of the NAALC. The MERCOSUR countries (Argentina, Brazil, Paraguay and Uruguay) have committed to promote individual rights (e.g., non-discrimination, elimination of forced labor and child labor), collective rights (freedom of association and collective bargaining) according to their national legislation and practice, as well as collective conventions and agreements. Another of the regional initiatives that have labor standards provisions is the 14 member Southern African Development Community (SADC) in its Social Charter which commits to implement ILO fundamental conventions, and observe a number of basic rights and principle including freedom of association and collective bargaining, and equal treatment for women and men.

For LDCs, another route to labor standards as rights conditionality comes through its continued efforts to integrate into the global economy by way of preferential market access provisions such as GSP in different developed country markets. US GSP scheme—preferential duty-free entry to US market—designates a beneficiary on the basis of the country's records in internationally recognized worker rights.²⁵ It specifies five such standards whose observance conditions a country's beneficiary trade status. The provisions are: (1) right of association; (2) right to organize and bargain collectively; (3) prohibition of forced or compulsory labor; (4) minimum age for the employment of children; and (5) acceptable conditions of work with respect to minimum wages, hours of work, and

²⁵ The scheme is currently applicable to about 4,900 products from 132 countries. Note, however, that during its first ten years, the GSP contained no workers' rights provisions. In 1984, the GSP was reauthorized with the labor rights conditions (US Trade Act 1974, Section 2462 .b.2.D ii.G).

occupational safety and health. Under EC, GSP scheme too provides non-reciprocal additional trade preferences to countries that comply with certain labor standards. Three separate preference regimes exist: (1) standard GSP—reduced tariffs on over 6300 tariff lines; (2) GSP plus— tariff reductions to support vulnerable developing countries in their ratification and implementation of international conventions; and (3) Everything But Arms (EBA) arrangement—DFQF access for 50 LDCs on all products except arms and ammunition.²⁶ The EBA also includes safeguard and temporary withdrawal of preferences as exceptional measures in case of serious and systematic violation of any standards referred to in the ILO Declaration on Fundamental principles and Rights at Work.

While the EU GSP defines its core standards in relation to international conventions (including ILO's), the US definition of internationally recognized workers' rights makes no reference to such standards in particular the ILO's 1998 Declaration on Fundamental Principles and Rights at Work setting core labor standards. Both lists have substantial overlap but differ widely. Labor standards promoted through the rights conditionality route show that the rights promoted have varied contents. While some fall short of the globally recognized core standards, few go beyond to include other standards.

Voluntary Codes

A plethora of voluntary codes currently exist. O'Rourke (2003) identifies three general forms of these codes. The first model operates under a regulatory system; firms or delegated third parties engage in the traditional government role of monitoring compliance. This model uses internal or external monitoring, and is represented by multiparty systems

²⁶ Few other products e.g. rice, sugar are yet ineligible for DFQF preferences. Such preferences to 41 tariff lines concerning rice and sugar is subject to full liberalization of market within a stipulated timeframe.

like the Fair Labor Association (FLA) or by the efforts of individual companies. A second model is the certification-based system that follows guidelines drafted by multiparty organizations, and relies on third-party auditors for audit and certification of factories. Often an external body certifies that the factories producing certain commodities adhere to labor standards. Companies with a desire to meet those standards can choose to source from ‘approved’ factories, rather than committing to ongoing internal or external monitoring. A number of different examples exist, such as Rugmark, SA8000, AA1000, and FLA. A third model operates via international labor unions or independent organizations like the Workers Rights Consortium (WRC) that respond to complaints lodged by workers. Based on complaints, unions or groups like the WRC pressures on brands and/or on the retailers drawing on those suppliers to change conditions within those factories and their associated supply chains. Another approach to voluntary codes is “Reporting Initiatives”. It requires corporations to report on the enforcement of standards in their own firms. The best examples of these are the Global Reporting Initiative (GRI) and the UN Global Compact.²⁷

The coverage of voluntary codes reveals a broad dispersion of contents. Many of these codes relate to promotion of ILO labor core standards, while others relate to a comprehensive set of standards including aspects of health and safety, hours of work, wage and non-wage benefits, employment contracts, reproductive rights, leave provisions, and maternity benefits.

²⁷ GRI develops globally applicable guidelines for reporting on economic, social, environmental performance for businesses, governments and NGOs. The Global Compact is an initiative for businesses for aligning their operations and strategies with universally accepted principles in the areas of human rights, labor, environment and anti-corruption. It currently covers 4,000 stakeholders in 116 countries. Both instruments require members to report on a number of dimensions including human rights abuse, freedom of associations and collective bargaining, elimination of forced labor and child labor, and elimination of discrimination.

Compiling the contents of 20 voluntary codes of conduct, Pearson and Seyfang (2001) find that the most commonly cited standard is related to the minimum age of workers, followed by rights to freedom of association and to bargain collectively, health and safety, forced labor, discrimination, minimum wages, and hours of work.²⁸ They reveal an interesting relationship between the participation of different stakeholders and the coverage of the codes. They note, “(W)hile all codes with workers’ organization and 80 percent of those with NGO representation protect the right to FoA and CB, only just over half of codes with industry involvement have these clauses” (2001:64). Other studies also find similar contents within the voluntary of codes of conduct. Jenkins (2002) finds that FoA and CB rights are the least mentioned of the core ILO standards. Comparing the contents of 10 well known Textile, Clothing and Footwear Industries related codes, Sajhau (1997) finds that codes on elimination of child labor and non-discrimination are quite widely used; while these hardly make any explicit references to FoA and the right to CB.²⁹

Labor Standards as Workers’ Rights

While labor standards are the minimal rules that govern how people are treated in a working environment, consensus on the minimal rules is yet elusive. This is particularly due to fact that the forms of labor standards reveal a broad dispersion of contents. Field

²⁸ 18 of the 20 initiatives Pearson and Seyfang (2001) cite include a commitment not to utilize child labor. 16 codes include clauses on the rights to freedom of association and to bargain collectively; 15 include standards on health and safety, no forced labor, no discrimination, and the provision of minimum wages (though of these, only 10 stipulate the payment of a living wage); 14 codes refer to the hours of work, in most cases stipulating a maximum 48- hour week plus 12 hours permissible overtime although 2 cases refer to conforming with the local legal norm.

²⁹ The study reviewed codes of Levi Strauss, The Gap, J.C. Penney, Sears, Roebuck and Co, Wal-Mart, Woolworth, Phillips-van Heusen, Sara Lee, Reebok. For nine of these codes FOA & CB were not mentioned, and in only in case of Reebok, it says “will seek trade partners which share its commitment to the right of employees to set up and join organizations of their own choosing. ... will ensure that no employee is penalized as a result of the non-violent use of this right...recognizes and respects the right of all employees to organize and to engage in collective bargaining (Sajhau 1997: 10).

(1996) has defined a list of labor standards in terms of a minimum level below which production would be considered illegitimate. To him, these are ban on slavery and forced labor, right to be fully informed of any unsafe or unhealthy working conditions, freedom from child labor, and freedom of association and the right to collective bargaining.

Others have considered labor standards that affect market functioning. For example, standards that affect labor supply (e.g., minimum age, prohibition on forced labor); standards that affect labor demand (e.g., OSH); and standards that affect the process of wage and employment determination (e.g., minimum wage). Engerman's (2003) categorization of labor standards is a similar one, dividing into three categories: (1) labor market conditions (e.g., wages and hours, with different provisions according to age and gender); (2) working conditions (related to safety and sanitation); and (3) arrangements between labor and management.

These standards are often divided in terms of process and outcome (Aggarwal 1995, McCrudden and Davis 2000). Standards that concern the organization of labor market without specifying any particular market outcome (e.g., elimination of forced labor) is process related. An outcome related standard is sensitive to market characteristics (e.g., minimum wage, minimum age of work). Some authors distinguish the same standards in terms of possible monetary affect of implementation as either cash or non-cash standards (Elliot and Freeman 2003). To them standards that go beyond the four ILO core labor standards are cash standards because those , “mandate particular outcomes—such as minimum wages, working hours, and health and safety conditions—that directly affect labor costs, and thus also potentially affect trade competitiveness” (2003: 13). Such distinction of cash-non-cash standards are, however, often blurred since the so called non-

cash standards do not come free of cost. For example, in case of FOA and CB, there are direct costs supporting organizations of representation or processes of negotiation. There is lost production time as some workers become representatives and move out of work for organizing.

Most pronounced division is, however, between core and non-core standards. ILO standards pertaining to Declaration on Fundamental Principles and Rights at Work—freedom of association, freedom from forced labor and from child labor, and non-discrimination in employment—or a similar one (e.g., OECD 1996)³⁰ covering most of the contents while are core labor standards, other standards like minimum wages, or safety and health standards are termed as non-core standards in contrast. Many have portrayed this elevation of few standards over others as a common vision of the necessary social dimension of progress (Maupain 2005), as a defining turning point in the life of the ILO (Langille 1999, Hughes 2002), as well as a contribution to establish universal labor standards (Elliot and Freeman 2004). Nonetheless, there is yet any agreement what forms core labor standards.

The 1998 ILO Declaration on fundamental Principles and Rights at Work proclaims the four standards as principles. Considering the Declaration as the harbinger of a revolutionary transformation, Alston (2004) argues that a new normative hierarchy amongst the heterogeneous and wide-ranging set of labor rights has been established. A number of other authors have argued on the limited nature of the core list (Compa 2004, Speiler 2003). Some have in particular argued that standards such as health and safety

³⁰ OECD (1996) set of core labor standards corresponds closely with the ILO's core standards. The set include: (1) prohibition of slavery and compulsory labor such as bonded labor; (2) non-discrimination in employment among genders, ethnic groups, etc.; (3) prohibition of exploitative forms of child labor; and (4) freedom of association, the right to organize workers' groups; and (5) freedom of collective bargaining over working conditions.

should have been included in the core list since poor health and safety can threaten lives and at the same time may cost less in improving conditions than standards such as eliminating discrimination or child labor. Speiler (2003) contends that these core rights do not assert a right to a minimum level of protection at the workplace.

Indeed, these standards represent a highly arbitrary selection. The set reflects of a handful of exclusively *process related civil and political rights*. The rights instruments in the social and economic rights were excluded, except the right of association; the right to form and join trade unions is considered both a civil right and an economic right.³¹ Speiler (2003) argues that the selection of the core standards was the outcome of what she termed “drive for consensus” which lead to a least common denominator standard since consensus at the ILO tripartite negotiations required the agreement of developed and underdeveloped states, as well as between business, trade unions and state representatives. Some even view the choice as a protectionist outcome. The core list simply reflects those standards on which performance of developing countries are poorer than their counterparts in developed countries. McIntyre (2008) argues that the chosen rights have two goals: (1) to appeal to most important constituencies of the ILO (liberal, Christian socialist, and social democratic); and (2) to be universal principles as much possible, and able to open the way for other standards. FoA and CB are included but not the health and safety or minimum wage since the former can produce the latter. Alston (2004: 485) compellingly argues,

the choice of standards to be included in the CLS was not based on the consistent application of any coherent or compelling economic, philosophical, or legal criteria, but rather reflects a pragmatic political selection of what would be acceptable at the time to the United States and those seeking to salvage something from what was seen as an unsustainably broad array of labor rights.

³¹ FoA for workers has long been considered a fundamental right universally. Compa (2003) considers this right as the bedrock workers’ right under international law on which all other labor rights rest.

A broader typology of labor standards, developed by Portes (1990), incorporates all forms of rights. He categorized standards as rights in four groups. The first group consists of basic rights which include freedom from forced labor, abolition of child labor and non-discrimination. The second group, civic rights relate to rights of collective bargaining and expression of grievances. The third group, survival rights relates rights to a living wage, accident compensation, and to limited hours of work. The fourth group, security rights relate to rights against arbitrary dismissal, and rights to long service pay, retirement compensation, and survivor's compensation. The first two groups together constitute, with minor differences, what ILO refers to as core labor rights. The third and fourth group together relate to conditions of work. These four groups of labor standards accommodate different human rights and labor rights frameworks.

Workers' Rights as Human Rights

While the broader typology of standards incorporate workers' rights as human rights, the term 'human rights' has different meanings to different people around the world. Every country has its own particular human rights objectives, priorities and experience. As Gross (2003: 3) quotes from a UN document, "Violations of civil and political rights continue to be treated as though they were far more serious and more potentially intolerable, than massive and direct denial of economic, social, and cultural rights." He argues that until recently, the international human rights movement and organizations, human rights scholars, and even labor organizations and advocates have given little attention to worker rights as human rights. To quote at length from Gross (2003:3),

Historically, human rights organizations have concentrated on the most egregious kinds of human rights abuses such as torture, death squads, and detention without trial. This lack of attention has contributed to workers being seen as expendable in worldwide economic development and their needs and concerns not being represented at conferences on the world economy dominated by bankers, finance ministers, and multinational corporations.

Leary (2003:22) considers this as a regrettable paradox and argues, “(I)nternational human rights movement devotes little attention to the rights of workers. At the same time, trade unions and labor leaders rarely enlist the support of human rights group for the defense of workers’ rights.”³²

This lack of attention on the needs and concerns of workers contrasts with the fundamental vision of the ILO. The preamble of the organization’s Constitution says, “(U)niversal and lasting peace can be established only if it is based upon social justice,” and also proclaims that “the failure of any nation to adopt humane conditions of labor is an obstacle in the way of other nations which desire to improve the conditions in their own countries.” Compa (2000:10) too argues, “Human rights cannot flourish where workers’ rights are not enforced.” It may be noted that the interests in incorporating the non-core standards with development priorities have not faded away. Soon after the promulgation of the 1998 Declaration, ILO launched the initiative to promote decent work at work by broadening the focus to include rights of the workers. Moreover, human rights movement and labor rights movement, the two movements, which Leary (2003) sees as two parallel tracks, have recently started to focus on each others’ concerns. However, it is important to delineate what principles of human rights of workers I focus on so that I have a consistent workers’ rights framework to use in this dissertation in case of Bangladesh’s garment sector and its workers.

³² Leary further cites Compa (2001) who reveals that human rights literature make few references to “labor”, “workers”, “trade unions”, or “unions”, although the ILO is frequently mentioned.

First, human rights are universal, indivisible and interdependent, thus workers' rights as human rights cannot be selective in contents, and belong equally to everyone. Human rights cannot be realized in isolation from one another. The improvement of one right facilitates advancement of the others. Likewise, the deprivation of one right adversely affects the others. Second, it is legally binding on all states. All states have ratified at least one of the international human rights treaties, and are required to uphold and protect human rights. Third, it emphasizes equality and non-discrimination. All human beings are born free and equal in dignity and rights. They cannot be discriminated against on the basis of sex, race, color or religion.

In practice, equality means that states have to pay particular attention to the needs of the most vulnerable; and non-discrimination means paying attention to outcomes, not just process. Applying the same rules to dissimilar populations can worsen the situation of the disadvantaged. This is not an acceptable outcome within a human rights framework. States' overriding obligation is to improve the condition of excluded and marginalized groups like the working poor.

For economic security of the workers, it is, however, important to delineate forms of rights of workers those conform to the principles of human rights. This is because ideally, workers' rights build on human rights which are universal and must be equally applied to all people. These are claims for right to work and at work in just and favorable conditions of work with adequate standard of living.

The Universal Declaration of Human Rights recognizes social security as a right for every member of the society (UDHR Article 22). It also recognizes everyone's right to work and to choose employment in just and favorable conditions of work, and to protection

against unemployment (UDHR Article 23 (1). Subsection 2 of the same article focuses on non-discrimination in service i.e., the right to equal pay for equal work. The Declaration also incorporates rights for the workers of the society as it mentions in its Article 23(3), “Everyone who works has the right to just and favorable remuneration ensuring for him[her]self and his[her] family an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection”. In the following sub section 23(4), it recognizes the right to protect the interests for the workers by forming and joining trade unions.

The Article 24 recognizes the right of the workers to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay. The Article 25 proclaims the right to livelihood,

Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.

The ICESCR protects, along with all other members of the society, livelihood security of working people. Article 6 of the Covenant states, “The States Parties... recognize the right to work, which includes the right of everyone to the opportunity to gain his [her] living by work which he [she] freely chooses or accepts, and will take appropriate steps to safeguard this right”. It also calls for proper policy and programs to ensure full and productive employment in the way of materializing these rights. The Article says,

To achieve the full realisation of this right shall include technical and vocational guidance and training programmes, policies and techniques to achieve steady economic, social and cultural development and full and productive employment under conditions safeguarding fundamental political and economic freedoms to the individual.

The Article 7 of the Covenant recognizes the right of everyone to the enjoyment of just and favorable conditions of work, fair wages and equal remuneration for work of equal value, and equal treatment for women not inferior to those enjoyed by men. It also includes remuneration for the working force as minimum as to provide a decent living for themselves and their families. It recognizes, as rights of workers, safe and healthy working conditions, equal opportunity to be promoted to an appropriate higher level and rest, leisure and reasonable limitation of working hours and periodic holidays with pay, as well as remuneration for public holidays. To form unions and join the trade unions of choice is a right of the worker (ICESCR Article 8).

Workers' rights as human rights are, thus, of three forms: (i) right to work; (ii) right at work; and (iii) right through work. To provide access to employment opportunities, which are fair and equal without discrimination and that workers know their rights under the law and are able to establish it are *rights to work*. Article 23.1 of the UDHR grants the right to work and the right to free choice of employment. It also provides safeguards, such as the right to favorable conditions of work and the right to protection against unemployment. Article 23.2 prohibits discriminatory wages and affirms the right to equal pay for equal work. Article 23.3 requires remuneration to be just and favorable, *i.e.*, ensuring an existence worthy of human dignity. Article 23.4 calls on the fundamental right to freedom of association and to form and join unions.

To promote just and favorable conditions of work, to ensure sanitary, healthy and safe working conditions for all workers are *rights at work*. UDHR provides everyone the rights to rest and leisure, including reasonable limitation of working hours and periodic holidays with pay (Article 24). The ICESCR provides the rights to just and favorable

remuneration (Article 23.3), holidays with pay (Article 24) and sustainable standard of living (including food, clothing, housing, medical care, and necessary social services) and the right to security in the event of unemployment, sickness, disability, widowhood, old age, or other lack of livelihood in circumstances beyond his control (Article 25.1)

The rights of everyone to an adequate standard of living are *rights through work*. This means ensuring that no discrimination takes place in hiring and of wages, and enable job creation as needed with equal access to employment. Article 25 of the UDHR proclaims, “Everyone has the right to a standard of living adequate for the health and well-being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control.”

STANDARDS ENFORCEMENT AND TRANSMITTING PROCESS TO ECONOMIC SECURITY

Of concern is the fact that there are widespread violations of labor standards in the countries that have introduced/installed a wide range of instruments ranging from rights legislation, rights conditionality, and voluntary codes. Question of effective enforcement of standards for striking a right balance in the efficiency-equity relations is still debated. Should this be done primarily by outside organizations or by the workers themselves and by their representatives? Should the enforcement and monitoring be left to market forces, or workers’ representatives and states have any role in it? These questions point to the standard enforcement mechanisms and attendant transmitting process to economic security.

The labor standards instruments currently in use either rely solely on market or state action or allow the state and/or market to respond in view of pressure, demands and

responsiveness of various stakeholders including and sometimes beyond the tripartite representatives of workers, employers and state. All these instruments have particular strengths in terms of coverage, approach and enforcement mechanisms; they are also prone to violations due to its inherent weaknesses.

Enforcement Institutions for Standards Promotion

While most developing countries utilize some form of legislations and institutions of state to enforce standards, many of these countries have exhibited remarkable failure in enforcement (Kuruvilla and Verma, 2006:4). Indeed, the lack of labor standards legislations (hard laws) and prevalence of violations of rights by the state apparatus are deemed to be the reason for increased international pressure of global standards and international enforcement mechanisms and the growth of non-state actors' efforts to uphold standards by soft regulation.³³ The problem of low labor standards in developing countries is not that these countries do not have laws mandating decent labor conditions. Most of these countries have in fact signed ILO conventions that commit them to globally established labor standards. Even in comparison with developed countries, the records of ratification of ILO conventions by the developed countries are not low. Interestingly, there is also an almost universal affirmation of fundamental labor rights among the developing countries. In contrast, the US, a big proponent of improving core labor standards has only ratified 12 conventions, and has not ratified the freedom of association and collective bargaining conventions.

³³ A key distinction between soft and hard regulation is in terms of enforcement. In hard regulation, enforcement is only via sanctions or other forms of punishment. In soft regulation, there is a huge variation of enforcement approaches e.g., moral suasion, monitoring and feedback, transparency, peer group audits, bench-marking, joint studies, joint papers.

Among the globalization enthusiasts' who believe that free trade and labor standards are always complementary rather than competing ways to improve workers' well-being, to them, the problem of labor standards in poor developing countries stems from the lack of enforcing capacity. The poor workers are denied access to labor rights due to *acts of omission*. National government regulatory systems in terms of hard laws tend to be far less flexible than those that emerged in diverse context in the form of soft regulation. Developing states often do not prioritize the imperative to provide rights, lack the resources and institutional capacities to provide rights. With the Bangladesh case that follows in this dissertation, I argue that low labor standards are also due to *acts of commission*. States or non-state actors may knowingly put vulnerable people's rights at risk or even violate them for a variety of reasons. Both acts of omission and acts of commission are the outcome of the very policy shifts that the developing countries have had towards minimizing the role of state in policy formulation and implementation.

Over the years, the ILO sought to promote labor standards by advocating that its member nations adopt a series of conventions, with the belief that adopting a convention will result in the enactment of national legislation and subsequent enforcement. The implementation of the Conventions while is left up to each national government, failure to implement can result in complaint to the ILO. Any party recognized in the ILO tripartite structure (government, labor, and business) may make representations to the ILO concerning violations, which are then examined by a Committee and reported in ILO publications, and to the International labor Conference (ILC). Complaints may result in a Commission of Inquiry, and further action can be taken through the ILO. The ILO mostly relies on moral suasion by encouraging compliance through the supervisory and technical

assistance systems and reporting on the violations. ILO regularly publishes key problems in implementation of core labor standards and identifies specific nations with violations.

Despite the process of adopting and implementing labor standards through the ILO, there are ample examples of countries adopting ILO conventions and not implementing or enforcing labor laws.³⁴ The Article 33 of the ILO Constitution stipulates, “In the event of any Member failing to carry out within the time specified the recommendations, if any, contained in the report of the Commission of Inquiry, or in the decision of the International Court of Justice, as the case may be, the Governing Body may recommend to the Conference such action as it may deem wise and expedient to secure compliance therewith”. However, such punitive power is hardly used and only in case of extreme violations.³⁵

Regulation through Voluntary Instruments

Much of the voluntary mechanisms grew out of corporate responsiveness, labor union and other stakeholders’ demands and consumer pressure. Although their approaches differ, these different non-governmental regulatory systems have several common strengths (O’Rourke 2003). First, they have emerged in an international setting where no governmental body or organization has authority to regulate workplace conditions and, in fact, where the explicit linkage between trade and labor standards has been resisted.

³⁴ Many have criticized the ILO procedures as not having enough “teeth” since it lacks any means other than moral suasion and public criticism actively to enforce. To a certain degree, this is not true, that the ILO is not able to penalize countries who persistently violate rights. It has a punitive power of enforcement mechanism through the Article 33 which empowers it to take broad remedial action against persistent violators.

³⁵ The only time such punitive power was used in 2000 in the history of the ILO was against Myanmar for continuous use of forced labor. The ILO move to refrain multilateral agencies of the United Nations and the Breton Woods institutions to provide program assistance promoted a worldwide official boycott of the country.

Second, privately-based systems allow innovation and flexibility to deal with the inherent complexities involved in regulating international supply chains (Ayers and Braithewaite 1992). Third, these systems provide a means of translating consumer preferences about labor standards into mechanisms that can influence workplace conditions (Elliott and Freeman 2003).

The proponents of soft regulation argue that these initiatives are flexible, efficient, democratic, and effective than traditional labor regulation (Bernstein 2001). The case for regulation through voluntary instruments is advanced with the argument that the cost of raising standards is relatively low in most cases, and that cost could be covered easily from substantial profits retailers make and from consumers since they are willing to pay higher prices for sweat-free products. Similar conclusion is drawn by Pollin, Burns and Heintz (2004), who argue that wage increases in the apparel production industry could certainly be financed through price increases within the range that US consumers say they are willing to accept to ensure good working conditions in apparel production. Fung, O'Rourke and Sabel (2001) also build their model Ratcheting Labor Standards (RLS) on such notion of ethical consumerism.³⁶

The RLS model rejects the conventional regulation that entrusts monitoring of compliance to national and international governmental agencies, and argue that the most effective method does not rely on top-down regulation based on uniform standards and reliance on voluntary initiatives taken by corporations in response to social protest, rather on creating formal, social and market incentives for firms to follow standards, and establishing a clear and transparent database that would make results of all inspections

³⁶ Ethical consumerism is the idea that it costs more to produce goods under acceptable labor conditions, but that consumers would accept this price increase and that firms would be influenced to improve their labor practices accordingly.

public. The model builds on the assumption that market competition, driven by social and regulatory pressures, would generate improvements resulting in the ‘ratcheting up’ of standards. Whether consumer concern in developed countries alone can cause labor standards in LDCs to ratchet upwards? The RLS model requires that firms improve labor practices in response to consumer protests. In essence, it demands that consumers in developed countries must be aware of and take action against labor rights abuses. However, there are reasons to be worry whether that happens.

The first weakness is linked to the main strength of the voluntary regulation; they rely to varying degrees on consumer preferences for goods produced under acceptable labor conditions. If consumer preference for these goods diminishes, so too does the pressure on companies to participate in the system (Freeman 1998, Hiscox and Smyth 2006). They will succeed as long as consumers are willing to pay a premium to ensure that goods they buy are not made in sweatshops or if they are unwilling to buy brands that do not follow basic labor standards. In the absence of consumer pressure and willingness to buy ethically produced products, there would be little or no pressure to improve labor standards. A number of authors have argued that a sizeable proportion of citizens in both developed and developing countries wants some labor standards in their own country and also wants some standards in the production of goods imported from other countries (Freeman 1998, Elliot and Freeman 2003). However, in reality, Kuruvilla and Verma (2006) show that only a small percentage of consumers in advanced nations are willing to pay extra dollars for goods produced under standards imposed by voluntary codes of conduct. It is, thus, unclear whether the voluntary codes in general can make a significant

impact without the help of national governments, and in particular, if consumer preference disappears over time.

Second, the attitudes of the corporations do vary. It is also true that in the garments and athletic shoe sectors, many corporations have taken the implementation of their codes seriously. However, for many large corporations, CoCs are a matter of managing public image, and arise out of a pre-emptive strategy. In other cases, they are often introduced after critical incidents, and to satisfy their own employees/shareholders that company is doing something about labor conditions in contractor factories.

Third, consumer concern can be misguided; accordingly public action may limit itself only to brand name goods or identifiable images. Corporations may be pressured to adopt and adhere to codes of conduct; however, those are voluntary in nature and thus limit the scope of enforcement.

Fourth, the voluntary systems are usually detached from the traditional regulatory mechanisms in the nations where they operate and consequently do not complement—and at worst sometimes undermine—governmental systems (Piore and Schrank 2006).

Although codes of conduct have over the years become popular, research has unveiled a number of problems with them. First, workers who are covered by the code often don't know the contents of the code of conduct, even though they are to be displayed in the workplace. Second, the coverage of codes by companies is still limited. There has been a lot of dissatisfaction with monitoring of the code due to suspicion of the quality of monitoring. A joint report by Human Rights Watch and Center for Human Rights and Global Justice (2008:2) concludes that "(M)any companies have not ascribed to business standards addressing relevant human rights and, even when codes of conduct or

commitments to social responsibility exist, they often are not adequately implemented”. Not all corporations monitor to see whether the code is being implemented. Of those who do, substantial part of the corporations do the monitoring themselves, only a minority of corporations have left the codes to be monitored by independent organizations. Monitoring is often done by removing workers from rights enforcement process. Esbenshade (2004:33) argues “monitoring arises from an economic configuration in which consumers have increasing leverage and workers have decreasing power... thereby reinforces rather than challenges workers’ vulnerability.”

In general, corporate codes of conduct have made some progress in initiating labor standards provisions but their scope as well as reach is still limited. Voluntary codes often do not cover all relevant labor standards including the right to organize and bargain collectively. These efforts are likely to benefit only a small segment of the target workforce (Weil and Mallo 2007). Also, codes are rarely tagged with penalties for violation of any sorts. Thus, some form of agreements on types of standards to be upheld and promoted, balancing the choice of regulatory routes, and regulatory mechanisms might be legitimate. As well as some room in the labor regulatory framework needs to be created for workers to have adequate voice in the decision making of the standards selection, enforcement and monitoring.

CONCLUSION: TRANSMITTING PROCESS OF LABOR STANDARDS TO ECONOMIC SECURITY

Despite numerous provisions of labor rights in local laws as reflection of globally accepted norms or through imposition by unilateral/bilateral/ multilateral action or threat of it, or through corporate routes in the form of voluntary codes, whether labor rights provisions at the local level translate into workers economic security is still an empirical question. The

exploration of literature leads us to a debate that uncovers either a conflict or synergy is at work in between labor standards and workers’ economic security relationship. The inherent link between the three components of standards, rights and economic security nexus makes the transformation possible.

However, fundamentally, workers’ rights are concerned with the just and equitable distribution of economic goods and services. It is both process and outcome oriented. One set of rights is not more important than any others, and all rights—whether basic, civil, survival and security—must be equally respected. While the well-being of all people is important, rights-based labor market intervention means that priority must be given to the most disadvantaged such as the working poor. The transmitting process of labor standards to economic security is illustrated in Figure 4.1.

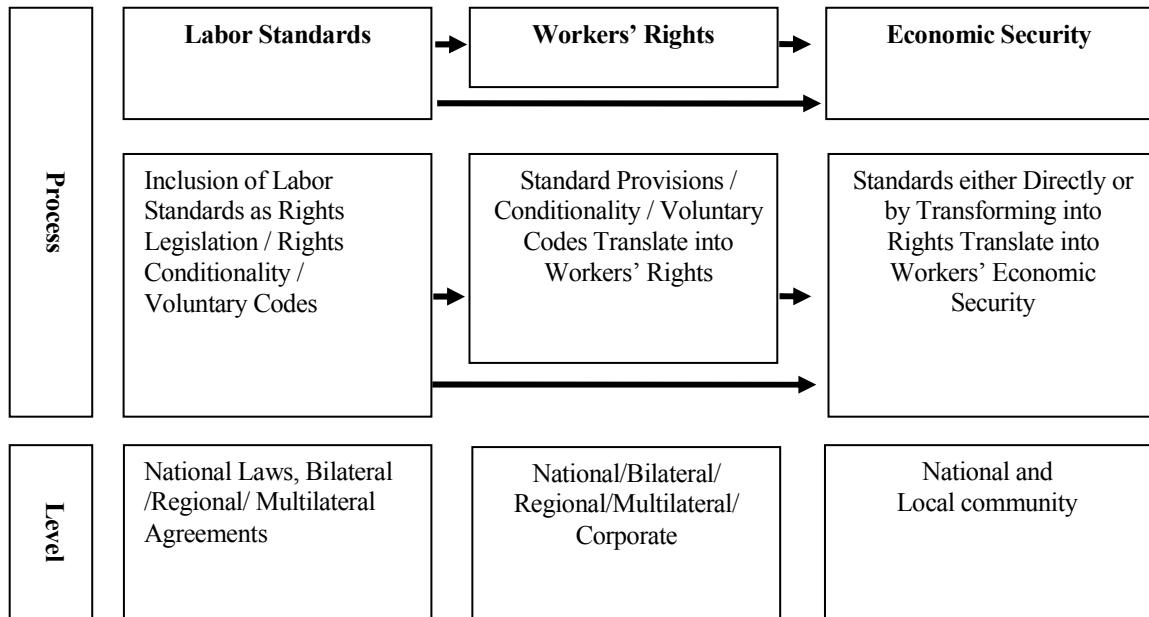


Figure 4.1: Transmitting Process of Labor Standards to Economic Security

The possible process of transmitting labor standards to workers' rights and subsequently or directly to workers economic security can materialize at different levels. Labor standards and workers' rights can be in the level of national laws, bilateral/ regional/multilateral agreements, and also in voluntary corporate codes, while economic security of the workers is translated at the national and local levels. The transmitting process of standards is that inclusion of labor standards as rights legislation / rights conditionality / voluntary codes at national/ bilateral/regional/ multilateral level translates into rights, and subsequently or directly translates to economic security at local and national level.

CHAPTER V

WORKERS' REPRESENTATION FOR WORK AND WORKPLACE GOVERNANCE: INSTITUTIONS AND INTERESTS

The main threads of representative institutional mechanisms run from ideas about, and practices of, allowing ordinary members of an organization to have a certain degree of influence on decisions concerning the objectives and the actual operation of the organization. The extent and the degree of control that members are able to exert, generally determine the form of the institutional mechanisms adopted for work and workplace governance. However, there remains a large representation gap (Freeman and Rogers 1993) as well as upward trend for the preference to be organized through some forms of representative mechanisms (Kochan *et. al.* 1994).³⁷

Three general grounds— risk, needs, and rights—the same grounds that justify the case for economic security have been at the centre of determination of the forms of institutional mechanisms. The search for new forms, principles, and institutions to improve work and workplace governance is continuing. Diverging opinion on the best institutional mechanisms to balance the efficiency–equity trade-offs as well to promote workers' voice exist. The differences arise in the form of such institutional mechanisms (e.g., direct or indirect), channels of representation (e.g., trade unions and non-union representation), and also the level of workers' participation (e.g., task based or power based). These differences are important for understanding the objectives of representing workers' interests in the work and workplace governance.

³⁷ The findings from studies dating from 1970s, according to Kochan *et. al.* are: (1) workers want a direct and influential voices in decisions affecting their work and employment conditions, (2) substantial number of unorganized workers want to address many of these issues through either unions or some other form of group or collective efforts; and (3) there is an upward trend in both of these preferences.

This chapter explores the institutional mechanisms, channels of representation, and workers' participation in order to construct an analytical framework for analyzing the politics of representing Bangladesh's garment workers. Exposing the inevitability of conflicts in interests of diverse groups in industrial and labor relations, I argue in this chapter that equitable outcomes for workers from the institutional mechanisms in place for balancing the conflicting interests are shaped by the politics of representation of workers in decision making, monitoring, and enforcement of labor standards and workers' rights provisions. Exploring the channels of workers' representation, the nature of workers' participation, and the system of interest representation, the framework builds on: first, the nature of workers' interests, and the question of who represents these interests; second, political, legal, and administrative commitment to empowering workers within the decision making process; third, the selection and application of techniques to accommodate participation by stakeholders; and fourth, the balance between equity and efficiency in the process of representation.

REPRESENTATIVE INSTITUTIONS FOR WORK AND WORKPLACE GOVERNANCE

The three grounds—risks, needs, and rights—justify some forms of workers' representation. The risk based analysis—on the ground of risks of inefficiency causing welfare loss—stresses the importance of economic and financial gains which a workers' participation system brings about by raising the productivity of labor and in turn efficiency. Their participation creates an atmosphere of collectivity and community; workers act more responsibly; the sense of job satisfaction and thus productivity enhances. The need based analysis justifies workers' representation as a means by which democracy is extended to the sphere of industry. The argument runs as follows: just like citizens of a country which

elect their representatives in the government to manage the country, the workers in the industry have the similar need of their representatives in the management. The rights based analysts argue on the grounds of rights to participation proclaimed in numerous international covenants and national legislation. These arguments, however, are divided over the appropriate forms of institutional mechanisms of workers' representation as well as nature of participation.

Forms of Institutional Mechanisms

There are proponents and opponents to a particular form of representative mechanisms. Three grounds of justification—risks, needs, and rights—provide competing views. In contrast to the rights perspective, the risks and needs based analysis hardly views unions to be positive institutions, however, from different vantage points.

Drawing on the neo-classical school of thoughts, the risk-based analysis rejects the union on the grounds of market distorting—monopolies; it restricts the supply of labor, raises wages above the competitive level by threatening to strike, and uses monopoly power to intervene in the competitive labor markets to save lazy workers. Only due to market imperfections causing welfare loss and inefficiency, some form of workers' representation (e.g., self- management) or even some forms of unions (e.g., joint consultation) that create an atmosphere of collectivity and community, which in turn increase the sense of job satisfaction and productivity are accepted. The ideal representation of workers, to them, is freely participating or abstaining from transactions. This is due to the fact that they consider labor to be just another commodity in the production process. The outcome in the economic transaction is considered to be fair for all

including workers; the amount workers are paid equals the value they contribute to the production process.

The needs-based analysis perceives unions as adversarial and inimical to cooperation (Kaufan 1993, Kaufman and Kleiner 1993), thus unnecessary. Drawing on the human resource management school, the argument is that the labor problem is internal, and an outcome of bad management, thus representation of workers is a part of management strategy to create a motivated, loyal, and productive workforce. To them, conflict between employers and workers is a manifestation of poor human resource management policies—solely internal to industry. Accordingly, they consider workers' voice can be provided through policies that encourage individual voice mainly through non-union representation routes.

In contrast, the third ground draws on industrial and labor relations school which see labor problem as an outcome of unequal bargaining power between the employers and workers. Work and workplace is characterized by a multiplicity of interests. While some of it is shared between employers and workers (both want the industry to be profitable, *albeit* for different reasons), some interests are of conflicting nature. To them, the labor market is characterized by bargaining and not by competition, and society is worse off if either side has too much power (Budd 2008). Generally, the employers' drive for higher profits conflicts with workers' interests in higher wages, better benefits, increased security, favorable working conditions, and greater voice in decision making. Thus, to balance the conflicting interests, the proponents favor promoting industrial democracy in which traditional labor unions that are independent of management have a strong role.

Forms of representative mechanisms are, thus, of two types: representation from within and representation from outside the enterprise. Representation from within, takes place at the plant level where the specific plant's workers' representatives deal directly with management on issues which affect them directly. Examples of such representative mechanism are works committees or councils. The other form—representation from outside—takes place across enterprises, and on an industry-wide basis. Workers join trade unions and elect representatives to undertake activities on their behalf and in their interests. The search for optimal forms of workers' representation to promote efficiency, equity and voice is, thus, continuing. However, the divergent perspectives on central issues of representation—autonomy, legitimacy, and efficacy—lead how effective the particular form of representation would be depend on the nature of participation of diverse interest bearers, and the extent to which power between the workers and the employers are balanced.

Forms of Workers' Participation

The process of work and workplace governance that recognizes the needs and rights of workers either individually or collectively to participate from within or outside enterprise determines the forms of participation. The objective of participation could be varied, from information sharing, to interaction, influence, or even to control. Whichever are the objectives, both forms (within and beyond enterprise) can take either direct or indirect routes for ensuring participation of workers in decision-making, and also imply different levels of participation—from a lower level task centric (e.g., work station) to a higher level power centric (e.g., board of enterprise).

The direct forms focus on the individual worker, and immediate work group, and are reflected by active individual involvement in decision making. The worker contributes to, and influences managerial decision making or executes functions previously done by management.³⁸ The indirect forms are participation through representatives. It includes processes and structures whereby representatives influence decision making, generally at higher organizational levels, on workers' behalf.³⁹ Both of these forms offer workers' voices at work but at a different level.

Direct participation focuses on the individual worker and primarily on decisions that are related to the execution of task. Its major function is to achieve better organizational performance through increased recognition of workers' interests and abilities at the workplace.⁴⁰ Since the focus is on individual worker's interests, not a collective one, far reaching structural changes at work and workplaces through the direct means are hardly attained. A growing body of literature shows that these initiatives across the world, which Gollan and Markey (2001) call 'high involvement management' or 'high commitment management' to achieve higher level of performance lack a structured approach to participation: ad-hocism and discretionary practices are widespread. Moreover, employers are often reluctant to relinquish managerial control or prerogative over decision-making.

Indirect forms of participation, on the other hand, predominantly aim at decisions taken at a higher organizational level, which often have a policy character. Unions have

³⁸ Examples of direct form are redesign of the work-organization, delegation of managerial functions, and flatter organizational structures. Workers themselves make decisions which often are the prerogative of management (e.g. the Japanese quality control circles).

³⁹ Examples of indirect representations are shop stewards, shop stewards committee, works council, department council, board representation, and collective bargaining.

⁴⁰ Job rotation, job enlargement, job enrichment and participative management are some of the key concepts in this area.

developed a variety of social functions including representing the aspirations and claims of a relatively homogenous social group, creating its identity, framing its solidarity and integrating its members into a society by transforming individuals into collective actors. It institutionalizes a form of representation, “fulfilling a double mission,” argues Catalano (1999: 28), “construction of worker identity and autonomy according to their occupational involvement in the productive system... and to contribute... to worker integration into the capitalist social system.” The role of unions as a collective voice reinforces the positive economic, political and social effects in pluralist democracies, and forms the basis of good quality and dignified employment (Standing 1999, Rodgers 2001).

The forms of representation that is effective in channeling workers’ voices has become important in view of the present context of industrial and labor relations. The growing emphasis upon enterprise flexibility in management practices has to a large extent weakened the role of unions in providing the industry-wide participation of workers. This is due to the fact that many developing countries’ governments over the years have enacted legislation promoting labor market policies that are designed to ‘loosen’ the workplace influence of trade unions and strengthen managerial prerogatives. To Verma and Kochan (2004), the broad causal categories of union decline are (a) structural changes in the economy and labor force; (b) employer opposition either direct suppression of unions or substitution of the functions unions have traditionally performed; (c) government policies ; and (d) union strategies. A large body of research indeed has assessed the causes of union decline in different national or institutional settings. It is however, worth noting that the relative weights assigned to different factors as cause to union decline vary across countries. For example, to Avila (2005), the decline resulted from: (a) negative

consequences of globalization on unionism; (b) legal and institutional barriers to workers' representation in general, and unionism in particular; and (c) inherent limitations, fragmentation, low density and dissipating strength of traditional unionism. Overall, in most developing countries, currently there is not only a wide representation gap, but also workers' representation is weak and ineffective to a large extent.

The representation gap has ushered in a lively debate on whether revitalized unions or new or alternative institutions of worker representation might close the gap. While unions can be effective for collective workers' voices, there are incentives for employers to provide alternative voice mechanisms where workplace union organization is weak or absent. The non-union representation is often promoted on the premise that workers do not desire or need a protective agency through traditional bargaining. In fact, there is evidence to the effect that many countries are promoting works councils or joint consultative committees as substantial representative options often against unions.

The choice of institutional mechanisms for workers' participation, thus, draws on the objectives of workers' participation in the workplace and beyond. The objectives of risk reduction or needs fulfillment or rights promotion determine selection of and priority in institutional mechanisms. It is argued that structures representing the interests of workers through collective bargaining—legally enforced or not—provide legitimacy and efficacy to the decision making process (Hyman 1997). However, Freeman and Medoff (1984) have noted that the efficacy of voice depends upon the way in which labor and management interact, rather than whether unions exist or not. Often non-union cooperation structures are packed with 'hand-picked cronies' or in the cases where workers can elect representatives cannot be fully independent of the company, and may not have the backing of national

union organizers to enforce action or outcomes. The employer initiated structures also limit the scope of trade union activism. Lloyd (2001:3) argues that such structures are based on “employers’ terms and cannot be effective in providing a true voice for workers’ issues and concerns because they institutionalize worker cooperation.”

Unquestionably, both direct and indirect instruments offer workers a voice at work. Often, they are competing models of workers representation, but they could also be collaborating and reinforcing. Fisherman (1995) argues that there are no compelling reasons why work councils would inhibit union growth. Hyman (1994) shows that employee participation and involvement have the capacity to assist unionism in workplaces where they are given many responsibilities, and especially when enforced through statutory rights. Nevertheless, disputes are inevitable since different groups have conflicting values and/or objectives. From an organizational point of view, unions may hinder enterprise flexibility, especially because of their attachment to industry-wide standards. Union leaders may have different agendas than the membership, and thus the voices may not actually reflect members’ interests. There may be management perception that outside influence can distort internal processes and structures and can impact negatively on workers behavior and organizational performance. Such understandings have led to organizations creating alternative representative bodies for ensuring that bargaining processes are contained within the organization.

The forms of participation are the outcome of two different premises (Gollan and Markey 2001). The first premise is that individual worker is considered to be at a disadvantage due to monopoly of power of the employer, thus participation structure are inherently a zero sum game—one wins and the other loses. The other premise is that there

are common interests between employers and workers, and thus the structure attains a win-win outcome. The persistence of these two diverged premises leads us to go beyond the debate on which form of representation is to promote, to a further in-depth focus on how such mechanisms transmit the voices of the workers towards an equitable outcome.

SYSTEMS OF INTEREST REPRESENTATION

How can the different and often conflicting interests of workers and employers be channeled and expressed to have a particular outcome? The system of interest representation is about how workers' interests are aggregated, articulated, and transmitted within the industrial and labor relation structure. Most countries in the world today have some forms of interest representation system.⁴¹ The outcome of the functioning of each system is, however, dependent on interest representation framework accommodating forms of interests (demands, intentions or inclinations of individual or collective actors), groups of interests, and process of channeling interests to influence the decision making process.

Forms of Interests and Groups of Interests

Interests are understood as demands, intentions, or inclinations of individual or of collective actors. Hyman (1994) suggests four characteristics of workers' interests. His typology of interests is primarily (1) work related; (2) external to employment; (3) collective in character; and (4) individual. Based on this characterization, the conflicting interests may be grouped into general or special types, collective or private, and latent or manifest types.

⁴¹ Two forms—corporatism and pluralism—are prominent. Corporatism is "a system of interest and/or attitude representation, a particular modal or ideal type institutional arrangement for linking associationally organized interests of civil society with the decisional structures of the state" (Schmitter 1974: 86). In contrast, pluralism views interest groups as aggregating the preferences of their members, and working to maximize those preferences in a political arena characterized by conflict. The configuration of both forms in most countries is a question of size, not of existence.

Workers' interests can be grouped modestly or ambitiously, pursued cooperatively or militantly, and perceived as competitive or complementary to the interests of other groups (including other workers' groups). These interest groups could be formal organizations as well as informal. The formation of interest groups is, indeed, a puzzle since not all interests are expressed and not all people are formed into groups. Olson (1965) provided the answer to the question how do interest groups come into being. Drawing from his analysis of logic of collective action, it is evident that individuals do not join an organization if (s)he considers personal benefit to membership decreases with increasing size of the group. Collective goods are equally available to members and non-members alike. Also, the possibility of free riding (particularly in large group) creates incentives not to join. Thus, many of the interests groups themselves are latent and non-expressed.

The formal organizations include trade unions, employers' associations, where membership is a matter of choice, and are explicitly formed to represent the interest of a particular group (associational groups). Other formal groups are institutional with additional social and political functions, e.g., sector-wide trade union federations, chambers of commerce. The informal groups could be of two types. First, non-associational groups—affiliation is according to common interests and identity (ethnicity, religion, spatial distribution). This group is hardly organized since people do not join the organization but feel to be part of it. Thus, this could be a very large group, as well as small face-to-face group having similar concerns. Such groups maintain latent interests and thus show only episodic activity. Another informal type is anomic group which forms in response to individual and collective grievances. This is a temporary and spontaneous group, thus, its activities are sporadic and often unpredictable and uncontrollable.

Interests Aggregation and Interests Articulation

The process of channeling interests to influence decision-making process determines outcomes of the interest representation system. Indeed, often representation tends to be imperfect in promoting equitable outcomes for its members. Two reasons can be put forward. First, it is the legitimacy gap of the representatives. To be representative, the person has to share the main characteristics of broader populations. The question of representativeness is a familiar problem around the world that skilled, male workers have traditionally been over-represented in positions as trade union officials or work councilors, and have often proved less than sensitive to the distinctive interests of female or lower paid workers. Second, it is some groups that are likely to exert greater than proportional influence. These groups could be within a particular section of population having broad common interests, but could also be the groups having conflicting specific interests taking a particular strategy to win a particular outcome.

Outcome of interest representation, thus, depends upon how interest groups (often contradictory) influence the policy making process. In liberal democracies, typically demands are articulated by interests groups, and aggregated by political parties (Hague and Harrop 2001). The demands, intentions or inclinations of individual or collective actors are provided to political parties, government, bureaucracies, legislature, mass public and mass media, and influence for a particular outcome could be through direct means (e.g., personal contact, petition to government / bureaucracy / legislature) or through indirect means by addressing the public e.g., through petition, demonstrations to gain publicity in the media, and by doing so, public support. This implies that interest groups can influence the policy-making process through two different channels, by legitimate and constitutional channels

(e.g., advocacy—a continued one as well as during the election time by providing or refusing support for a political party), and by coercive channels of political influence (e.g., civil disobedience, legal action). The outcomes of influence of diverged interests, thus, are the expression of either interest advocacy or interest intimidation.

Interest Advocacy and Interest Intimidation Outcomes

Both interest advocacy and interest intimidation lead to negotiation of interests. For example, employers are forced to sit with workers' representatives to settle the difference. Also, government may activate tripartite negotiations between the government, workers, and employers in view of lobbying of interests as well as in view of the civil disobedience by interest groups. Interest advocacy represents a functional form of interest representation, rooted in the dominant forms of lobbying and public involvement (public advocacy). Interest intimidation, on the other hand, represents a point at which stakeholders resort to legal action, or engage in civil disobedience, in an attempt to influence policy because they believe the existing forums are inadequate, and provisions for interest representation are dysfunctional.

While the extent of influence of interest groups depends upon its legitimacy (membership/ representativeness), and power (capability to impose sanctions and resources), the outcome from the negotiation is in essence the outcome of the representativeness of interests and representatives' power dynamics that draw on the legitimacy, autonomy, and efficacy of interest groups. The process is influenced by the institutional mechanisms present in any particular society that define the (in)abilities of balancing efficiency (profit) and equity (workers' economic security), and commitment (or

lack of it) to participatory process of dispute resolution and empowerment of weaker interest group within the negotiating process. Smith, Nell and Prystupa (1997: 142) define effective interest representation as participation that empowers stakeholders by ensuring balance between equity and efficiency.

The institutional mechanisms geared toward making an appropriate balance between conflicting interests in efficiency and equity, and commitments to a participatory process of dispute resolution, enable a transparent and accountable structure for negotiations. An enabling environment redresses representational asymmetries, and promotes the equitable interests (general, legitimate and collective) that quite often do not find adequate expression in the existing associational structure. The institutional mechanisms' ability to balance efficiency and equity trade-offs through participatory and empowering process becomes more important in cases where continued policy advocacy route of interest aggregation is dysfunctional; and interest intimidation forces conflicting stakeholders in negotiating interests. Overall, the instruments, and the process of institutional mechanisms for interest resolution define the outcome.

Interest Participation and the Logics of Action

The trade-offs between equity and efficiency in the process of representation is the reflection of the industrial and labor relations. The vision and logic of action of labor relations determine the balance. To draw on the framework by Frenkel and Kuruvilla (2002), the industrial and labor relations pattern in any given country is determined by three different logics of action, i.e., the logic of competitiveness, the logic of industrial

peace, and the logic of employment-income protection.⁴² The logic of action of employment relations in a given country results in the development of rules and institutions. They note, “When new logics are introduced, the new logic leads to new rules and changes in institutional arrangements, although old system is rarely completely replaced. More often, old institutions are reformed in terms of the new logic” (2002:5).

The first logic of action in industrial and labor relations is the logic of industrial peace. The logic is based on the efforts to establish industrial peace, in order to avoid industrial action and other sources of disruption to production. This theme underlies not only measures designed to promote peaceful collective bargaining procedures but also shape individual rights in a way (e.g., compensation for unfair dismissal) in part to weaken incentives for collective action. The second is based on the theme to improve the competitiveness of businesses so that they survive and prosper in an increasingly global economic system. At its core, it is the requirement to facilitate flexible employment relations. The third logic of action—logic of employment–income protection—is manifested in demands for increased workers’ protection against long working hours, low wage, arbitrary dismissal, poor working conditions, discrimination, and arbitrary management power.

The logic of industrial peace prominently features in the emergence of employment relation systems (Kuruvilla and Mundell 1999). However, the logic of harmonious industrial relations gradually becomes eclipsed by the much voiced concern by the businesses: the need to tackle the macro–economic problem of inefficiency. The principal reason why competitiveness looms so large on government's agenda is plainly the change

⁴² The authors developed this framework of logics of action to understand the impact of globalization on employment relations, as well as to predict future trajectory of industrial and labor relation.

in the economic system due to economic integration in the global economy. The wealth of nations depends increasingly upon attracting inward investment, and then exporting products and services to markets throughout the world. These economic forces compel governments in developing countries to take measures for establishing attractive conditions for investment. The harmonious labor–management relations and labor laws that do not obstruct efficient use of capital investment become paramount over the interests of workers.

The means for achieving these objectives, however, remains highly controversial. One point of view holds that competitiveness is best achieved through deregulation of the labor market, leaving businesses free to discover the most efficient solutions to production problems. A contrary view holds that the achievement of competitiveness requires extensive government intervention both to provide public goods, such as an educated and skilled workforce, and to steer businesses towards the most efficient relations of production. However, in this process of shift, the equity issues often are sidelined since it is assumed to have a certain fixed trade-off between firm's productivity (efficiency) and workers' wellbeing (equity).

CONCLUSION: LABOR GOVERNANCE AND INTEREST REPRESENTATION

The debate remains intense on how best to provide workers' protection through policies and institutional mechanisms. Should that be geared towards achieving either efficiency or equity, leaving the concerns of either capital or labor unattended? How the trade-offs are played and balanced in between conflicting interests are the results of interplay and relative strength of the logics of action state pursues.

Ideally, different interests of workers—for example general, collective, manifest, special, and latent types—are aggregated and formed into different groups. These groups can be institutional and associational groups, and anomic and non-associational groups. The analytical framework builds on the premise that disputes are inevitable since different groups in industrial and labor relations have conflicting values and/or objectives. Within the existing institutional mechanisms and institutional commitment for participatory and empowering process of interest representation by different interests groups can form two different strategies for their interest participation. First, mainly the institutional and associational groups make use of interest advocacy to influence policies. But groups, often anomic and non-associational types engage in civil disobedience in their attempts to influence policy. Resorting to civil disobedience by these groups is due to their perception of the interest representation system to be either dysfunctional or at best inadequate. Interest participation through the intimidation route is considered to produce misrepresentation of workers and inequitable outcome for them. This route provides either coercive or induced participation of the workers; workers and their representative in turn form non-associational or anomic groups that make use of civil disobedience as a continued strategy to win equitable outcome.

The framework on the institutional mechanisms and interest representation is illustrated in Figure 5.1. It takes into account various forms of interests (demands, intentions or inclinations of individual or collective actors), groups of interests, and process of channeling interests to influence the decision making process.

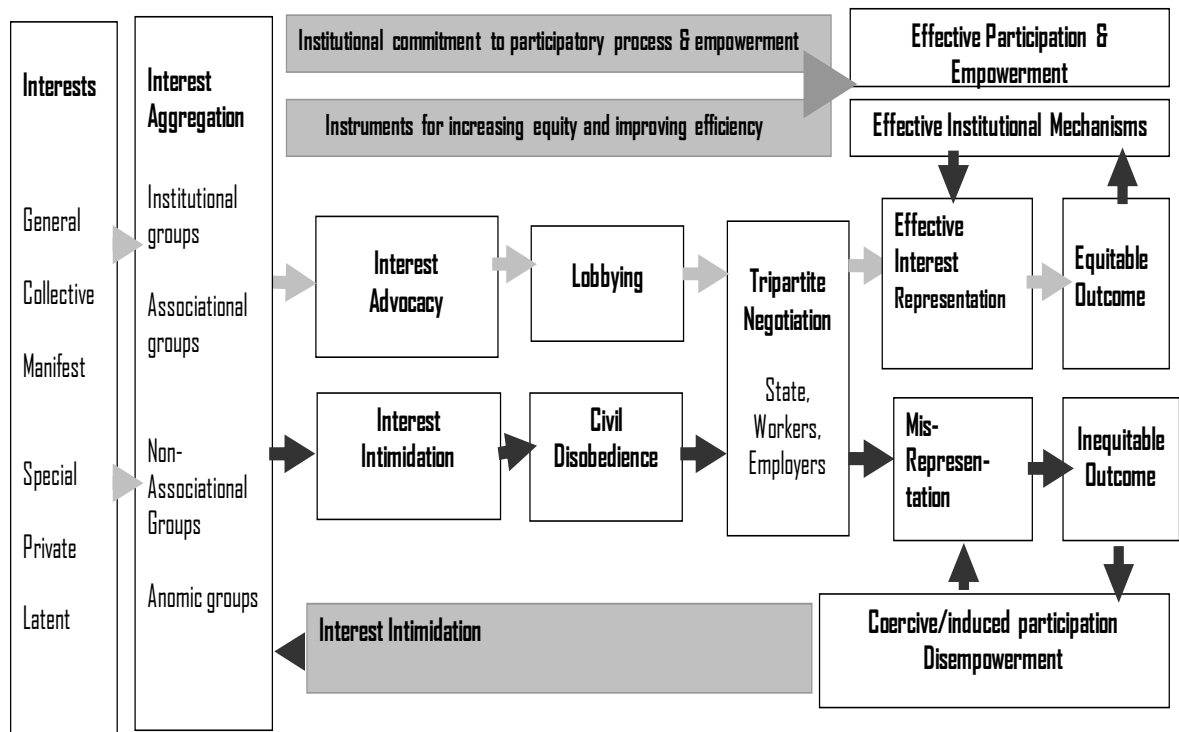


Figure 5.1: Institutional Mechanisms and Interests Representation

Like other economic and welfare systems in developed and developing countries today, Bangladesh has some corporatist factors in its institutional structures. The degree of cooperation among the tripartite partnerships is a question of size, not of existence. Both interest participation routes are active in case of Bangladesh garment workers. However, I argue in chapter Nine that workers—particularly the more vulnerable ones, i.e., the working poor in the garment sector—are not adequately represented in the prevailing institutional structures/mechanisms due to country’s particular logic of action in industrial and labor relations. Since garment workers’ interests channel through mostly the interest intimidation route the workers’ interests are misrepresented and in turn the outcome from the negotiations is inequitable. How institutional mechanisms for addressing the needs of workers fail to provide access to rights, are shaped by the representation of workers in decision making, monitoring, and enforcement of such rights.

PART III

TRADE-LINKED LABOR STANDARDS, WORKERS' RIGHTS AND ECONOMIC SECURITY NEXUS IN BANGLADESH

This part of the dissertation is divided into four chapters providing analyses of trade-linked economic integration, workers' rights, and politics of representation.

Chapter six focuses on trade-linked economic integration of Bangladesh into the world economy. The chapter analyzes the integration and interaction of Bangladesh in general and garment sector in particular along with its implications to workers.

Chapter seven explores the labor standards in action—whether and to what extent labor rights provisions in Bangladesh's laws are reflection of labor standards.

Chapter eight extrapolates from the field study to what extent labor standards are translated to economic security for Bangladesh's garment workers.

Chapter nine analyzes workers' interest representation at play in Bangladesh for understanding what factors shape standard provisions to make a difference in workers' wellbeing by translating into rights and in effect influencing economic security.

CHAPTER VI

TRADE-LINKED INTEGRATION OF BANGLADESH INTO WORLD ECONOMY: THE DRIVERS OF GARMENT WORKERS' ECONOMIC (IN)SECURITY

Along with the economic globalization related restructuring of international production, the economy of Bangladesh during the last three decades has witnessed a shift from exporting primary goods and raw materials to also exporting finished products and intermediate goods. The garment industries have spearheaded the initial industrialization process in many developed and developing countries, and Bangladesh has been no exception to this. Its economy has increasingly been linked with international trade of garment products. From modest beginning in the late 1970s, the garment sector has surpassed traditional export items like jute and tea as the major export items by the mid-1980s, and by the early 1990s became the champion manufacturing export industry. Although international economic integration through garment trade has opened-up new opportunities for the country, it has brought forth challenges too, and imposed constraints on how it manages its economy in general and the labor dynamics in particular. The country has experienced not only a quantitative leap in the volume and value of international trade in garment products, but also a qualitative transformation in the way of its interaction and outcome within the globalizing market, as well as in its industrial and labor relations.

The structural changes in the economy in line with competitive advantage have brought about fundamental changes in labor market. The changes have implications on workers in view of the decline in some economic sectors and growth in others.

Flexibilization of employment is too in place to confront with increasingly competitive markets. The increased competition has reduced the bargaining capacity of the country in

the global market, and weakened the ground on which workers could make claims on their employers. The weakening of the regulatory capacity of government in the face of heightened international competition is another source through which pressures to lower wages and other labor standards operate. The spheres of influence arising out of Bangladesh's integration into the world economy, I argue in this chapter, shape different dimensions of Bangladesh's industrial and labor relations that determine workers' economic (in)securities particularly in the areas of the actual returns to labor *vis-à-vis* capital, job protection and satisfaction, skill enhancement scopes, working conditions, and individual and collective representation.

Focusing on the trade-linked integration of Bangladesh and its garment sector into the world economy, this chapter explores the influences of integration and interaction on Bangladesh's garment sector and the drivers of workers' economic (in)security. The chapter is divided into two sections: the first section explores the interaction and outcome of Bangladesh's garment trade-linked integration into the world economy, and the second section provides an analysis of the spheres of influence arising out of the trade-linked interaction and the drivers of workers' economic (in)securities.

GARMENT TRADE-LINKED INTEGRATION OF BANGLADESH INTO WORLD ECONOMY: INTERACTION AND OUTCOME

Bangladesh's integration into the world economy through its export-oriented garment sector is mainly demand-driven. The rising cost of labor in the industrialized countries led the production processes to relocate in cheaper labor locations. Like other labor-intensive products, the garment industries in the 1960s moved to East Asia particularly to the four East Asian 'tigers'—Singapore, Hong Kong, South Korea and Taiwan—possessing large supplies of low-cost labor and active government support for export-oriented

manufacturing. Adoption of the Multi-Fiber Agreement (MFA) in 1974 to regulate exports of textiles and clothing of the developing world through restraining the rate of export growth along with an ‘anti-surge’ provision safeguarding sudden increase by a particular country to a specific market provided further impetus.⁴³ The MFA was an exception to the GATT’s principle of non-discrimination, which had allowed the importing countries to impose discriminatory quantitative restriction (commonly termed as *quotas*) against large and efficient suppliers. The imposition of the quotas on exports gave rise to ‘quota hopping’—producers and buyers of the newly industrialized countries (NICs) voyaged in search of cheaper locations like Bangladesh which were until then ‘quota-free’.⁴⁴

The impetus for the relocation of garment industries to Bangladesh came along while the ‘quota hoppers’ from the nearby countries like South Korea, Hong Kong, Singapore and India were seeking ways to augment their market share (Raffaeli 1994). The limited opportunities for some leading developing countries such as China, India, and South Korea to export garment products, and rising cost of production in East Asia in general were important for the relocation thrusts.⁴⁵ Within these contexts, Bangladesh was able to provide the ground with its pronounced ideological shift towards neo-liberal orthodoxy underwritten by the structural adjustment reforms including trade and price

⁴³ The MFA was formulated to benefit textile and garment manufacturers in the developed countries of the US, Canada and Europe (Khanna 1991, Raffaeli 1994). It was initially negotiated as a temporary measure for a period of four years, yet continued for about two decades (1974-94) till its incorporation into the WTO Agreement on Textiles and Clothing (ATC) in 1995 with a ten year timeline for phasing out the quota system.

⁴⁴ The eight LDCs—Bangladesh, Cambodia, Nepal, Haiti, Laos, Lesotho, Madagascar and Myanmar—had been core beneficiaries of MFA (Siddiqi 2004). Initially Bangladesh had enjoyed quota free status in the US and Canadian markets, but since 1986, faced restrictions till the end of 2004 with the MFA phase-out.

⁴⁵ Other issues like the emergence of a militant union movement in countries such as South Korea (Ogle 1990), and ethnic unrest in countries such as Sri Lanka (Chowdhury 1987) provided added momentum for relocation.

liberalization, encouragement of foreign investment, production of tradable goods and services through flexible labor processes (Rahman and Bhattacharya 2000, Ahmed 2001).⁴⁶

By capitalizing on the opportunities offered by the MFA and pursuing favorable domestic policies to stimulate the sector, Bangladesh has soon turned into a major exporter of garment in the global market. This has happened within a relatively short period. Since the beginning in 1977-78, the export-earnings continued to grow very rapidly.⁴⁷ The growth rate fluctuated but the trend was increasing, and it was higher than the growth of non-garment sector. The sector too has passed the MFA phase-out without any major setback.⁴⁸

Garment export continues to grow in recent years. This is true not only for the overall growth performance but also for its two sub-sectors—knit and woven. The growth of the sector calculated for the fiscal year (FY) 2005-06 was 23 percent, which was 17 percent in 2006-07, 16 percent in 2007-08, and over 15 percent in 2008-09.⁴⁹ In FY 2007-08, the growth of knit garment and woven garment were 21.5 percent and 10.94 percent respectively, which were 16.21 percent and 14.54 percent respectively in FY 2008-09. During this period total export earnings from garment reached 15565.19 million USD which is 10.31 percent higher than that of the previous fiscal year (Chart 6.1).

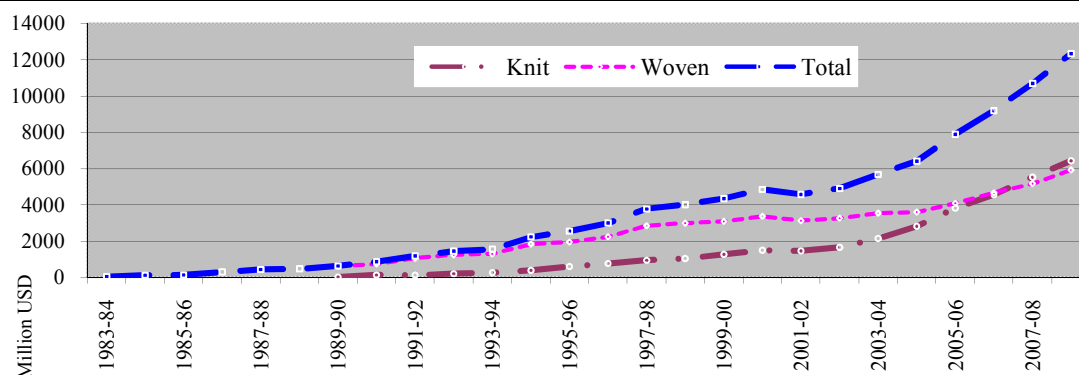
⁴⁶ The government, newly constituted in 1971, initially nationalized key industries and imposed strict control over foreign trade. Subsequent governments moved away from a highly-protected, public-oriented economy to one in which investment in the private sector was gradually given priority. By the early 1980s, this shift began to accelerate. Bangladesh adopted a range of liberalization policies as defined by the structural adjustment guidelines of the World Bank and the IMF.

⁴⁷ First export consignment of garments was made by the Trading Corporation of Bangladesh in mid 1970's under barter trade. First private sector export was in 1977-78 by Reaz garments, and first joint venture in garments was Daewoo and Desh Garments in 1978.

⁴⁸ A number of studies including Gherzi 2002, Lips *et. al.* 2003, Mlachila and Yang 2004 envisaged negative implications of the MFA phasing out. These studies estimated and predicted the falling share of exports (from 6.2 percent to 17.7 percent), closure of the factories and job loss. Often cited arguments pointed towards country's lack of backward linkage and high dependence on import of fabrics. Few studies (e.g. Diao and Somwaru 2001), however, had shown the likelihood of welfare gains for the global economy on the whole.

⁴⁹ Bangladesh's financial year starts in July, and end in June of the following calendar year.

The percentage share of garment in total merchandise export has grown remarkably over the years. From a meager 4 percent of total merchandise export in FY 1983-84, the growth of the sector in FY 2008-09 captures more than 79 percent share. The growing importance of the sector in the Bangladesh economy is quite obvious from the fact that the share of non-traditional, process-based manufacturing exports like garments have posted a growth compared to traditional resource-based exports. Indeed, the growth of the sector was enough to push up the aggregate, and it has also compensated for the shortfall in the export earnings of some of the traditional key sectors such as jute, tea, and leather.



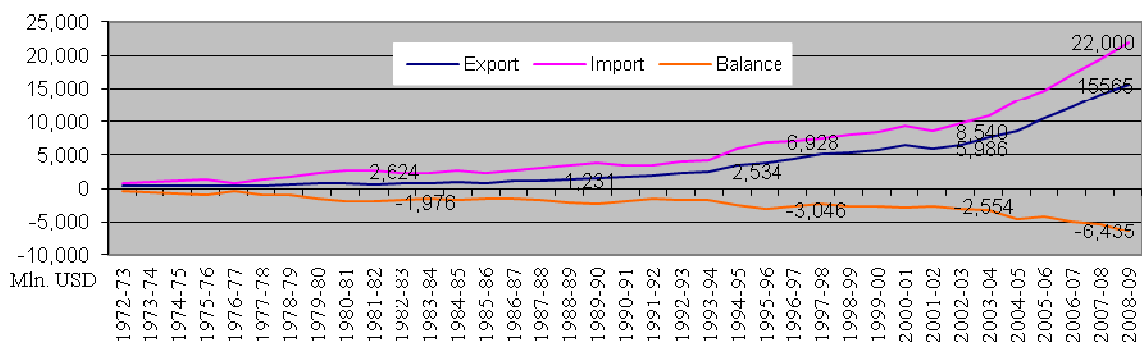
Data Source: Export Promotion Bureau, Bangladesh

Chart 6.1 Export Performance of Garment Products

The growth has also raised imports into the country; and garment has emerged as the leading sector in terms of imports of raw materials and capital machineries. This is a reflection of low level of net value addition. Bangladesh too participates in the middle part of the buyer-driven value chain where local value addition is limited.⁵⁰ Initially, the sector was heavily dependent on imports, and the total value addition was only 23 per cent of the gross exports. Belatedly, by virtue of the growth of backward linkage industrialization

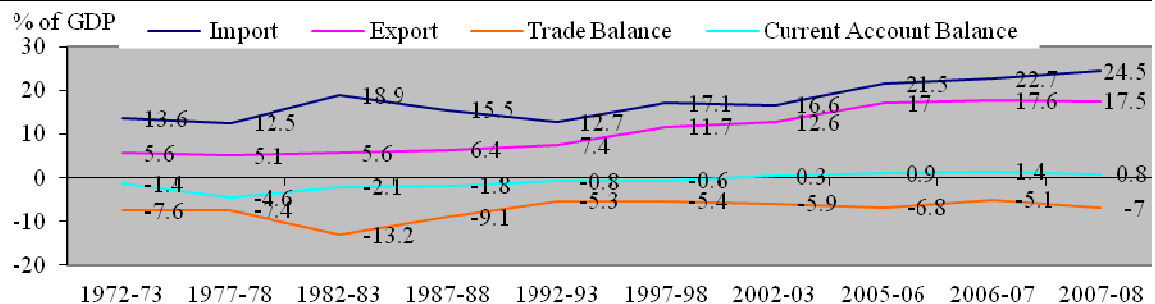
⁵⁰ Production in buyer-driven chains is generally carried out by tiered networks of contractors that make finished goods to the specifications of foreign buyers (Kaplinsky 2000).

producing both yarn and fabric, the value addition amounted to around 37 per cent of gross earnings by the end of 1990s, and currently, it is around 45 percent (Rahman, Bhattacharya and Moazzem 2008). Trade balance of the country accordingly remains negative although it reduced from -13 percentage of GDP in FY 1982-83 to -7 percent in FY 2007-08. Even though the volume of export increased, it could not keep pace with the growth of imports (Chart 6.2). Recently the current account balance has turned out to be surplus (0.8 percent of GDP) in FY 2007-08 from a deficit of 4.6 percent in FY 1977-78 (Chart 6.3).



Data Source: Bangladesh Economic Review, various years

Chart 6.2 Growth in Export and Import, and Trade (Im)Balance



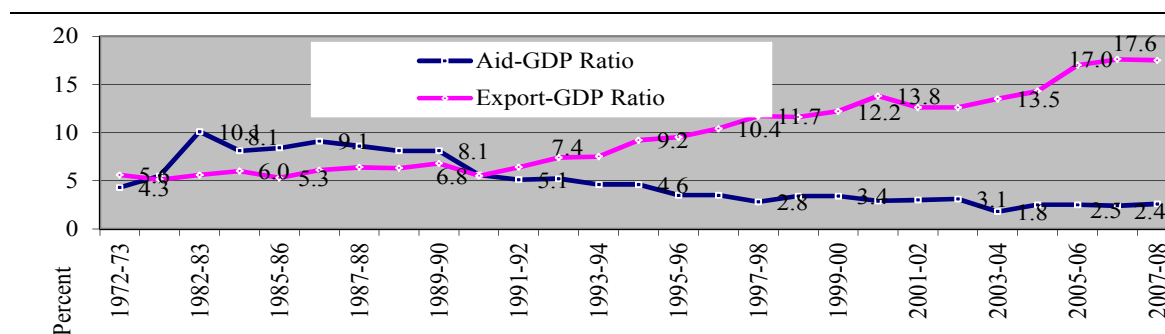
Data Source: Bangladesh Economic Review, various years

Chart 6.3 Key External Trade Indicators in relation to GDP

The expansion of the garment sector have had a number of positive ramifications, which take the form of increased economic activities in areas related to banking and insurance, hotel and tourism, real estate, recycling, consumer goods, utility services, and

transportation. It has been estimated that the sector is now supporting over USD 2 billion worth of domestic economic activities per year (Bhattacharya and Rahman 2008).

Importantly, the export growth has resulted in declining reliance on foreign aid—a transformation of the economy from aid dependency to trade (Chart 6.4). In recent time, the ratio of external assistance to GDP has been reduced to less than 3 percent, which was around 9 percent in FY 1972-73.



Data Source: Bangladesh Economic Review, various years

Chart 6.4 Share of Foreign Aid and Export in GDP

The transition becomes more evident if we consider the rate of employment generation. The production process of garment industry is highly labor intensive. While in 1985 only 0.1 million people were employed in the sector, within a span of only two decades it grew to around 2 million workers, and at present the sector employs around 3 million workers.⁵¹ Bangladesh Garment Manufacturers and Exporters Association (BGMEA) estimated that in 1996-97 there were 2503 domestically owned factories which increased to 4220 factories in 2005-06, implying that on an average more than 500 employees are at work per factory.⁵² The growth trend of employment for the period 1980-

⁵¹ The latest year for which credible employment data is available is FY 2004-05 when the number of workers was around 1.9 million. The current claim of employing around 3 million of workers is by the BGMEA.

⁵² A credible figure for the number of factories is unavailable. The membership of employers in their respective associations (BGMEA and BKMEA) shows the number of factories is much higher (6293 factories

2004 is estimated to be 24 percent per annum. Noticeably, more than 80 percent of the garment sector's workforces are women and they constitute for over 35 percent of all manufacturing employment. Garment associated businesses (e.g., spinning, dyeing, finishing) are estimated to provide employment for a total of 10 to 12 million people.

Bangladesh's garment trade-linked integration shows that the country was quite able to compete from a position of strength since the beginning. Even the economic recession could not perturb the activities; rather it kept on increasing, *albeit* at a slower rate. The outcome of the interaction within the globalizing market is that the country was able to transform the economy towards providing opportunities for a large section of its population through favorable effects on the macroeconomic indicators. The growth performance and its implications clearly indicate the contributing role that the garment sector plays in the economy in general and manufacturing employment in particular.

INTEGRATION-LINKED DRIVERS OF GARMENT WORKERS' ECONOMIC (IN)SECURITY

Alongside the work opportunities for a large number of workers in garment factories and in the associated businesses, Bangladesh's interaction with the globalizing garment trade has also produced challenges. The challenges are evident in at least three areas. First, the employment dynamics of the country has been subject to transformation of the economy towards export-oriented garment business. Much of the influences have been translated as vulnerability to workers—a much disproportionate impact on workers in comparison with other stakeholders of the economy, particularly the employers. Second, the bargaining capacity of the state and non-state actors in terms of deciding how to manage the conflicting interests of employers and workers/employees has been broadly influenced.

in 2008 of which 4693 woven and 1500 knit factories), and accordingly on average per factory employed workers are around 475.

Third, the regulatory capacity of the state and non-state actors too has been widely changed. Responsibilities to regulate the labor market have become dispersed, and the government, corporations, and employers have been under pressure to initiate and comply with labor standards in trade agreements, government regulations and voluntary codes.

Structural Changes in Bangladesh's Labor Markets

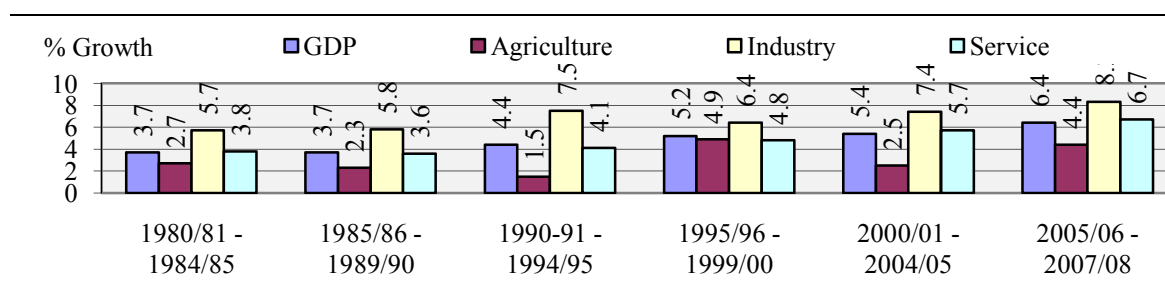
The structural transformation of the economy in line with competitive advantage in garment products has caused changes in the labor market. First of which is about participation of labor; there is a mismatch between sectoral growth and labor absorption. These changes took place mainly due to the changed export structure, intra-sectoral changes in export composition, and flexibilization and informalization of work.

Growth Dynamics and Participation of Labor

The pattern of growth, capital-labor distribution associated with growth, is important for employment. The key features of the growth performance⁵³ of the country when decomposed into sectoral growth show that GDP growth was largely propelled by the industrial sector. The sector has exhibited average growth rates in excess of GDP growth; it grew at an average rate of 8.3 percent during FY 2005-06 to FY 2007-08 (Chart 6.5). There has been a considerable shift from agriculture sector to the industry sector. The share of the industry sector in GDP in the early eighties was 17.31 percent, which has gradually increased to 21.04 percent in 1990-91 and 26.20 percent in 2000-01. In FY 2008-09, this share stood at 29.73 percent. The industrial sector shows significant success in boosting

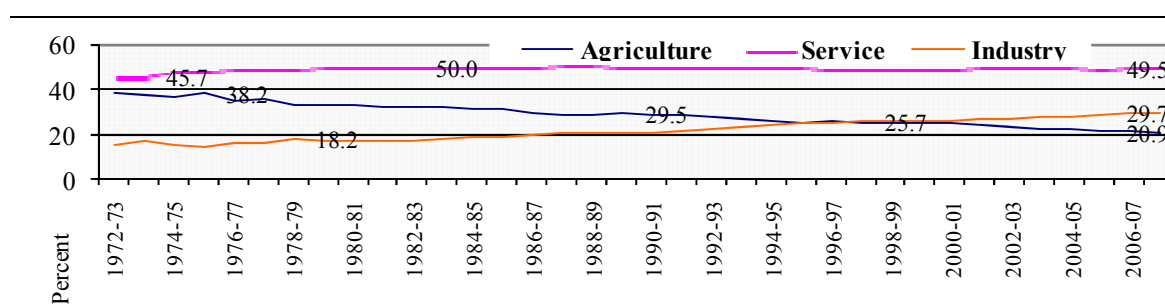
⁵³ During the first decade after independence of the country, average GDP growth remained below 4 percent. Since the late eighties it started moving upward. In the nineties, it grew at an average rate 5.4 percent between FY 2001-2005, and during the period 2006-2008, it grew at an average rate of 6.4 percent.

growth compared to the agriculture and service sectors (Chart 6.6).⁵⁴ But, agriculture remains the largest provider of employment.⁵⁵ The share of employed labor force by different sectors of the economy shows that the manufacturing sector's share in employment had hardly risen even during the period of substantial growth of the garment sector. According to the Monitoring of Employment Survey (MES) 2009, the share of manufacturing in total employment currently accounts for 13.5 percent, which was around 10 percent throughout the entire period covered by the four subsequent labor force surveys (LFS) from 1995-96 to 2005-06 ((Table 6.1).



Data Source: Bangladesh Economic Review 2010, Ministry of Finance, GoB.

Chart 6.5 Sectoral Contribution to GDP growth



Data Source: Bangladesh Bureau of Statistics, calculated at 1995-96 Prices

Chart 6.6 Sectoral Transformation of GDP

⁵⁴ The share of agricultural sector in GDP at the beginning of eighties (1980-81) was 33.1 percent which reduced gradually to 29.2 percent in 1990-91, 25.03 percent in 2000-01, and to 20.6 percent in 2008-09. The growth of service sector has remained relatively stable over time. It represented about 46% of GDP in the early seventies, and has remained constant around 49 percent.

⁵⁵ Agriculture contributes highest (43.5 percent) in generating employment amongst a labor force (above 15 years) of 51.0 million (male 38.5 million and female 12.5 million) within 53.7 million economically active population (MES 2009). According to the Labor Force Survey (LFS) 2005-06, the contribution is 48.1 percent amongst 47.4 million (male 36.1 million; female 11.3 million) labor force of over 15 years of age.

Table 6.1 Share of Employed Labor Force by Major Sectors

Sectors	LFS 1995-96	LFS 1999-00	LFS 2002-03	LFS 2005-06	MES 2009
Agriculture, Forestry, and Fishery	48.85	50.77	51.69	48.1	43.53
Manufacturing	10.06	9.49	9.71	10.97	13.53
Construction	2.87	2.82	3.39	3.16	3.92
Trade, Hotel and Restaurant	17.24	15.64	15.34	16.45	15.29
Transport, Maintenance, and Communication	6.32	6.41	6.77	8.44	8.24
Finance, Business, and Services	13.79	13.08	5.64	5.49	5.69

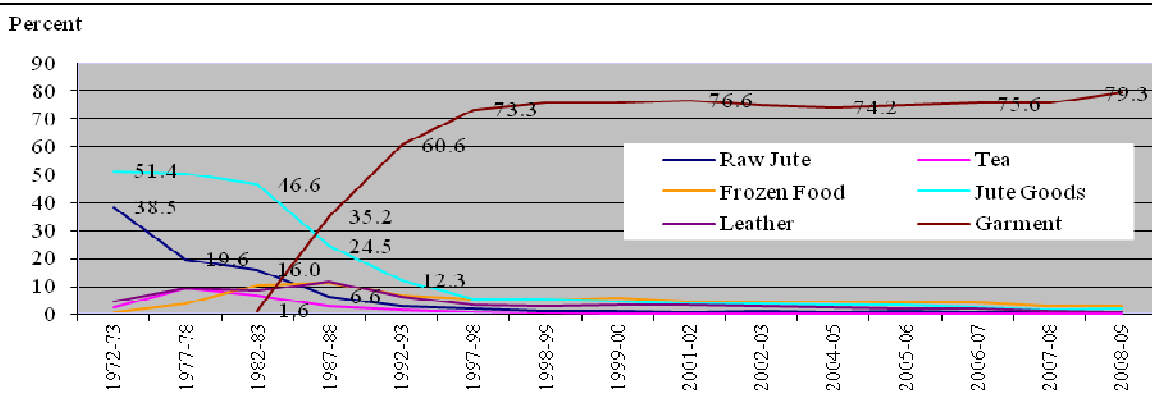
Source: LFS 1995-96, 1999-00, 2002-03 & 2005-06, and MES 2009, Bangladesh Bureau of Statistics

With trade openness policies in a labor surplus country like Bangladesh, the employment dynamics depend upon how far employment is gained or lost in shifting investment from non-tradable to tradable sectors. The structural changes in the economy require not only sustained labor demand, but also shifts in labor demand away from low-wage, low productivity sectors like agriculture. However, the employment effects of shifts in investment from non-tradable to tradable sectors are not so evident. While garment sector shows perceptible employment gains over the years, several industrial sectors have experienced decline. Contrary to contribution of each sector to GDP, the pattern of absorption of employment shows the opposite picture. The sector's growth has outstripped overall economic growth but has failed to absorb labor similar to its contribution in the economy, as well as in proportion to the growth of economically active population.

Changed Export Structure

Country's export basket is overwhelmingly dominated by manufactured single product instead of the previous dependence on a number of primary and intermediate commodities. While on an average, the garment sector constituted 65 percent of the whole export basket in the 1990s, the share currently stands at over 75 percent. The changed configuration of the export basket and the relative importance of garment sector become more visible if

comparative growth of other exportable items is taken into consideration. Bangladesh's export basket was dominated by raw jute and jute products, which together accounted for as much as 74 percent of total export earnings during 1975-79. During the subsequent two decades, however, the dominance faded away; in the 1990s earnings from raw jute fell sharply, and those from jute products had been virtually stagnant. Raw jute and jute products accounted for 16 per cent and 47 percent respectively of the total merchandise exports in FY 1981-82, which declined to 2 percent and 17 percent in FY 1990-91 and 1 percent and 3 percent in FY 2007-08. This declining trend had also been true for other traditional exportable items particularly tea, frozen foods, and agro-products (Chart 6.7).



Data Source: Bangladesh Bureau of Statistics

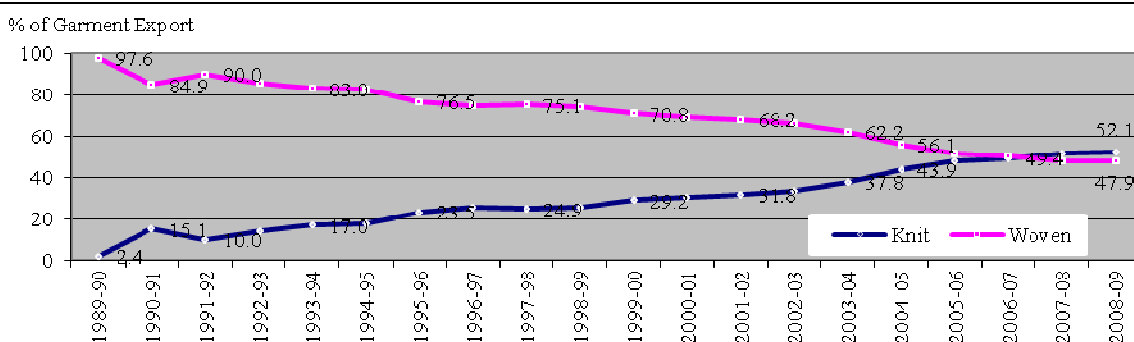
Chart 6.7 Share of Major Exportable in Total Merchandise Export

The stagnant condition of the export sector during the recent decades holds true for all the items except garment. While proportional share of the garment sector increased sharply, the share of other key primary and intermediate products in total merchandise export had moved towards the opposite direction. The fall of share is mostly prominent in the traditional export items –raw jute and jute products. The sharp decline (for raw jute and jute goods) and stagnation of traditional exportable items occurred with the emergence of

the garment sector particularly during the early eighties and nineties. Despite growth, the dependence on a singular export item has subjected the country to vulnerability with regard to retaining the market share of its products as well as managing the widening trade deficit.

Intra-Sectoral Changes in Export Composition

The growth dynamics of the garment sector during the last decades show two clearly discernible phases. During the initial period it was the woven-garment which dominated the structure of garment exports. Whilst in recent years, the knit-garment has been demonstrating a robust growth. The share of woven products in total garment export declined from 97.6 percent of total export in FY 1989-90 to 47.9 percent in FY 2008-09. The share of knit during the same period rose from 2.4 percent to 52.1 percent (Chart 6.8).



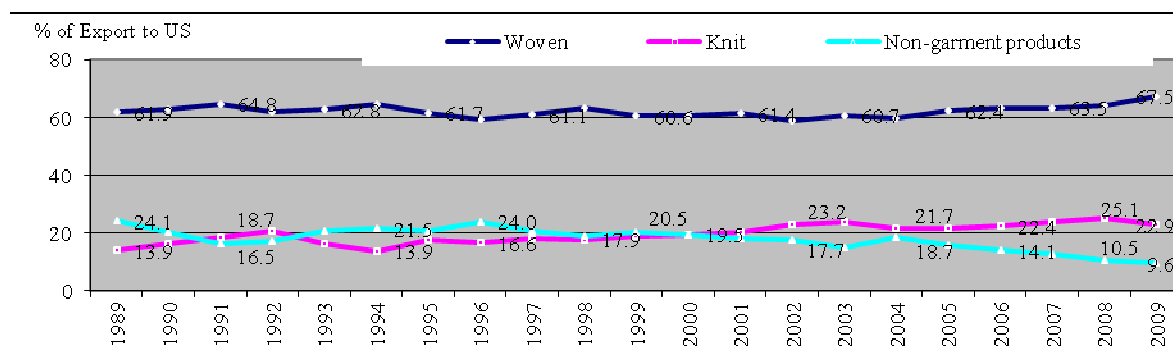
Data Source: Bangladesh Bureau of Statistics, various years

Chart 6.8 Intra-Sectoral Changes in Garment Export Composition

This robust growth of the knit products is explained, to a large extent, by the fact that this sub-sector was able to blend Bangladesh's abundant but largely unskilled labor force with the emergent global business opportunities spurred by growing demand in the EU market.⁵⁶ Historically, the US has been the main export market of woven garment,

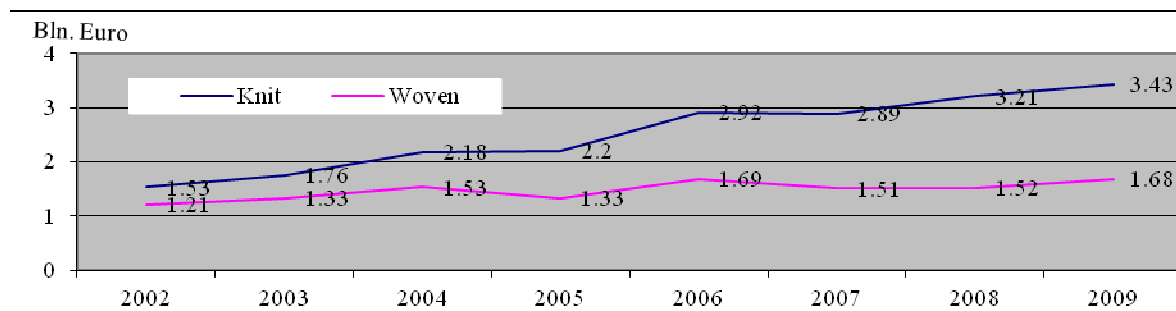
⁵⁶ Bangladesh's cost competitiveness relative to other major Asian countries shows that while the tariff-free access helps Bangladesh maintain some competitive edge over others in the EU markets, the lack of such favorable treatment in the US market makes China, India and Sri Lanka close competitors.

while the EU is the principal destination of knit products. After the quota phase-out in 2005, there have been extended exporting opportunities of garment products in the US market. The proportional share of knit product export remained stagnant in the US market in recent years, while share of the woven garment export continued to rise during the same period (Chart 6.9). In contrast, the knit garment shows higher earnings from the EU (Chart 6.10).



Data Source: US Department of Commerce Database

Chart 6.9 Bangladesh's Export to US



Data Source: EC Market Access Database

Chart 6.10 Garment Export to EU 27 Countries

Exports of the woven products in the EU showed a decline of about 12 percent in 2005. Most of Bangladesh's woven products have low domestic value addition contents, and, thus, hardly qualify for EU GSP facilities. Although overall rate of the EU GSP utilization has improved over the years from 20 percent in 1997 to 66 percent in 2005, 35 percent of woven products in the EU market utilize only 40 percent of the EU GSP (Razzaq

2008, World Bank 2005). This means that significant portion of Bangladesh's garment exports to the EU is subject to the duties averaged around 12 percent. The intra-sectoral changes in composition denote that Bangladesh is moving slowly towards relatively capital and technology intensive industries (knit) in contrast to labor intensive (woven) industries.

This change has implications on the employment dynamics in terms of de-feminization and flexibilization. In woven factories more low-skilled women are involved as workers, while in the knit factories a higher proportion of male workers with higher skill levels dominate the workforce (Kabeer and Mahmud 2004). The relatively better export performance of the knit sub-sector means that women's proportion in total garment sector employment is reducing, while for men it creates more employment opportunities. Thus, the garment sector experiences a de-feminization of the workforce in contrast to earlier theorization of feminization of Bangladesh's garment sector on which the industry was much depended.⁵⁷

The flexibilization of labor has given rise to subcontracting or outsourcing of production process. Employment in the knit sub-sector is more subcontract-based. Ironically, wages too are tied to production output (piece rate).⁵⁸ Four tiers of manufacturing chains are at work in the sector. Orders from large brand and international retailers come through their sourcing offices (buyers) and are contracted out to the large

⁵⁷ The success of the export-oriented industry was built, to a large extent, on the supply of cheap and flexible female labor (Titumir and Hossain 2005, and Mojumder and Begam 2006). The pursuit of flexible forms of labor to retain and to increase competitiveness, as well as changing job structures in industrial enterprises, favored the 'feminization of employment' in the sense of both an increase in the numbers of women in the labor force and a deterioration of work conditions (Standing 1989). The 'comparative advantage of women's disadvantage' (Arizpe and Aranda, 1981) explains why women are preferred in labor-intensive industries like the garment sector in Bangladesh. The 'nimble fingers' (Elson and Pearson, 1981) of young women and their capacity to do hard work facilitated the recruitment of women as laborers.

⁵⁸ Subcontracting has been, in part, a response to changes in the organization of production, and this option has been mainly used to cut production costs through reduced fixed labor costs as a result of a shift from direct to indirect forms of employment (Dangler 1994).

manufacturers. These large manufacturers subcontract either all or parts of the item to medium sized manufacturers who again subcontract the work to small manufacturers and even to piece rate home workers. Under the operation of subcontracting rules, workers are at the mercy of brokers who determine production and compensation rules. This also implies a blurring of distinction between employer and workers; workers often do not know by whom their legitimate demands would be met.

In summary, the structural changes in the labor market have produced differential outcomes for workers. Notwithstanding the fact that the garment trade and the interaction of the sector in the globalizing market have created employment opportunities for the rural poor, it has also brought forth increased uncertainties and vulnerabilities due to a number of changes in the labor market structure. Few such changes explored above are examples of the mismatch among labor absorption, excessive dependence on the sector as well as defeminization and flexibilization of work.

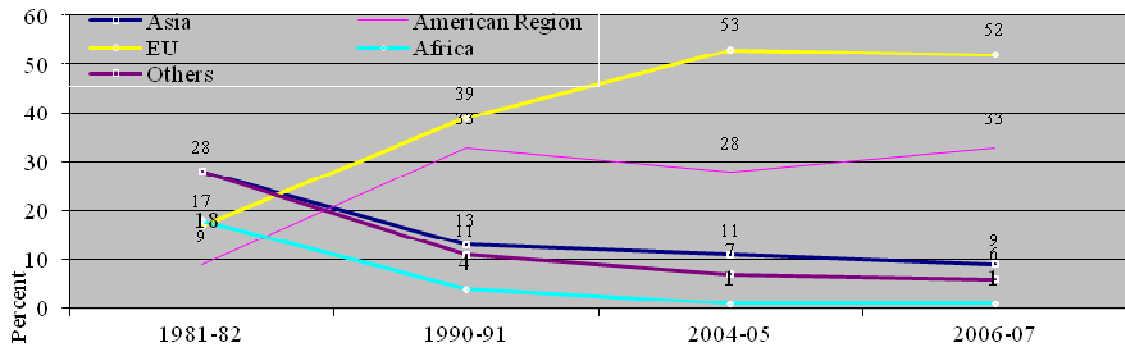
The Bargaining Power of State and Non-State Actors

Country's continued bid to interact within the globalizing market from a position of strength has influenced the bargaining position of both the state and non-state actors. The weakening of the bargaining power is evident through the market concentration of the garment export and differential treatment of Bangladesh's products in the global trade.

Concentration in Export Market and Product Range

Bangladesh's garment exports have been concentrated in terms of market coverage and export destinations as well as in terms of exported products. The US and the EU are the most important export destinations of Bangladesh's products; these twin export destinations cover more than 90 percent of the total garment export. Exports to these two

markets registered continued growth throughout the 1990s. While in 1981-82, the American region accounted for only 9 per cent of the total exports of Bangladesh, the share rose to 33 per cent in 2006-07. EU has become the largest market for Bangladeshi goods with a rise of export share from 17 to 52 percent during the same period (Chart 6.11).



Data Source: Bangladesh Bureau of Statistics

Chart 6.11 Export Destination of Bangladesh's Products

The sector operates in the low-end product markets; and over the years, garment exports have been concentrated to a limited number of items. Top five categories of items such as men's and boy's cotton trousers and shirts, women's and girl's trousers and shorts, and cotton T-shirts account for a very high percentage of its export portfolio. Razzaq (2005) calculated that the share stands around 64 percent of the total garment export. There is also very close similarity between export items of Bangladesh and China in the US market. For instance, 9 out of 10 top garment export items of Bangladesh does match with China's top ten items (Mlachila and Yang 2004). Such a high concentration of both markets and products make the country vulnerable to changes in the specific markets.

The changes in demand for products in Bangladesh's major export destinations (EU and US) have ramifications on the growth of garment trade. It was widely feared that Bangladesh's export market would undoubtedly suffer due to the falling demand in the

export items during the recession. The continued growth of the sector evinces that the apprehension did not materialize, possibly due to shift of demand from high-end garment segments to low-end segments in which Bangladesh operates. However, the apprehension of market loss was widely used by the garment sector employers and by their association leaders to justify below the poverty-level wages and substandard employment as representing an improvement over the next-best option of having no job. The much feared implications of phase-out of the MFA on Bangladesh has been exploited extensively by the garment manufacturers' and exporters' apex organizations (BGMEA and BKMEA) to camouflage the demand of pay-rise till 2005. The China factor—i.e., removal of the anti-surge clause in the US market may lead China to capture the markets share that Bangladesh has in the US market—has been used in terms of competitive advantage till 2008. Then came the recession, and the widely held apprehension of the loss of comparative advantage in effect had been translated to workers that their jobs are at stake should they demand more wages and benefits.

Differential Treatment in Market Access

Several market entry barriers exist for Bangladesh garment products. This is true despite Bangladesh along with some other LDCs enjoy various benefits in the developed countries' markets through the GSP. Amongst the GSP providing countries, the EU is the largest market for Bangladesh followed by the US. One such preference scheme of GSP to the EU is 'Everything but Arms' (EBA) initiative through which export items of Bangladesh including garment are allowed duty free access. However, since Bangladesh's indigenous capacity in weaving and spinning (backward linkage) is negligible, she found it difficult to

comply with the Rules of Origin (RoO) for garment particularly the woven products.⁵⁹ In 2004, Bangladesh's utilization rate was only 34 percent (Adhikari and Yamamoto 2005). The scheme provided a considerable amount of competitive edge to Bangladesh over her rivals of knit products. In contrast, under the US GSP scheme, while a number of Bangladeshi export items receive preferential treatment in terms of reduced or zero tariff rate, major garment products do not qualify for such preferential access (Titumir and Ahmed 2006).⁶⁰

The high tariffs on export items of interest to Bangladesh in the US market have undermined the country's competitive advantage. While Bangladesh is subjected to 17.12 percent tariff on woven garment exports in the US market, Canada pays just 0.16 percent (Adhikari and Weeratunge 2007). Import volume of the US from France is 15 times higher than that from Bangladesh, but tariff revenues generated from the latter is larger than the former (Razzaque 2008). In US market there are other beneficiary countries by virtue of their membership in preferential trade agreements e.g., NAFTA, AGOA as well as due to bilateral free-trade agreements. Bangladesh pays higher rate of tariff than countries which have preferential trade agreement with the US (Adhikari and Weeratunge 2007). The enactment of Trade and Development Act (TDA 2000) in the USA on preferential market

⁵⁹ The RoO requires a two-stage conversion in the case of woven-garment, and a three-stage transformation in the case of knit-garment. Bangladesh has been able to take only limited advantage of tariff-free access for woven products since the industry is dependent on imported fabrics. In order for a country to take advantage of GSP tariffs, a certain minimum percentage of value added has to originate in the exporting country (Adhikari and Yamamoto 2005).

⁶⁰ Bangladeshi export products to the US market over the recent years have undergone little variation (7 to 12 percent one year to another), and bulk of these exports fall under textile and clothing category of woven and knit products. Since 2001, over 60 percent of the total exports from Bangladesh to the USA (on average 105 products) faced tariff peaks (tariff of 15 percent and above). Share of exports that faced tariff range of 25 percent and above had also been increasing over the years. This implies that products on which Bangladesh has comparative advantage face higher tariff in the US market (Titumir and Ahmed 2006).

for some African and Caribbean developing countries has challenged Bangladesh's preferential access in the US market.

Furthermore, the demand for DFQF market access for 100 percent products of LDCs including Bangladesh has also been slashed in the 6th WTO Ministerial Conference in Hong Kong in 2005. Noticeably the finally agreed text of the negotiation neither provided binding commitment, nor covered all products, nor granted the preferential treatment on a permanent non-reversible basis. While the ministerial conference has urged the developed countries to provide complete DFQF market access to the LDCs, it allowed members 'facing difficulties' without actually defining their characteristics to grant such access to only 97 percent of goods originated in the LDCs.⁶¹ The rest 3 percent of goods comprises some 339-tariff lines in the US while Bangladesh export a limited number of products. The differential treatment in market access does not leave much room for negotiation at the multilateral level, especially after the deadlock of the Doha Development Round. Thus, the bargaining on market access is left only to be negotiated at a bilateral level in the context in which Bangladesh's principal competitors— China and India—are no longer restrained by quotas.

Overall, the country's continued bid to interact within the globalizing garment trade has provided opportunities for the garment entrepreneurs to make advantage of the opportunities but at the same time it has created challenges for the sector along with its stakeholders. The weakening of the bargaining position of the country has been resulted from the concentration of its export markets and product range, as well as from the differential treatment of Bangladesh's products in one of its major exporting markets. The

⁶¹ See Annex F, paragraph 36 (ii) of the WTO Hong Ministerial Declaration. The declaration is available at-
www.wto.org

interaction within the globalizing market has established a dynamic entrepreneurial class in the country who deals with foreign buyers. However, the economic restructuring has also pitted them against the workers. Workers' job security had been at stake in every major competitive challenge the sector and its entrepreneurs had to face. In effect, the weakening of bargaining position of workers has rendered them less effective as a political actor in the society. Workers and their representatives have been made hesitant in making strong claims even on legitimate demands out of the fear of triggering business flight out of the country.

The Regulatory Capacity of State and Non-State Actors

In the face of heightened international competition, country's continued policy stance in encouraging FDI, and the threat of relocating production plants abroad by locally operating foreign enterprises weaken the regulatory capacity of state and non-state actors. These are evident in the establishment of differential labor law regimes, and the efforts to comply with labor law conditionality promoted through the bilateral trade preference agreements and corporate codes of conduct.

Differential Labor Law Regime

The active policy stance of Bangladesh towards greater FDI has led to the installation of differential labor standards regime in the country. While the most industrial workers including those of garment sector are currently under the purview of the Bangladesh Labor Act (BLA) 2006, the coverage has not been extended to the workers in Export Processing Zones (EPZs).⁶² The textile, garment and leather industry is dominant in the EPZs,

⁶² In Bangladesh, there are currently eight EPZs: Dhaka, Chittagong, Khulna (Mongla), Comilla, Uttara, Ishwardi, Adamjee, and Karnafuli. At least 253,825 workers (mostly female) are employed in more than 190 companies in the zones.

accounting for one fifth of Bangladesh's total export value. The differential labor regime was setup in the hope of attracting investment, creating employment, generating foreign exchange, and promoting technology and skill transfer (backward linkages) to industries outside the EPZs. Investments in Bangladesh's EPZs mainly come from South Korea and partially from Japan, the US, the UK, and China. Common features of lax rules and incentives provided to firms operating in the EPZs are: (a) duty-free imports of raw and intermediate materials and capital goods for export production; (b) 'one-stop' service for work permits and investment applications; (c) generous, long-term tax concessions such as waivers of tax; and (d) better communication and infrastructure.

The flexibility with labor laws, particularly the exemptions from national legislation is a facet of the incentives given to foreign investors in the EPZs. The differential labor law regime in the EPZs set out several phases for implementation, with complicated and cumbersome procedures to be followed at each stage posing significant restrictions and delays in relation to the workers' right to organize. The law continues to deny workers' rights in the EPZs by keeping the EPZ and its workers outside the purview of the BLA 2006, which does not conform to the core ILO Conventions particularly on FoA and CB to which Bangladesh is a signatory.

Labor Standards Conditionality

With increased competition, trade-linked sectors are also prone to standard conditionality. Bangladesh's garment sector has also been the site for a number of such conditionalities in terms of labor standards. First, the labor standards conditionality came with Bangladesh's bid to utilize preferential market access in its major exporting destinations in the US and the EU. The US GSP provides preferential duty-free entry for some Bangladeshi products

based on adherence to certain workers' rights provisions.⁶³ The EU GSP provisions of additional trade preferences are also subject to compliance with the core labor standards as defined by the ILO. The EU-GSP facility may temporarily be withdrawn if national legislation does not incorporate the numerous relevant conventions or if that legislation is not effectively implemented. The US-GSP considers the internationally recognized workers' rights provisions to be mandatory criteria that Bangladesh must fulfill in order to be designated a GSP beneficiary, and also to continue to receive the facility.

The violation of the internationally recognized workers' rights is often the ground for threats of withdrawal of the preferential facility. Bangladesh's garment sector has been subject to such threats. Currently, a review is undergoing at the USTR in view of the petition filed by AFL-CIO requesting removal of Bangladesh from the eligible beneficiary of the US-GSP alleging violation of labor rights in Bangladesh's export-earning sectors including garments. The AFL-CIO's urge to remove Bangladesh as beneficiary of the GSP is a follow-up to previous petitions—the first in 1990 and the second in 1999—against Bangladesh's violation of labor rights.

The garment manufacturers and their supply chains are also subject to numerous labor standard provisions set in several codes of conduct (CoC). These codes in Bangladesh operate under a separate regulatory system: firms or delegated third parties are engaged in the traditional government role of monitoring. There are few other codes that follow guidelines drafted by multiparty organizations and rely on third-party auditors for audit and

⁶³ The US-GSP statute, without making reference to any of the international covenants and conventions, considers (a) right of association, (b) right to organize and bargain collectively, (c) freedom from compulsory labor, (d) a minimum age for the employment of children, and (e) acceptable conditions of work with respect to minimum wages, hours of work and occupational safety and health as internationally recognized worker rights, and sets forth as mandatory criteria that each country must satisfy before being designated a GSP beneficiary, and also to continue to receive the facility (USTR 2010).

certification of factories. Indeed, the dispersion of responsibility of promoting and protecting workers' rights through CoCs has weakened the regulatory capacity of the government to ensure enforcement of labor rights provisions set out in details in the BLA 2006. The manufactures are often overtly serious about the compliance of the CoCs more than the BLA since the codes have direct and immediate links to globalizing garment trade.

On the whole, the weakening of the regulatory capacity of state and non-state actors is a sphere of influence that has profound implication for Bangladesh's garment workers. Country's continued policy stance in encouraging FDI provided the impetus to focus on competitiveness, and accordingly differential labor law regimes were created. The dispersion of responsibilities of enforcing labor standards through the bilateral conditionality, and also through CoCs had made the argument 'bad jobs are better than no jobs at all' to be persuasive in Bangladesh's garment sector.

CONCLUSION: THE DRIVERS OF GARMENT WORKERS' ECONOMIC (IN)SECURITY

The spectacular growth of the export-oriented garment industry over the years which even continued during the current recession period has prompted important structural transformations of the economy. The excessive dependence of the workers on the sector, however, has created avenues of uncertainty and vulnerability in turn influencing their economic security. The flexibilization and defeminization of the workforce from the previous feminization of workforce on which the sector's success was built has produced disproportionate vulnerability to workers in comparison with employers. The informalization of the standards has also led to implications on different aspects of workers' economic security.

Although there is no denying the fact that the garment sector has created employment opportunities for a large number of workers, the inherent challenges and outcomes for the workers such as increased uncertainty and vulnerability come from three spheres of influence of Bangladesh's garment trade-linked economic integration and subsequent interaction in the world trade. The employment dynamics of the country has been subject to transformation of the economy. It shows a mismatch between sectoral growth and labor absorption. The excessive dependence on the sector not only showcases a narrow employment opportunity for the large army of economically active population of the country, but also exhibits increased vulnerability of the workers due to recent shift towards more technology and capital intensive industries as well as flexibilization and informalization of work.

The prime reason why competitiveness looms so large on garment sector since the sector's inception in Bangladesh is simply the change in the economic system propagated through garment trade-linked economic liberalization. The economic forces compelled successive governments to take measures for setting attractive conditions for investment, for example the structural and financial incentives to firms in the EPZs, and also the differential labor law regime waiving the rights of workers to association and collective bargaining.

Whereas the focus on competitiveness in policy stance and in the efforts of the garment entrepreneurs provided impetus to harvest the benefits of the global economy, the transformation of the economy in terms of bargaining capacity of state and non-state actors vis-à-vis capital (business) along with the state capacity to regulate the labor market (as evidenced in poor-enforcement of labor law and differential labor law regime as in the

EPZs) has produced uneven impacts on the workers. In this competitive age, workers are said to be doing rationale if they adhere to and satisfy the outcome of the market principles. The stands that competitiveness is best achieved through deregulation of the labor market, leaving businesses free to discover the most efficient solutions (including wage) to labor problems does not hold true for Bangladesh's garment workers. The opposite experience as elaborated in this chapter is that achievement of competitiveness requires extensive intervention to steer businesses towards the most efficient relations of production, otherwise the positive impacts of the spectacular growth performance will not benefit the workers. The process of bringing a balance between the desired market and state interventions requires active stands so that workers' concerns and issues are not overlooked for the sheer sake of achieving competitiveness. The spheres of influence arising out of Bangladesh's integration into the world economy shape the industrial and labor relations that determines workers' economic (in)security.

CHAPTER VII

STANDARDS–RIGHTS NEXUS IN ACTION IN BANGLADESH: TRANSFORMING LABOR STANDARDS INTO WORKERS’ RIGHTS

The provisions of labor standards applicable to Bangladesh’s export-oriented garment sector are promoted through three routes—rights legislation, rights conditionality, and corporate codes. The standard provisions relating to basic, civic, survival, and security rights in varied forms have been introduced with the presumption that the standard provisions would translate into rights provisions for workers. Standards and rights are differentiated in terms of common legalistic interpretation; human rights/ labor rights exist, because the majority of the states of the world have ratified a certain number of human rights treaties/ labor rights conventions, or because national constitution or law confers rights on their citizens. Thus, standards translate into rights when those are reflected in some forms in national legal instruments. However, it is neither known whether such translation takes place, nor do we know if the transformative action is at play, to what extent that is a reflection of overall standards provisions, and whether it has differential outcome for three different forms of rights—right to, right at, and right through work.

This chapter explores the labor standards in (in)action—whether and to what extent labor rights provisions in Bangladesh’s laws are reflections of labor standards promoted through different routes. Whether or not the standards provisions translate to rights for Bangladesh’s garment workers is discernable from the availability of similar provisions/ instruments in national legal standards. However, to make a judgment to what extent the labor standards provisions have translated to workers rights, a mere availability and coverage of contents of the instruments are hardly explicit in terms applicability of legal

provisions denoting clear recognition of obligations, and protection and recourse through enforcement mechanisms. The translation, thus, takes a form of or variable in between *no translation* (narrow coverage with minor protection and low recourse) at the one end and on the other *full translation* (broad coverage with strong protection and full recourse). I argue in this chapter that standards promoted at local level hardly reflect the availability of standards provisions, rather is determined by interest groups. The translation of standards to rights is not decided by a straightforward linkage between the two forms, rather is the outcome of how the trade-off between the conflicting interests of workers and employers are played and balance in between are achieved within the overall vision and logic of action of industrial and labor relations.

This chapter is divided into two core sections. The first focuses on the expected transformative action of the labor standards and workers' rights nexus for Bangladesh's garment workers. The second section documents existing provisions of labor standards through three different routes, and makes an analysis on the rights provisions in view of availability and effectiveness of the provisions for showcasing whether and to what extent standards and rights nexus are in action for garment workers of Bangladesh.

**LABOR STANDARDS AND WORKERS' RIGHTS NEXUS:
THE EXPECTED TRANSFORMATIVE ACTION FOR GARMENT WORKERS**

Worker rights are promoted and protected on the basis of some instruments which are of both international and national in nature. Since its inception in 1919, the ILO has adopted 188 conventions and various recommendations for protecting and ensuring the rights of the working classes. Instruments originating in the United Nations, particularly the UDHR, ICESCR, and ICCPR have bestowed workers with economic, social, cultural, civil and

political rights. Moreover, the Convention on the Rights of the Child (CRC), and Convention on Elimination of All Forms of Discrimination against Women (CEDAW) also provide the basis of protection of worker-rights especially for young, and women workers. Bangladesh, being a member of these organizations or signatory to these conventions, the country is obliged to promote and protect rights at the national level. A number of labor standards have been applicable to garment workers due to the country's continued integration into the world economy, particularly in its bid to capitalize the opportunities such as GSP. Bangladesh's garment exporters are too subject to various forms of labor standards of corporate codes—rules and guidelines imposed by buyers upon themselves and along their supply chains.⁶⁴

While all the three routes of transmitting standards to rights have been there arguably in action, Bangladesh's laws related to workers had been in the process of development too.⁶⁵ The evolving nature of the standards makes it difficult to establish causal relations between whether the rights legislation, rights conditions, and the corporate codes have particular outcomes in terms of the changing dynamics of national legal standards. The objective of this chapter is not to show that a particular route of transformation has a certain outcome, rather the intention here is to extrapolate the reflection of the three routes of standards in provisions of national legal instruments. The

⁶⁴ Generally, adherence by a particular garment manufacturer to a given standard or code of conduct is verified through periodic audits/ inspections often carried out by buyers and /or third party auditors nominated by the buyers. The seven most widely used codes of conduct in Bangladesh's garment sector are: (a) Social Accountability International (SAI) – SA8000; Ethical Trading Initiative (ETI); Fair Labor Association (FLA); Fair Wear Foundation (FWF); Business Social Compliance Initiative (BSCI); Worldwide Responsible Apparel Production (WRAP); and Joint Initiative on Corporate Accountability and Workers' Rights (JO-IN) (Chowdhury and Denecke 2007).

⁶⁵ The continued development of legal instruments for workers is traced much further than the country's inception in 1971. The first labor law was enacted in Indian sub-continent of which Bangladesh was a part in 1881, and subsequently several laws with periodic modifications on workers' protection were in force.

reflection of the major standards prevailing in the three forms are expected in the current Bangladesh labor law because, first, it is a recent (2006) compilation of previous laws which were in operation into a single act of law—BLA 2006, and second, it is widely considered to be comprehensive in nature; broad aspects of worker rights, and labor and industrial relations including special provisions for specific worker groups are under its purview.

The expected transformative action for Bangladesh's garment workers is that the law provisions should reflect in principle the labor standards provisions enshrined in three forms of standards. The standard provisions are expected to translate into three forms of rights providing access to employment opportunities, which are fair and equal without discrimination (right to work), promoting just and favorable conditions of work including healthy and safe working conditions (right at work), and ensuring adequate standard of living (right through work) for garment workers. The transformative action of standards, thus, should reflect the rights for garment workers both in terms of availability and coverage of contents of the instruments, as well as applicability of provisions.

TRANSFORMING STANDARDS INTO RIGHTS FOR GARMENT WORKERS

This section is an analysis of whether and to what extent standards and rights nexus are in action for garment workers by juxtaposing provisions of Bangladesh's labor laws with standards provisions applicable to workers through three different routes of standards translation. The analysis below first documents standards provisions in action for garment workers, and then makes judgment about whether and to what extent standards translated to rights for workers based not only on availability of similar provisions but also on the effectiveness of each of provision related to workers' rights.

Right to Work

Adequate provisioning and lacking barriers to access to employment are the keys to right to work. I focus on a number of indicators germane to providing Bangladesh's garment workers' right to work. These are (a) employment contract; (b) elimination of child labor and protection of adolescent; (c) protection against forced and compulsory labor; and (d) protection against discrimination at workplace.

Employment Contract

The rights legislation forms provide numerous standards on employment contract. The UDHR proclaimed the right to work and the right to free choice of employment, and provided standards related to the right to favorable conditions of work, and the right to protection against unemployment (Article 23). The ILO, as principle, through the Declaration of Philadelphia emphasized the dignity of labor, and stressed that labor was not to be treated as a commodity. The ILO Convention 122 (Employment Policy Convention, 1964) calls for member states to declare and pursue an active policy designed to promote full, productive, and freely chosen employment.⁶⁶ The standards conditionality forms do not have any specific standards provisions on employment contract; neither the US-GSP nor the EU-GSP touches on the nature of employment contract. The standards set in the corporate codes, however, are specific. Two major features are promoted. First, work performed must be on the basis of a recognized employment relationship established through law and/or practice (Jo-IN, and ETI). Second, the obligations to workers shall not

⁶⁶ It provides guidelines for ensuring that (a) there is work for all who are available for and seeking work; (b) such work is as productive as possible; and (c) there is freedom of choice of employment and the fullest possible opportunity for each worker to qualify for, and to use skills and endowments in a job for which the person is well suited, irrespective of race, color, sex, religion, political opinion, national extraction or social origin (ILO Convention 122, Article 1).

be avoided through the use of labor-only contracting, subcontracting, home-working, and apprenticeship (Jo-IN, FWF, SAI, and ETI), nor shall such obligations be avoided through the excessive use of fixed-term contracts of employment (Jo-IN). The codes also specify the requirement to provide workers with information about wages before entering into employment, and about particulars of wages (Jo-In, SAI, ETI, and FWF).

The protection to workers afforded by the BLA is applicable to all garment workers who are employees and have an identifiable employer with whom they have an employment relationship. In terms of availability of provisions, it provides numerous provisions on contractual arrangements e.g., appointment letter and identity card, service book, employee register, as well as detailed guidelines on job termination both by workers and employers.⁶⁷ However, lacking mandatory nature makes the law ineffective. Giving a copy of the service book to the workers is not binding. Employers are not required to provide service books to the apprentice, exchange or casual workers (Section6).

Workers have the right to resign from the job after giving notice in writing to the employer or surrendering wages equal for notice period (Section 27).⁶⁸ In the case of job termination of a permanent worker, the employer should compensate for every completed year of service, or provide gratuity whichever is higher (Section 27).⁶⁹ Employers are also entitled to terminate workers by ways such as retrenchment, discharge, and dismissal.⁷⁰

⁶⁷ Under the law, it is compulsory for every employer to issue appointment letter and identity card with photograph to all workers (Section 5), and maintain a register of workers (Section9). The employers at their own cost should maintain service books for workers (Section6).

⁶⁸ Notice period varies from 60 days, 30 days and 14 days respectively for permanent, temporary but monthly basis, and other workers.

⁶⁹ The rate of compensation is calculated at the rate of fourteen days' remuneration if the worker completed five years of continuous service but less than ten years, and at the rate of thirty days' of remuneration if completed ten years of continuous service.

⁷⁰ An employer is permitted to retrench a worker from the job, but if the worker is employed in continuous service for not less than one year, employer should give one month's notice in writing, or instead of such notice, wages for the period of notice and pay compensation which shall be equivalent to thirty days' wages or

An employer can dismiss a worker without serving prior notice if the worker is (a) convicted for any criminal offence; or (b) proved guilty of misconduct (Section 23). The employer is also allowed to terminate worker without explaining any reason by giving a written notice.⁷¹

These provisions on contractual arrangements as well as on job termination guidelines both by workers and employers show that there is a strong coverage of standards. However, the inherent weaknesses of the provisions have left rights provisions to be ineffective. Job-termination procedures are riddled with time-binding concerns. BLA has prescribed different notice-period for termination, varying according to the status of the workers—sixty days, thirty days and fourteen days for permanent, temporary but monthly basis, and other workers respectively. An employer is not required to assign any reason to terminate a worker. Moreover, the notice period for the temporary workers in this regard is quite short—30 days and 14 days for workers respectively employed on a monthly and on other basis. In the case of retrenchment and discharge, a worker must complete minimum one-year service to get financial benefits. The provision of dismissal is exploitative in nature; it allows termination of workers without prior notice. This provision deprives a worker from compensation when dismissed due to misconduct which is easily provable by the employers due to its wide scope of interpretation.

gratuity for every completed year of service or whichever is higher (BLL 2006 Section 20.1, 20.2). An employer can discharge a worker due to his physical or mental incapability or continued ill health certified by the registered physicians. If the worker has completed a continuous service for one year should receive a financial benefit of thirty days wages by the employer for every completed year of service, or gratuity, whichever is higher (Section 22.1, 22.2).

⁷¹ The notice period for the permanent workers working on a monthly-wage basis is one hundred and twenty days, and sixty days to the other permanent workers. For the temporary worker the notice period is thirty days to the workers employed on the monthly basis; and fourteen days for others. (BLL Sec 26).

Based on the availability of provisions in the national law on employment contract similar to those provisions laid out in three different forms of standards, the standards have mostly translated if not fully to rights provisions. However, a lens on the effectiveness of such provisions provides a different scale of translations, hardly translated. Overall, the standard provisions translation to workers' rights can be categorized as strong coverage but limited protection with low recourse.

Elimination of Child Labor and Protection of Adolescent

To protect the rights of children and eliminate child labor, ILO and other international institutions have adopted several provisions. ICESCR has declared that children and young persons have the right to be protected from economic and social exploitation (Art 10.3). According to CRC, states should provide for a minimum age for admission to employment (Article 32.2a), and protect children from work that is dangerous or might harm their health or education, and from economic exploitation (hours and conditions of employment) (Article 32.2b and 32.1). The obligations as of ILO conventions on child labor are related to age of children, and permissible work by children.⁷²

The EU-GSP makes reference to UN covenants (ICCPR, ICESCR, CRC) and ILO Conventions on minimum age for admission to employment (Convention 138) and prohibition and immediate action for elimination of the worst forms of child labor

⁷² Each member of the ILO is obliged to pursue a national policy designed to ensure effective abolition of child labor and to establish the minimum age for admission to employment to a level consistent with the fullest physical and mental development of young persons (ILO Convention 138, Article1). The children under the age of fifteen years are not permitted to be employed in any public or private industrial undertaking except special circumstances. National laws or regulations may permit children to be employed in undertakings in which only members of the employer's family are employed (ILO Convention 59, Article2). Developing countries are, however, entitled to relax age of children to 12 years for light work not harmful for health, development, and education (ILO Convention 138). Every employer is however required to maintain a register of all persons under the age of eighteen years (ILO Convention 59, Article4).

(Convention 182) those have clear guidelines for the protection of children. The US-GSP in contrast makes no explicit reference to UN core covenants or ILO specific conventions, but considers a minimum age for employment of children as an internationally recognized worker rights. A GSP beneficiary must also implement any commitments it makes to eliminate the worst forms of child labor.

The corporate codes have standards in terms of minimum age and assistance to replaced child workers—mainly as a reflection of the ILO relevant conventions. In terms of minimum age, all codes forbid employment of children aged below 14 years.⁷³ CoCs provide provisions for adequate transitional and economic assistance to any replaced workers (Jo-In, BSCI, ETI). The provisions for protection against exploitation of adolescent (defined as 18 years in Jo-in code) include not to expose children or young workers to hazardous, unsafe or unhealthy conditions (SAI, ETI, FWF, BSCI, Jo-In).

According to BLA, no children below 14 years of age are allowed to work, and the parents or guardians of a child shall not make any agreement with any person or establishment, to allow the service of the child. However, the law also proclaims that a child who has completed twelve years of age is permitted to be employed in such light work which is not harmful for his/her health and development or must not hamper his/her education, and the hours of such school going child must be so arranged that do not impede school attendance (Section 34, 35, 44). The rules barring adolescent in hazardous, unsafe or unhealthy employment are detailed in the labor law (Section34.2).⁷⁴

⁷³Few codes have a upper limit of 15 years (SAI, FWF, Jo-In) but have flexibility to above compulsory school age (Jo-In, ETI, FLA, FWF) or to 14 years—as exempted for the developing countries in the ILO (SAI) or if country of manufacture allows (FLA, BSCI).

⁷⁴No adolescent is allowed in any establishment to clean, lubricate or adjust any part of machinery while that part is in motion or to work between moving parts or between fixed and moving parts, of any machinery

The available labor law provisions comply with the standards set out in three different routes of standards. It too complies with the provisions of the ILO to which other two standards transmission routes refer to, even though Bangladesh is not a signatory to the relevant ILO conventions (Convention 59 and 138). In terms of availability, a point needs to be raised that Bangladesh's standard on elimination of child labor and protection of adolescent make use of the exemption provision that is available for developing countries in setting the minimum age of employable children. The relaxation of rule on age of children to 12 years for light work not harmful for health, development, and education, in effect, allow employment of children in general since the law does not define what constitutes light work, and also because it is difficult to ascertain the age of workers below eighteen years in Bangladesh.⁷⁵ Thus, in terms of availability the translation of standards to rights may be categorized as mostly translated, but in terms of effectiveness of those provisions have translated partly, denoting an overall categorization of translation in between partly to mostly—strong coverage with partial protection and partial recourse.

Protection against Forced and Compulsory Labor

Forced labor is defined by ILO as, “all work or services which is extracted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily” (Convention 29, Article 2.1). Besides ILO, other international instruments

which is in motion. No adolescent shall work at any machine unless has been fully instructed as to the dangers and received sufficient training, or is under adequate supervision (BLA 2006 Section 39).

⁷⁵ The garment workers, most of whom are migrants from rural areas fall hardly within the limited city-based birth registration schemes. The national identity cards are available for both rural and urban areas but for people aged above 18. The BLA delineates that in case of disputes whether any person is a child or an adolescent, the certificate as to age of the person granted by a registered medical practitioner referred by the inspector of factories shall be considered as conclusive evidence (BLA 2006, Section 36).

have also made provisions against forced labor. According to UDHR, “No one shall be held in slavery or servitude; slavery and the slave trade shall be prohibited in all their forms” (Article 4). The provision of ICCPR in this regard is that “no one shall be held in slavery and in servitude; and no one shall be required to perform forced or compulsory labor” (Article 8). The rights conditionality forms of standards have specific relevant provisions. One of the criteria in the US-GSP is freedom from compulsory labor (USTR 2010). EU-GSP makes reference to ILO Conventions 29 and 105, and has made progressive realization of the provisions to continue to access benefits. All seven codes of conduct have provisions for protection against forced labor essentially encouraging companies and their suppliers to ensure that employment is freely chosen.⁷⁶

Bangladesh has ratified ILO Conventions 29 and 105. Forced labor is strictly prohibited as per the constitutional framework. Article 34 of the Constitution states “All forms of forced labor are prohibited and any contravention of this provision shall be an offence and shall be punishable in accordance with the Law.” There is no specific provision in its labor law, nor it is defined. However, all forms of forced labor are prohibited and any contravention of this provision is punishable offence in accordance with Bangladesh’s civil law. Thus, in terms of availability and effectiveness of the provisions, the standards provisions have translated fully—broad coverage with strong protection and full recourse.

⁷⁶ In line with the ILO Conventions 29, 105 and Recommendation 35, the codes forbid, (a) use of forced labor including involuntary prison, indentured or bonded labor (all seven codes); (b) requirements of workers to lodge ‘deposits’ or identity papers with their employers and shall be free to terminate their employment after reasonable notice (Jo-IN, ETI, SAI, BSCI); (c) restrictions on freedom of movement (from factory or employer controlled residences) of workers (Jo-In, BSCI, SAI); (d) withholding any part of salary, benefits, property, or documents in order to force to continue working for the company (BSCI); and (e) companies to engage in or tolerate the use of corporal punishment, mental or physical coercion and verbal abuse of personnel (BSCI); and (f) engaging in or support trafficking in human being (SAI).

Protection against Discrimination at Workplace

Discrimination at work is defined by the ILO as “any distinction, exclusion or preference made on the basis of race, color, sex, religion, political opinion, national extraction or social origin which has the effect of nullifying or impairing equality of opportunity and treatment in employment or occupation” (Convention 111, Article1). For protection of workers from discrimination at workplace, several instruments have provided several provisions regarding discrimination in wage, treatment, and facilities at workplace.

ILO adopted the equal remuneration convention (ILO, Convention 100) to prevent discrimination in employment providing for the application of equal remuneration for men and women workers for work of equal value.⁷⁷ The UDHR declares that ‘everyone, without any discrimination, has the right to equal pay for equal work (Article 23.2). The ICESCR proclaims that the right of everyone to equal remuneration for work of equal value without distinction of any kind, in particular women being guaranteed conditions of work not inferior to those enjoyed by men, with equal pay for equal work should be recognized by state (Article23.2). The CEDAW also has a provision for protection against discrimination at workplace—eliminate discrimination against women in order to ensure the right to equal remuneration, including benefits, and to equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of the quality of work (Article 11.1d).

As regards protection against discrimination in terms of treatment and facilities, according to ILO Convention 111 (Article 2), member countries are obliged to promote equal opportunity and treatment in respect of employment and occupation. To ensure non-

⁷⁷ Under this convention, each state is required to establish mechanisms for determining the rates of remuneration, and ensuring the application of the principle of equal pay for equal value of work. The principle should be applied by national laws or regulations or legally established minimum wage board or collective agreements between employers or workers or a combination of these various means.

discrimination regarding facilities, according to CEDAW, the obligations of states are to take appropriate measures in number of areas including: (a) same employment opportunities, including the application of the same criteria for selection; (b) free choice of profession and employment, promotion, job security and all benefits, and conditions of service, and vocational training and retraining; (c) social security, particularly in cases of retirement, unemployment, sickness, invalidity and old age and other incapacity to work, as well as paid leave; and (d) health and to safety in working conditions, including the safeguarding of the function of reproduction (CEDAW, Article 11.1).

The standards conditionality form of labor standards does not have any specific provisions in relation to protection against discrimination.⁷⁸ EU-GSP makes reference to relevant ILO Conventions, and considers systematic violation which is tantamount to withdrawal of GSP facility. All seven corporate codes of conduct in contrast, have some standards provisions on protection against discrimination. These standards are in broad terms reflection of the rights legislation forms of standards.⁷⁹

Bangladesh's law provisions relating to protection against discrimination mainly are focused on wage and gender. Employers are obliged to ensure equal wages for male and female workers for work of equal nature or value, and no discrimination should be made on the ground of sex (BLA 2006, Section345). The positive aspect of the current law is that in line with the ILO provision, it mentions the principle of wage setting is equal pay

⁷⁸ The US-GSP statute does not considers discrimination at workplace as an internationally recognized worker rights, and indeed been criticized for its narrow focus (see Gross 2003, Compa 2004, Speiler 2003).

⁷⁹ The codes state no discrimination in hiring, remuneration, access to training, promotion, discipline, termination of employment or retirement based on certain characteristics. SAI incorporates standards of not allowing sexually coercive, threatening, abusive or exploitative behavior including gestures, languages and physical contract. However, only a few of the codes make specific reference to relevant international conventions on protection against discrimination at workplace. The BSCI, FWF and SAI referred to ILO Conventions 100 and 111, and the Jo-IN in addition to ILO conventions referred to the CEDAW.

for equal value of work. However, the current provision left broad areas of discrimination at workplaces unattended. It lacks specific provisions on discrimination related to workplace facilities and treatment. Again, only the sex of workers has been considered as discrimination ground; different other grounds of discrimination e.g., race, religion, ethnicity are not included. This omission contrasts with Bangladesh's Constitutional stands against discrimination.⁸⁰ In view of these, standards in terms of availability have partly translated into rights, but in terms of effectiveness, the translation may be considered as mostly translated. This is due to fact that the presence of strong Constitutional guidelines against discrimination makes the available provisions mostly applicable if not fully.

In summary, in terms of standards in relation to employment contract, elimination of child labor and protection of adolescent, protection against forced and compulsory labor, and protection against discrimination at workplace have been translated partly. However, a difference is evident in terms of availability and effectiveness of the provisions translated. With the only exception of protection against forced and compulsory labor which has fully translated in terms of both availability and effectiveness, overall availability of the rights provisions indicate that standards have been translated mostly but in terms of effectiveness it is partly translated.

⁸⁰ Articles 27 and 28 of Bangladesh Constitution have provided guidelines against discrimination. Article 27 of the Constitution is stated as follows: "All citizens are equal before Law and are entitled to equal protection of Law." Article 28 states, "The State shall not discriminate against any citizen on the grounds of religion, race, caste, sex or place of birth."

Rights at Work

The key provisions of right at work relate to promoting just and favorable conditions of work, to ensure sanitary, healthy, and safe working conditions. In this section, I focus on a number of provisions e.g., working hour and rate of overtime, leave and rest, occupational health and safety, welfare facility for the analysis of whether and to what extent standards and rights nexus is in action for Bangladesh's garment workers.

Working Hours

According to the convention regarding hours of work (ILO Convention1), the working hours of persons should not exceed eight hours in a day and forty eight hours in a week.⁸¹ To protect women as well as adolescent from non-standard working conditions, the ILO has provided specific provisions on night duty restriction; women without distinction of age are not to be employed during the night in any public or private industrial undertaking, other than an undertaking in which only members of the same family are employed (ILO Convention 89).⁸² Young persons under eighteen years of age are also barred from working during the night (ILO Convention 90).⁸³ The standards conditionality form of labor standards in the US-GSP makes reference to acceptable conditions of work with respect to hours of work as an internationally recognized worker rights. The EU-GSP does not

⁸¹ There are flexibility clauses to allow average hours and exceptions. The limit of hours of work may be exceeded to fifty six in the week in cases of processes carried on continuously by a succession of shifts (ILO Convention1, Article 4). The maximum of additional hours in each instance should however be fixed after consultation with the organizations of employers and workers (ILO Convention Article 6.2).

⁸² The term 'night' indicates for women is 'a period of at least eleven consecutive hours, including an interval prescribed by the competent authority of at least seven consecutive hours falling between ten o'clock in the evening and seven o'clock in the morning' (ILO Convention 89, Article 2).

⁸³ Government is allowed to suspend the provision of night duty restriction for both women and young people (over 16 years but below 18 years) after consultation with the employers' and workers' organizations in case of emergency or national interest (ILO Convention 89, Article 5, ILO Con 90, Article 5), and for purposes of apprenticeship or vocational training for young workers (ILO Con 90, Article3).

provide any standards on working hours. All CoC except one (WRAP) have provisions of working hours. The basic tenet of the CoC is that work hours are not excessive.⁸⁴

BLA allows every adult worker to work without overtime, maximum eight hours a day and forty eight hours a week (Section 100).⁸⁵ In terms of night duty restriction, it proclaims that no female worker is allowed to work without her consent between the hours of ten o'clock in the evening and six o'clock in the morning, and for young workers the forbidden work hours is between the hours of seven o'clock in the evening and seven o'clock in the morning (Section 109 and 41.3). Bangladesh has ratified the ILO Convention 1, and the current labor law in terms of availability of rights provisions complies with the labor standards regarding average daily and weekly work hour, and night duty restriction of young workers, but contradicts with night duty standards for women workers. Though, the law prohibits employers to employ women workers for the hours between ten o'clock in the evening and six o'clock in the morning, the law, however, with consent of women workers, allows employers to engage women worker at night even in those establishments where family members of the women worker are not employed.⁸⁶ Thus, the standards have translated in terms of availability mostly and in terms of effectiveness partly. The overall translation of labor standards has been in the range of 'partly to mostly'.

⁸⁴ These codes call to comply with national laws and industry standards. In specific terms, workers shall not be required to work in excess of 48 hours per week, and overtime shall be voluntary.

⁸⁵ An adult worker may be employed for work of 10 hours a day and more than 48 hours a week on condition of giving overtime allowance for extra working hours, but the daily and weekly maximum overtime work should not exceed more than two hours and twelve hours respectively, and the total hours of work of an adult worker shall not exceed sixty hours in any week and on the average fifty-six hours per week in any year (BLA 2006, Section 100 & 102).

⁸⁶ The effectiveness of this rights provision becomes questionable in view of the start time (ten o'clock in the evening) of night duty restriction which is quite late at night in Bangladesh context, particularly in view of the security of women traveling to and from workplaces. The security issues of women workers both within and outside workplace are not addressed in the current labor law.

Rest and Leave

Several international instruments touch on rest and leave provisions including rest and leisure, weekly and public holidays, annual leave, and maternity leave.⁸⁷ All workers have the right to enjoy a period of rest comprising at least twenty-four consecutive hours in every period of seven days (ILO Convention 14, Article 2).⁸⁸ Every worker is entitled after the first year of employment to an annual leave with pay of at least six working days; employers are required to increase the duration of the annual leave with pay, with the length of service under conditions approved by national laws and regulations (ILO Convention 52, Article 2). The ILO Convention 103 provides women workers rights to enjoy at least 12 week maternity leave.⁸⁹ The standards conditionality form of labor standards (in US GSP and EU GSP schemes) does not provide any provisions on rest and leave. In contrast to the ILO provision, all CoCs have specified of at least one day-off for every seven day-period on an average.

Bangladesh's labor law provides rights provision related to rest and leave. Workers shall not be responsible to work unless they are allowed an interval for rest or meal of at least half an hour for work up to five hours, and an hour for work over six hours to eight

⁸⁷ Everyone has the right to rest and leisure including reasonable limitation of working hours, and periodic holidays with pay (UDHR Article 24, and ICESCR Article 7d). The CRC recognized that every child has the right to enjoy rest and leisure (Article 31). The CEDAW has affirmed the regulation by stating to introduce maternity leave with pay or with comparable social benefits without loss of employment, seniority or social allowance (CEDAW Article 11.2b).

⁸⁸ The ILO convention however provides for flexibility clauses—weekly holiday may be suspended or diminished in special cases, and the provision for compensatory period of rest may be made (ILO Convention 14). The special considerations may be applied in case of humanitarian and economic considerations, but after consultation with associations of employers and workers (ILO Convention 14, Article 4).

⁸⁹ This is to be compulsory leave by showing medical certificate stating the presumed date of confinement. The period of compulsory leave after confinement not to be less than six weeks, and the rest of the total period of maternity leave may be provided partly before the presumed date of confinement and partly following the expiration of the compulsory leave period. In case of illness arising out of pregnancy or confinement, women are also entitled to enjoy additional leave before or after confinement (ILO Convention 103 and CEDAW, Article 11.2b).

hours (BLA 2006, Section 101). In terms of leave provisions, every adult worker employed in a shop or commercial establishment, or industrial establishment, has the right to enjoy one and a half day's holiday in each week, and in factory and establishment one day in a week (Section 103). Every worker is entitled to ten days in a calendar year as casual leave with the full wages (Section 115), and eleven days of paid festival leave in a calendar year (Section 118).⁹⁰ Each worker, who has completed one year of continuous service, is entitled during the subsequent period of twelve months to leave with wages for a number of days as annual leave. The annual leave is one day for every eighteen days worked in a year for adult workers, one day for every fifteen days for adolescent workers employed in a factory (Section 117). Every worker employed in a factory is also entitled to fourteen days of sick leave in a calendar year with full wages (Section 117).⁹¹ A female worker is entitled to maternity leave with pay of sixteen weeks (eight weeks before and eight weeks after delivery) (Section 46).⁹²

Indeed, Bangladesh's labor law in terms of availability of instruments related to rest and leave is wide in coverage. However, the weekly holiday provision hardly matches with the ILO standards— twenty-four consecutive hours in every period of seven days.

Numerous provisions of law are also discriminatory. In case of weekly holiday, the law has made provision of one-day holiday for workers of factories, while workers employed in

⁹⁰ The employer may however require a worker to work on any festival holiday, but two days' additional compensatory holidays with full pay and a substitute holiday for each day shall be provided (Section 118).

⁹¹ The sick leave is subject to certification by registered medical practitioner. The leave only shall be granted if a registered medical practitioner employed by the employer or any other registered medical practitioner certifies illness and requires sick leave for cure or treatment for specified period.

⁹² No maternity benefit shall be payable to any woman if at the time of her confinement has two or more surviving children, but in that case, she shall be entitled to the leave to which she would otherwise be entitled (Section 46). The extension of maternity leave period from 12 weeks to 16 weeks for female worker up to their 2nd children is clearly advancement for women's rights. Limiting the benefit up to two children is also consistent with the population policy of the country.

shops, commercial, and industrial establishments are entitled to enjoy one and a half-day holiday. The annual leave provisions make discrimination not only between workers in factories and industrial establishments, but also with other categories of workers.⁹³

Due to wide availability of law provisions while translation of standards may be categorized as mostly translated into rights, the effectiveness criteria indeed provide different categorization of such translation. It is from that lens, partly translated, and overall, the translation of standards to rights is in between partly to mostly, but not fully. The discriminatory provision on annual leave makes the right to annual leave less effective. The absence of certain core elements e.g., lacking consent and choices of the workers, long term perspective on festival bonus, sick leave and maternity leave, makes those provisions prone to violation. The festival leave has left scope for employers to engage workers in work during festivals. The issue of consent of workers in engaging them during festival is absent. Concerning the sick leave, the law lacks specific provisions on leave and wage in the case of long-term illness. In case of maternity leave, the leave period is fixed as eight weeks preceding the expected date and eight weeks immediately following the day of delivery. The fixed division of the period in effect does not allow women workers to enjoy the full leave period according to their choices of suitable period of maternity leave. The law also lacks provision of long-term leave in case of abortion and pre-mature birth and other pregnancy related complexities. Moreover, there is also time binding, at least six month-long work under the current employer is needed to be entitled to maternity leave.

⁹³ Annual leave is one day for each 18 days for the workers of shops, commercial and industrial establishment, factories and road transport institution; one-day for each 22 days for workers of tea-estates; and one-day for each 11 days for newspaper workers. In case of young (juvenile) workers, calculation of annual leave is as follows: one day leave for each 15 days in factories; one-day for each 18 days in tea-estates; and one-day for each 14 days in shops, commercial and industrial establishments.

Occupational Safety and Health

The obligations originating in rights legislation form of standards on occupational safety and health (OSH) provisions are broad-based. The ICESCR recognizes the right of everyone to safe and healthy working conditions (Article7.b). The ILO obliges states to establish coherent national policy on occupational safety, occupational health and the working environment aiming to prevent accidents and injury to health arising out of, linked with or occurring in the course of work, by minimizing the causes of hazards inherent in the working environment (ILO Convention 155, Article4). To improve the environment of workplace, ILO convention (Convention 120) has made various provisions on cleanliness, noise, temperature, ventilation, lighting, ergonomics, pure drinking water and gender segregated toilet/washroom.⁹⁴ In contrast, both the standards conditionality form and CoCs make weak connection with the provisions relating to OSH.⁹⁵ Standards highlighted by the CoCs are to: (a) promote safe and hygienic working environment (WRAP), and knowledge of industry and specific hazards (FWF, FLA, SAI, Jo-In); (b) prevent accidents and injury by minimizing the causes of hazards (Jo-In, SAI, ETI, FLA, FWF) and potential threats to health and safety (BSCI and Jo-In); (c) access to clean facilities and portable water, sanitary facilities for food storage (ETI, Jo-In, BSCI); and (d) meet the basic needs in case of employer operated facilities e.g., accommodation (SAI, FLA, WRAP).

⁹⁴ It states that all premises used by workers and the equipments of such premises, should be properly maintained and kept clean. Noise and vibrations likely to have harmful effects on workers should be reduced. As comfortable and steady a temperature should be maintained in all premises. All premises should maintain sufficient and suitable ventilation, lighting, drinking water or of some other drinks, washing facilities and sanitary conveniences (Convention120).

⁹⁵ The EU-GSP does not make any reference to any of the relevant international conventions related to OSH. The US-GSP statute considers an 'acceptable conditions of work with respect to occupational safety and health' as an internationally recognized worker rights. Only two of the codes (Jo-in and FWF) make reference to relevant ILO conventions.

Bangladesh's labor law on OSH is encompassing, and touched on three areas of protection: (i) occupational accidents, hazards and diseases; (ii) safety equipment and facilities; and (iii) workplace environment.⁹⁶ BLA 2006 states that the machineries which are moving and in motion, should be securely fenced (Section 63), and screw, belt or key or any revolting shaft, spindle of any machinery driven by power should be covered (Section 67) to prevent accidents. The floors, stairs, passages and gangways of the establishment should be of sound construction and properly maintained, and all floors, ways and stair ways should be clean, wide and clear of all obstruction (Section 72). Employers are also obliged to inform the inspector about certain specified diseases if contacted by worker (Section 82).⁹⁷ The rights provisions related to safety equipment and facilities are reflected in the law provisions on fire-fighting apparatus and emergency fire exit, protective kits (Gloves, masks, helmets), and safety of buildings and machineries (Section 62). Each employer is obliged to take measures to protect workers from dangers and damage due to fire.⁹⁸ The workplace environment related rights provisions are reflected in detailed law provisions on cleanliness, noise, temperature, ventilation, lighting, dust and fumes,

⁹⁶ These provisions are specified in details in Chapter VI and VII of the BLA 2006 respectively on safety, and special provisions relating to health, hygiene and safety.

⁹⁷ Safety provisions are detailed in section 61 to 78 on safety of building and machinery, precaution in case of fire, fencing of machinery, work on or near machinery in motion, self-acting machines, cranes and other lifting machinery, hoists and lifts, revolving machinery, pressure plant, floors, stairs and means of access, excessive weights, protection of eyes, precautions against dangerous fumes, and explosive or inflammable dust, and gas. The provisions relating to health, hygiene and safety are delineated in sections 79 to 88 on dangerous operations notice to be given of accidents, notice of certain dangerous occurrences, notice of certain disease, power to direct enquiry into cases of accident or disease, power to take samples, powers of inspector in case of certain danger, information about dangerous building and machinery, Restriction of employment of women in certain work, and power to make rules to supplement the provisions.

⁹⁸ These include: (a) install at least one alternative connecting stair with each floor and sufficient fire fighting apparatus; (b) no exit door from any room can be locked or fastened during the working hours; (c) free passage-way giving access to each means of escape in case of fire; (d) all exit options in case of fire be clearly marked; (e) effective and clearly audible means of fire warning system; (f) arrange training on fire-fighting and means of escaping (if more than 10 workers above ground floor), and one fire extinction drill in a year (if 50 or more workers are employed).

humidity, working space, dustbin and spittoon, waste management, ergonomics, pure drinking water, and gender segregated toilet.⁹⁹

Indeed, law provisions in terms of occupational accidents, hazards and diseases, safety equipment and facilities, and workplace environment reflect fully of those of the provisions of standards. In terms of effectiveness, number of provisions relating to role of inspection by appropriate authority in ensuring the safety equipment and facilities (Section 83-85), show that the provisions have fully translated too. One point of such categorization is the issue of empowerment of workers through these right provisions. The current law has provided workers with the right to be informed by the employers about buildings and machines which are dangerous /risky. If the employers do not take any measure within specified timeframe, and thereafter, accidents occur, the workers will get compensation at twice the normal rate of the compensation (Section 86). Also, the current law has made mock fire-fighting drill mandatory for the industries where fifty or more workers are employed (Section 62). The current law has also made safety record book compulsory for employers employing more than twenty five workers (Section 90). It provides provision to constitute a national council for industrial health and safety to ensure occupational health and safety of the workers at their workplaces (Section 323).

⁹⁹ A number of the provisions are as follows. Every establishment should be kept clean and free from effluvia arising out of any drain, privy or other nuisance (Section 51), and prevent gathering dust or fume in the work room and its inhalation by the workers (Section 53). The work room of an establishment should not be such overcrowded that is injurious to the health of workers and for that nine and a half cubic meter of space should be provided for every single worker in a factory (Section 56). The temperature of the work room should be of comfort and prevent injury to health. Every employer is required to make effective and suitable provisions for securing and maintaining adequate ventilation, sufficient and suitable lighting (Section 52), and sufficient number of clean and hygienic dustbin and spittoons at convenient places (Section 60). Every establishment should arrange sufficient number of separate toilets with sufficient light, air and water for its male and female workers (Section 59), and provide sufficient supply of pure drinking water (Section 58) at a convenient place so that workers can use at all times.

Welfare Facilities

International instruments provide guidelines to rights to welfare facilities for the wellbeing of the employees at workplace. Two of the major general welfare facilities in the areas of healthcare and skill development are provided by the ILO guidelines.¹⁰⁰ The provisions include: general practitioner care; specialist care at hospitals for in-patients and out-patients; essential pharmaceutical supplies; and hospitalization and pre-natal, confinement and post-natal care either by medical practitioners or by qualified midwives (ILO Convention 102, Article 10). According to this Convention (Article 19), every establishment, institution or administrative service, or department shall maintain (a) its own dispensary or first-aid post; or (b) a dispensary or first-aid post jointly with other establishments, institutions or administrative services, or departments; or (c) one or more first-aid cupboards, boxes or kits. For workers' skill development, ILO provides the provision that each member countries adopt and develop policies and programs of vocational guidance and vocational training, closely linked with employment to encourage and enable all persons to develop and use their capabilities for work in their own best interest and in accordance with their own aspirations (ILO C142).¹⁰¹ The other two forms of labor standards—rights legislation, and voluntary codes have no specific provisions related to welfare facilities. These two forms also do not make any reference to any welfare provisions elaborated through international instruments.

¹⁰⁰ Another of the welfare facilities is recreation. However, the obligation is only reflected for children. The CRC (Article 1) recognizes the right of the children to recreation.

¹⁰¹ Besides this provision, a recommendation also made by ILO concerning this issue stating that the human resources development, education, training and lifelong learning policies should be identified by states which: (a) facilitate lifelong learning and employability; and (b) stress the importance of innovation, competitiveness, productivity, growth of the economy, the creation of decent jobs and the employability of people (ILO Rec.195).

Bangladesh's labor law has covered numerous provisions elaborated by the ILO. For example, the law has stated that every employer is required to provide (a) equipped first aid boxes or shelf (one for every 150 workers), and equipped dispensary with a patient-room, doctor and nursing staff where 300 or more workers are employed (Section 89); (b) canteen facility where more than 100 workers are employed (Section 92); (c) adequate and suitable rest-rooms for use of workers where fifty or more workers are employed (Section 93); and (d) children room for the children of under six years of age, wherein forty or more female workers are working (Section 94).

In terms of availability, the standards provisions, have mostly translated, even though the issue of skill development and lifelong learning for employability are hardly spelled out in the current law. The BLA 2006 defined apprentices, and their obligations including participating in training organized by the employer. The law, however, has set as one of the functions of the Participation Committee to encourage vocational training, workers education and family welfare training for inculcating and developing sense of belongings and workers' commitment. Overall, the current law of the country in relation to welfare facilities is broader than the existing provision of labor standards to include canteen facility, and child care. The effectiveness of these provisions, however, makes a different categorization—partly translated, and accordingly, overall, the translation of standards on welfare facilities into right provisions is in the range of partly to mostly.

This categorization is due to two reasons. First, ambiguity and numerical bindings of some provisions render the law inapplicable to all workers. The law provision related to dispensary at workplace is subject to number of workers (three hundred or more). It is also not clear whether workers need to pay to get services from the dispensary. Similarly,

several facilities are subjected to the total number of workers: canteen facility to hundred, rest room to fifty, gender segregated restroom to twenty five female, and day care facility to forty female workers. Second, the provisions are exclusionary and discriminatory—not provide same welfare facilities for all workers. The BLA has included provisions on accommodation and recreational facilities only for the workers of tea-garden, and specific provisions on healthcare applicable only to newspaper industry workers.

To sum up, key standards provisions relating to working hour, rest and leave, occupational health and safety, and welfare facility have mostly translated into rights provisions (broad coverage with strong protection but low recourse). In terms of availability of provisions, all the above provisions have translated in the range of ‘mostly to fully’. Bangladesh has not ratified the relevant ILO convention (Convention 120). Nevertheless, the rights are detailed, and capture the spirits of standards promoted. In terms of effectiveness, the translation of standards is not that straightforward, many of the provisions relating to the above are prone to ineffectiveness. While three standards provisions—working hour, rest and leave, and welfare facility—have translated partly, in view of the effectiveness, the standards on occupational health and safety have translated fully due to its mandatory provisions.

Rights through Work

The key provisions of rights through work relate to promoting an adequate standard of living by ensuring adequate provisions and non-discrimination in wages and benefits as well as in equal access to and outcome of employment. Accordingly, the standards and rights nexus is at play in wage and benefits, social security instruments, and labor relations and social dialogue.

Wage and Work related Benefits

Several international conventions, covenants, and recommendations have made provisions to ensure fair wage and benefits for the working people. The ICESCR clearly states that the rights of everyone to fair wages should be recognized by the state (Article 7a-i). The UDHR states that all workers have the right to just and favorable remuneration ensuring for themselves and their families an existence worthy of human dignity, and supplemented, if necessary, by other means of social protection (Article 23.3). According to ILO Convention 131, states are required to establish or maintain a system of minimum wages which covers all groups of wage earners and is to be fixed and adjusted from time to time (Article 4). The ILO delineates clear guidelines for determining the level of minimum wage as (a) needs of workers and their families, taking into account the general level of wages in the country, the cost of living, social security benefits, and the relative living standards of other social groups; and (b) economic factors, including the requirements of economic development, levels of productivity and the desirability of attaining and maintaining a high level of employment.

The EU-GSP makes reference to UN covenants (ICCPR, ICESCR, CRC), but does not provide specific provisions similar to ILO conventions. The US-GSP statute considers minimum wages as a part of ‘acceptable conditions of work’ to be promoted as an internationally recognized worker rights. The standards in corporate codes are nonetheless more specific. The codes specify that wages shall always comply with all applicable laws, regulations and industry minimum standards (SAI, FLA, FWF, BSCI, WRAP, and Jo-In), and shall be sufficient to meet basic needs of workers and their families and provide some discretionary income (SAI, FWF, and Jo-In) or living wage (ETI, BSCI, and Jo-In). Wage

deduction has been made restrictive on the ground of disciplining workers, and other measures not provided by national law (SAI, ETI, Jo-In., FWF, and BSCI). Wages are to be paid on a regular and timely basis (BSCI, Jo-in, and SAI), and in a manner convenient to workers (BSCI, Jo-In). Overtime should be compensated at a premium rate (BSCI SAI, ETI, FWF, FLA), or as is legally required, and if not defined then at least equal (FLA) or one and a half times of regular hourly compensation rate (Jo-In).

Bangladesh's labor law defines wages to include other benefits,¹⁰² and elaborates procedures of wage fixation (Chap. XI). According to BLA 2006, government is required to establish a Minimum Wage Board to determine and declare rates of wages (including the minimum) for garment workers.¹⁰³ Few specific provisions are important from the perspective of the effectiveness, however. First, the wage determination does not require considering family size of the workers, and also no mention is made how the balance between efficiency (profit) and equity (workers' protection) would be made while considering the wage structure.¹⁰⁴ This is important in view of the diverging claims of actual implementation of labor laws in Bangladesh from the part of the employers and workers. The wage review span is fixed in the law as after every five years—which fails to capture monthly changes in the cost of living for workers. Wage fixation does not cover the

¹⁰² According to BLA 2006, wages are defined as all remuneration to worker in respect of employment or of work done including any (a) bonus or other additional wages payable under the terms of employment; (b) remuneration payable in respect of holiday, leave and overtime work; (c) remuneration payable under any settlement of arbitrators or the order of the court; (d) amount payable because of dismissal, discharge, retrenchment, or termination; and (e) sum payable due to lay-off or suspension (Section12).

¹⁰³ As per the law, the government determines the rates of minimum wages for private sector workers according to the recommendation of the Board. However, if the Government thinks that the recommendation of minimum wage board is not equitable to the employers or the workers, it may refer it back to the Board for reconsideration. Till date government has declared minimum wage for 48 private sectors including the garment sector. The latest minimum wage board for the sector was formed in October 2010, and negotiation is on-going for determining the seven grade wage structure.

¹⁰⁴ In recommending the rates of minimum wages, the Wage Board should consider the cost of living, standard of living, cost of production, productivity, price of products, business capability, economic and social conditions of the country and of the locality concerned and other relevant factors (Section 141).

process of automatic adjustment to inflation which is high in the country, and much higher for food items the working poor consume.¹⁰⁵ A number of issues germane to the wage fixation make the function of the board ineffective due to scope of political/government influence. First, the tenure for the members of wage board is not fixed. Second, representative selection process for the board members (workers' and employers' representatives) is absent. Third, the criteria for selection (both process and eligibility) of the Independent Member to the wage board are not specified.

The law has made obligatory for employers to provide all remuneration on a regular and timely manner.¹⁰⁶ It also has elaborated provisions on wage deduction—no deduction shall be made from the wages of workers except few permissible cases and specified fines (Section 25).¹⁰⁷ Nevertheless, there remains wide scope of employers' discretion on the above in effect prone to possible violation. The source from which the wage deduction is permissible is not clearly mentioned. Also, the law does not make it clear whether wage would be deducted for unauthorized leave if casual leaves remain un-enjoyed. As regards overtime rate, the law states that workers are entitled to allowance at the rate of twice the ordinary rate of basic wage and dearness allowance and ad-hoc or interim pay

¹⁰⁵ The official inflation rate was 7.22 percent in FY 2006-07, 9.93 percent in 2007-08, and 6.66 in 2008-09 (GoB 2009). However, point to note that inflation for food items which capture a major share of workers' expenditure was much higher—8.12 percent, 12.28 percent, and 7.18 percent respectively in 2006-07, 2007-08, and 2008-09.

¹⁰⁶ Wage payment should be made within the expiry of seven working days after the last day of wage period (Section 123). The wages payable to worker should be paid within seven working days from the day of termination (by way of retrenchment, discharge, removal, dismissal or otherwise) (Section 122, and 123).

¹⁰⁷ The permissible reasons of deduction are for the following (a) absence from duty; (b) damage or loss directly attributable to neglect or default; (c) house-accommodation, amenities and services provided by employer; (d) recovery of advances or loans; (e) income-tax payable; (f) payment for provident fund, approved scheme of insurance, and fund or scheme for workers' welfare; (g) deduction of subscription for union (Section 125). The provisions relating to fine specify that no fine shall be (a) imposed on a worker under the age of fifteen; (b) recovered by installments or after sixty days from the day of fine imposition; and (c) imposed retrospectively. The fines and all realizations shall be recorded, and shall be spent only to such purposes beneficial to the workers employed. No fine, however, shall exceed one-tenth of the wages payable to a worker in respect of a wage-period.

(Section 108). However, the calculation of overtime is difficult in some cases especially for the workers who do not work on either full or part time basis but on the basis of production (piece) or from home. The procedures and fundamentals for fixation of minimum wage have no reference to piece rate or home based workers. In addition, the lacking provisions related to festival bonuses, and other allowances e.g., healthcare, transportation, recreation left many of the financial benefits to the discretion of employers.

With regards to other benefits to workers, an important provision is the right of the workers in company's profit. The law has established detailed provisions on participation fund and welfare fund for workers, in effect to share company's profits (Section 232.1).¹⁰⁸ But, these are prone to violation in view of the numerical bindings on number of workers, and paid-up capital and value of permanent assets of employers.

The rights provisions align with the international standards. In terms of contents too, it not only covers procedures and factors of wage fixation, but also go beyond to establish plain provisions on regularity of payments, wage deduction, overtime rate, and workers' participation in company's profits applicable to garment workers. However, these provisions are difficult to implement in view of their inherent shortcomings and due to absence of concrete modalities for implementation. The standards provisions as regards wage and work related benefits while have fully translated into rights in terms of availability, but hardly have translated in terms of effectiveness of those provisions. Thus, overall, the extent of translation of standards provisions to related rights provisions is in a questionable magnitude—ranging from 'hardly to fully'.

¹⁰⁸ The law obliges that every company to constitute a Workers' Participation Fund and a Workers' Welfare Fund for its workers, and should pay five percent of its net profit yearly in proportion of 80:20 to such funds (Section 234). However the profit share is applicable for the company if it has (a) one hundred workers; (b) BDT ten million as paid up capital; and (c) BDT twenty million of value of the permanent assets.

Social Security Instruments

Several international conventions and covenants have made provisions of pension, insurance, compensation, and other benefits related to social security. As a broad guideline, the international instruments have affirmed that as a member of society everyone has the right to social security (UDHR Article 22), including social insurance (ICESCR Art 9). Each Member of ILO is required to set up or maintain a scheme of compulsory old-age insurance/pension, and sickness insurance.¹⁰⁹ ILO conventions concerning compensation lay down detailed provisions on in case of industrial accident-led personal injury (Convention 17), and incapacitation by occupational diseases (ILO Convention 18). One other important standard provision—maternity benefit—is reflected in the international human rights instruments.¹¹⁰ The ILO Convention 103 states that a woman is entitled to receive cash and medical benefits during maternity leave (Article 4.1 and 4.3).¹¹¹ The other two forms of labor standards—rights legislation and voluntary codes neither have made references to any social security instruments elaborated in numerous international instruments, nor have specified related provisions.

¹⁰⁹ The insured person is entitled to an old-age pension at an age which shall be determined by national laws or regulations but not exceeding age sixty-five (ILO Convention 35). A person incapable of work by reason of the abnormal state of bodily or mental health shall be entitled to a cash benefit for at least the first twenty six weeks of incapacity (ILO Convention Article3).

¹¹⁰ The UDHR has ensured the maternity benefits stating that “motherhood is entitled to special care and assistance” (Article 25.2). Special protection should be accorded to mothers during a reasonable period before and after child-birth, and during such period working mothers should be accorded paid leave or leave with adequate social security benefits (ICESCR, Article 10.2). The CEDAW has declared that appropriate measures should be taken to prohibit dismissal during pregnancy and to provide special protection to women in types of work could be harmful to them (Article 11.2a and 11.2d).

¹¹¹ The medical benefits include: (a) pre-natal, confinement and post-natal care by trained midwives or medical practitioners; (b) hospitalization care; and (c) freedom of choice of doctor, and between a public and private hospital. In case of cash benefits, the amount of cash benefits has to be fixed by national laws or regulations that are sufficient for the full and healthy maintenance of mother and her child in accordance with a suitable standard of living (ILO Convention 103, Article 4 .2).

Bangladesh's labor law has matching provisions in the areas of insurance, compensation, and maternity benefits, but no specific provisions on pension. Instead, two other provisions intending to provide social security benefits to workers are provident fund, and gratuity. Overall, the rights provisions enshrined in the BLA 2006 reflect partly in terms of availability of the standards provisions. This categorization is due to advancement in comparison with previous laws of the country. First, benefit to family of deceased worker, the present law has made a new provision to provide some financial support to the family of a deceased worker (Section 155). Second, increase in compensation amount, the law has increased the amount of compensation to be given to the workers for injury, disability and death due to workplace related accidents (Section 151). Third, increased coverage of provident fund, the law has extended the coverage of provident fund from only tea-garden and newspaper industry workers to all other private sector workers including garments (Section 264). Fourth, mandatory provision, the current law has made the group insurance mandatory (Section 99).

Nonetheless, inherent weaknesses of these laws and lacking mandatory guidelines on many of these provisions make these ineffective. The provision of gratuity is optional under the provision of law. The provision of provident fund is subject to numerical bindings—at least three fourth of the total workers of any factory/establishment require to submit an application to their employer requesting to form provident fund (Section 264). The introduction of group insurance too is dependent on the number of workers—may be formed where minimum 200 permanent workers employed. These numerical bindings while exclude workers in establishments of smaller size, it also keep open the scope for violation through manipulation of numbers and employment contracts. The social security

provisions have also been subjected to time bindings as preconditions to receive benefits. In case of maternity benefit, at least six-month long continuous work is needed to receive maternity benefit from the employer, and three-year long continuous service is needed to get the benefit to family of deceased worker (Section 19). There is also lack of implementation modalities. The law does not include provisions of medical care as part of the maternity protection and benefit, similar to ILO standards. No specific provisions are there on treatment and rehabilitation, and alternative skill development for workers. Furthermore, the rights provisions on compensation are narrow, as well as discriminatory in terms of age. An adult worker gets BDT 125, 000 as compensation for complete permanent impairment whereas a child/adolescent/young worker gets only BDT 10,000 on the same ground. Hence, in terms of effectiveness, the standards provisions related to social security have hardly translated giving an overall categorization of translation in the range of in between 'hardly to partly'.

Labor Relations and Social Dialogue

All the three forms of standards have provided some instruments in relation to labor relations and social dialogue. One of the most important of such standards is the FoA. The international standards on the indicator are broad-based covering features like right to form and join association, freedom to elect union representation, protection against victimization and discrimination when joining and forming union, and protection against interference. The international human rights covenants proclaim that everyone has the right to freedom of peaceful assembly and association, and also has the right to form and to join trade unions (UDHR, ICCPR, and ICESCR). The ILO Convention (Convention 87) has laid down that workers without distinction whatsoever have the right to establish and join organizations of

their own choosing without previous authorizations, and each member countries obliged to undertake all necessary and appropriate measures for ensuring free exercise of workers right to organize (Article 2 and 11). Workers rights to affiliate with federations and alliances are also proclaimed (ILO Convention 87, ICESCR). The rights to draw up union constitutions and rules, elect representatives in full freedom, and organize administration and activities and formulate programs are part of the ILO Convention 87. Safeguards against victimization and discrimination in joining and forming union are afforded through the ILO Convention 98.¹¹² The other important standard is CB—recognized as one of the basic rights of the workers by different international instruments. The ILO has obliged member countries to take appropriate measures “to encourage and promote the full development and utilization of machinery for voluntary negotiation between employers or employers’ organizations and workers’ organizations, with a view to the regulation of terms and conditions of employment by means of collective agreements” (Convention 98). According to ICESCR, the states are obliged to ensure the right to strike, in conformity with the laws of the country (Article 8.1d).

The EU-GSP makes reference to UN Covenants (ICCPR, ICESCR, and CRC) and ILO Conventions on freedom of association and collective bargaining (ILO Convention 87 and 98). The US-GSP too considers the ‘right to organize and bargain collectively’ as an internationally recognized worker rights, and sets forth as one of the mandatory criteria for

¹¹² It declares that workers have the right to enjoy adequate protection against acts of anti union discrimination in respect of their employment, and the protections bar employers to make employment and/or the dismissal of or otherwise prejudice a worker by reason of union membership and participation in union activities outside working hours (Article 1). It too provides protection to workers and to both workers’ and employers’ organizations against any acts of interference by public authorities, or by workers and employers or by their agents (Article 2).

GSP accession and continuation. However, no measures are there on protection against victimization and discrimination when joining and forming union, and the right to protection against interference. The other forms of standards—voluntary codes are, nonetheless, specific as regards to rights to FoA and CB. The core aspects are: (a) recognizing and respecting right of all workers to form or join trade unions of their choice and to bargain collectively (all codes); (b) recognizing the trade union(s) of the workers' choice (Jo-In), where rights restricted by law, employer facilitates, and does not hinder development of parallel means for independent and free association and bargaining (FWF, ETI, FLA, BSCI); (c) adoption of a positive approach towards the activities of trade unions and organizational activities of workers (Jo-In); and (d) non-discrimination against workers' representatives in carrying out functions in workplace (SAI, FWF, Jo-In, BSCI).

Bangladesh's labor law has provided the right of every worker to form and join trade union by their own choice.¹¹³ It makes specific bindings on employer or trade union of employers, and on the person acting on their behalf for protection against victimization and discrimination,¹¹⁴ but does not provide any specific provisions as regards protection against interference similar to those of the international standards. On the whole, labor standards have fully translated in terms of availability of the provisions. The standards on

¹¹³ Every worker employed in any establishment is entitled to form and join trade union, by their own choice (Section 176). The trade unions of workers have the right to form and join in a federation of their trade unions and such unions and federations are permitted to affiliate with any international organization and confederation of trade unions (Section 176 C). The trade unions have the right to draw up their own constitution and rules, to elect their representatives, and organize their administration and activities and formulate their programs (Section 176 d).

¹¹⁴ On the ground that a person is a member, or an officer of a trade union, or proposes to become, or seeks to persuade any other person to become a member or officer of a trade union, or participates in the promotion, formation or activities of a trade union, the provisions forbid the following (a) imposition of any condition in employment contract; (b) refusal to employ or to continue to employ; (c) discrimination in regard to any employment, promotion, condition of employment or working condition; and (d) dismiss, discharge, remove from employment or threaten to dismiss, discharge or remove from employment or injure or threaten to injure in respect of employment.

FoA are well elaborated and reflect the international standards. The categorization of full translation of standards in terms of availability is also due to advancement in the law in comparison with those of the previous laws. The advancement relates to: (a) protection for workers during trade union formation—barred employers to terminate workers while they are in the process of establishing trade union at their workplaces; (b) extended coverage—protection to person during trade union formation and selection of officials has been extended to the group of establishments;¹¹⁵ and (c) strict restriction of transfer of trade union officials—the provision of not transferring the president and secretary of trade union from one place to another without their consent has been extended and made specific.

The effectiveness criteria of the translation, however, amply show that the standards have hardly translated. This is due to a number of reasons. First, there is a contradiction with international norms. To form a trade union, there is a pre-requisite of 30 percent of the total number of workers employed in any establishment or group of establishments which does not correspond to norms on all workers' rights to form and join trade union, especially with the ILO convention 87 to which Bangladesh is a signatory. This numerical binding excludes large majority of garment workers since it causes obstacles to their freedom to form and join unions. Second, the FoA and CB rights are exclusionary as well as discriminatory. The requirement of mandatory support of 30 percent workers for trade union applies to workers, but similar condition is not applicable to organizations of the employers. Third, obstacles to representation make the rights provisions ineffective. A person is not entitled to be elected as a member or an officer of a trade union if the person is not employed or engaged in that establishment in which trade union is formed (Section

¹¹⁵ Group of establishments is defined as more than one establishment under different employers, carrying on the same, similar or identical industry (Art 2 xxxii).

180.1b). The provision bars workers in choosing their own representatives in full freedom. Furthermore, the differential law regime in Bangladesh's export processing zones (EPZs) posing significant restrictions and delays in relation to the right to organize.¹¹⁶ The law allows employers in the EPZs to continue to deny workers rights' to FoA and CB.

On the right to CB, BLA provides a number of provisions including on rights to bargaining, scope and procedures of bargaining, procedures of settling industrial disputes, right to strike, workers' protection during lay-off, and tripartite consultation. A trade union is allowed to work as a collective bargaining agent (CBA) in any establishment (Section 202).¹¹⁷ The current law has extended the possibilities of including non-CBA unions in participation committee which can be formed by equal number of representatives of employers and workers (Hossain, Ahmed and Akter 2010). Despite this advancement, there is pre-condition for a trade union to act as CBA—if more than one trade union exists and election is not held, then a trade union will act as CBA if it enlists membership of at least one-third of the total workers of the institution. Calling a strike is also dependent on the support of pre-requisite number of members for the CBA—support of at least three-fourth members of the CBA is necessary.

The BLA has provided elaborated procedures to settle industrial disputes by the employer or CBA through processes of negotiation, conciliation and arbitration (Section

¹¹⁶ The EPZ Workers Association and Industrial Relations Act (EWAIRA) (2004) provided for the formation of trade unions in EPZs but with several phases, and complicated and cumbersome procedures of implementation. The EPZ workers are outside the purview of the BLA 2006, and the EWAIRA does not conform to core ILO conventions particularly on the FoA and CB.

¹¹⁷ CBA is authorized to (a) undertake collective bargaining with the employer or the employers on matters connected with the employment, non employment or the conditions of employment; (b) represent all or any of the workers in any proceedings; (c) provide notice of and declare a strike in accordance with the provisions of the law; (d) nominate representatives of workers on the board of trustee of any welfare institution or provident fund and workers participation fund constituted (Section 202.1, 202.2, 202.24).

210).¹¹⁸ The CBA may provide a notice of strike or lock-out.¹¹⁹ The specific time-limit for every stage of dispute settlement is a positive aspect of the law in comparison with that of the previous laws (Hossain, Ahmed and Akter 2010). However, within the process, the right to strike has been weakened due to the necessity of the pre-requisite support for action. No CBA can serve any notice of strike or lock-out unless three-fourths of its members support it (Section 211.1). Furthermore, the law has imposed a three years ban on strike in newly established industries, and industries established or supported by foreigners. The ban on strike in many of the garment industries falling within the above category is not only contradictory with the workers' right to strike but also has made rights provision ineffective.

The BLA provides protection to workers during lay-offs¹²⁰ but not during lock-outs. Protection during the lay-off is also subject to time bindings and in effect exclusionary for many of the workers. Entitlement to such protection requires enlistment of worker in master-role, and at least one year continuous service under the employer. Hence, on CB, rights provisions in terms of availability fully reflect those of the standards prevailed in three standards forms, but on effectiveness, standards have hardly translated to rights

¹¹⁸ If industrial disputes are raised, at first, the CBA shall communicate with other party in writing. The recipient party shall take initiative to arrange a meeting for negotiation within fifteen days. If the negotiation fails, it shall forward to the conciliator. If the dispute is settled through conciliation within 30 days, the conciliator shall report it to the government. If the conciliation turns into failure, the conciliator refers the dispute to an arbitrator. Arbitrator shall present an award within thirty days or period agreed by both parties after the dispute is received.

¹¹⁹ The BLA 2006 defines lock-out as the "closing of a place of employment or part of such place, or the suspension, wholly or partly, of work by an employer, or refusal, absolute or conditional, by an employer to continue to employ any number of workers employed, where such closing, suspension or refusal occurs in connection with the industrial dispute or is intended for the purpose of compelling workers employed to accept certain terms and conditions of or affecting employment" (Chap. 1). There is however no specific provision on protection of workers during lock-outs of factories.

¹²⁰ Lay-off means the failure, refusal or inability of an employer on account of shortage of coal, power or raw material or the accumulation of stock or the break-down of machinery to give employment to a worker, according to the BLA 2006 (Chap.1). The protection to workers during lay-off is for all days except weekly holidays but not for more than 45 days in a calendar year (Section 16.1).

provisions applicable to garment workers. Overall, the labor relation and social dialogue standards translation is in the questionable range varying between ‘hardly to fully’.

In summing up, the key provisions of right through work relating to wage and benefits, social security instruments, and labor relations and social dialogue provide a much diverged categorization of translation. While the availability lens on the above indicators show that the standards provisions almost fully translated to rights provisions for Bangladesh’s workers, the only exception being the provisions of social security which has partly translated. The effectiveness criteria made it clear that all three indicators have hardly translated. The overall translation of the labor relations and social dialogue can only be categorized as partly (broad coverage with limited protection with low recourse). This indeed contrasts much with the expected reflection of the standards delineated in three forms of labor standards in action for garment workers. .

CONCLUSION: WHETHER AND TO WHAT EXTENT STANDARDS-RIGHTS NEXUS IN ACTION?

The three routes of transmitting standards to workers’ rights have been in action for Bangladesh in general and garment workers in particular. Since, the evolving nature of the rights provisions in Bangladesh’s labor law makes it difficult to establish causal relations between whether any particular forms of rights has specific implications in the changing dynamics of national legal standards, the intent of this chapter was to explore the overall transformative action of the labor standards and workers’ rights nexus, from the lens of three forms of rights—right to work, right at work, and right through work. The overall reflection of the law provisions juxtaposing with those of the standards in three different forms has given the scope to see whether there is any translation of standards to rights, and also to categorize translation based on availability and effectiveness of the provisions. The

standard provisions have translated into three different forms of rights—right to, right at, and right through—for garment workers, but not at a same level.

The standard provisions in relation to right at work (employment contract, elimination of child labor and protection of adolescent, protection against forced and compulsory labor, and protection against discrimination at workplace) have translated partly in terms of both availability and effectiveness. The key standards provisions relating to rights at work (working hour, rest and leave, OHS, and welfare facility) have mostly translated into rights provisions in terms of same availability and effectiveness criteria. The transformative action for the key provisions of rights through work analyzed in relation to wage and benefits, social security instruments, and labor relations and social dialogue, contrasts much with the expected reflection of the standards provisions delineated in three forms of labor standards for garment workers. The availability of standards provisions on the above standard provisions almost fully translated to rights provisions, the effectiveness lens however shows that all three indicators have hardly translated. Thus, an overall categorization of broad scope with limited protection and low recourse is made in terms of right through work. The differential outcome in terms of availability and effectiveness is most wide for standards translation into rights through work. It implies that the trade-off between the conflicting interests of workers and employers are much poorly balanced in cases of standards of the rights through work.

The transformative action for each of the rights forms and their specific indicators are not so straightforward, there are indeed exceptions in terms of numerous indicators. The following are three of those.

First, two indicators, one each from right to work (protection from forced and compulsory labor), and right at work (occupational safety and health) have no difference of translation in terms of availability and effectiveness, both translated fully. These are the two indicators those performed best in terms of translation in comparison with other indicators. The standard on protection from forced and compulsory labor is one of the most elevated standards in all these forms. The other, occupational safety and health have been low profiled in all the three forms. Moreover, Bangladesh has ratified relevant ILO convention as regards the first, but not any relevant one as regards the second.

Second, two of the indicators, one each from right to work (employment contract), and right through work (social security) have shown minor difference in between availability and effectiveness. This is because, the standards provisions on employment contract, and social security are broad based lacking specific guidelines (as in rights legislation), poorly provided (as in the rights conditionality), or absent (as in the voluntary codes). The rights legislation form of standards also does not provide very specific guidelines on the modalities of standards to be implemented at the national level.

Third, there are two indicators, both from right through work (wage and work related benefits, and labor relations and social dialogue) which show large variation in terms of availability and effectiveness of standards translation. There is a difference between the two standards though. The standard related to wage and work related benefits are hardly articulated in any of the three standards forms. In contrast, the standards related to labor relations and social dialogue is quite elaborated in all the three forms of standards, and these standards are also the part of ILO's core labor standards.

Overall, the transformative action amply shows that in between three forms of rights, two of the rights—rights to work, and rights at work— forms translated more than the rights through work. This implies that not all forms of rights are prioritized the same way in national settings. Some standards within particular forms of rights are promoted and made effective, while others are not promoted at the same level in terms of availability and effectiveness. While some forms and some of its specific contents of standards get promoted more than the others, certainly there are forms of standards which even promoted to a higher level but have been rendered ineffective due to its inherent shortcomings including provisions, exclusionary and exploitative nature, lacking mandatory mechanisms, existing cost burden to workers, lengthy procedures, and lacking remedial instruments, all of which could either due to acts of omission or acts of commission by the state and non-state actors, but certainly prove to fact that these are the areas where the conflicting interests of workers and employers are poorly balanced.

This contrasts to the expected transformative action—the prioritization and the emphasis accordingly upon certain forms of standards, do not get translated in the same fashion. What standards would be promoted and what would not at local level as the analysis in this chapter show hardly is a function of what is promoted through three routes of standards transmission, rather depends upon how the trade-off between the conflicting interests of workers and employers are played, and balance in between are achieved.

CHAPTER VIII

LABOR STANDARDS AND RIGHTS IN (IN)ACTION IN BANGLADESH: THE ECONOMIC (IN)SECURITY OF GARMENT WORKERS

Labor standards and workers' rights provisions, applicable to Bangladesh's export-oriented garment sector, have been introduced with the presumption that those would translate into workers' economic security. The expected transformative action is standard of living beyond mere physical survival to encompass a level of resources that enables workers and their families to participate with dignity economically, politically, and socially in their communities. It is, however, neither known whether and to what extent such translation takes place, nor do we know what outcome the transformative actions generate in terms of forms of economic security—income, job, labor market, work, employment, skill reproduction, and representation.

This chapter examines whether and to what extent labor standards and workers' rights provisions translate into economic security for Bangladesh's garment workers. To make a judgment on the extent of transformation, both the availability and the effectiveness of standards and rights provisions in practice for workers in Bangladesh's garment sector have been analyzed. A mere availability of the standards and rights provisions hardly expresses the effectiveness of those provisions. The translation, thus, may take a form of or variable in between *no translation* at the one end and *full translation* on the other depending on the state of economic security in terms of workers' income, job, labor market, work, employment, skill reproduction and representation. The objective is not to show that a particular route of transformation or form of rights has a certain outcome, rather the intention here is to extrapolate the reflection of the standards and the rights

provisions on the workers' state of economic security. The translation of standards and rights into economic security is not a straightforward process, rather is the outcome of how the trade-off between the conflicting interests of workers and employers are played and the balance in between are achieved. To this end, I argue that the extent of economic security is hardly a function of how specific and detailed the standards and rights provisions are; rather, the extent to which the standards and rights provisions are made effective determine the outcome for workers.

This chapter consists of seven parts. The following sections in turn extrapolate the state of workers' economic security in terms of income, employment, job, work, labor market, skill reproduction, and representation.

1 INCOME SECURITY

Income security is defined as adequate actual, perceived and expected income, either earned or received in the form of social security and other benefits that provides individuals and families to participate with dignity in their communities (ILO 2004a). Two aspects are the focus of this section: first, the actual, perceived and expected income through wage and benefits, and second, the adequacy of wage for a decent living.

Wage and Wage Structure

Adherence to the government mandated wage structure by employers is subject to claim of action and inaction. In 2006, the minimum wage board for the garment sector revised the wage structure for the sector, and declared a seven-grade wage structure. The seventh grade is the wage for entry level workers containing the minimum wage for the sector which was declared to be BDT 1662.50 (approximately USD 24) from the earlier minimum of BDT

930 in 1994. The last revised minimum wage for the sector's workers, declared in July 2010 (applicable from November 2010), is BDT 3000 (around USD 43).

There are widespread complaints by the workers and their representatives that the garment sector employers hardly follow the wage structure. Whereas employers' version is of full compliance of the provisions. The employers' association leaders, owners, and managers of the garment factories in their respective KIIs claimed that most of the factories were abiding by the seven-grade wage structure. The unavailability of skilled labor was claimed to be the prime reason forcing employers to raise the wages much higher than the provisions set.¹²¹ Such claims, in view of the persistence of a large pool of unemployed people in the country and the prevailing lack of alternative work opportunities in the manufacturing or in the service sector are indeed questionable. This becomes more clear when workers' voices are taken into consideration. The field surveys reveal that only 35 percent (First Field Survey - FFS) to 60 percent (Second Field Survey - SFS) workers have received their salary commensurate with the existing grade and corresponding wage structure. The larger portion—nearly half of the respondents—claimed either not to have received (17 to 20 percent) or did not know whether they received (23 to 45 percent) their wages as per the government mandated wage structure (Chart 8.1.1).

The issue of non-compliance is evident through the analysis of the modes of salary determination. While many of the workers claimed to have received salary according to the wage structure, in fact, they received salary either on a piece rate basis (around 8 to 9

¹²¹ In a KII, the then vice president of the Bangladesh Garment Manufacturers and Exporters Association (BGMEA), claims, "Current seven grade wage structure is followed in nearly 100 percent of garment factories." He, however, highlighted that due to labor shortage in the sector, garment owners were compelled to raise workers' salary above the minimum wage level (KII ER1). A number of other employers' representatives (KIIs ER 1, 3, 4, 6 and 7) raised the issue of unavailability of labor for recruitment in the sector.

percent) or on a fixed monthly salary basis (around 7 to 8 percent) irrespective of working hours (see Chart 8.1.2). This implies that the claims of getting the salary as per the structure do not match with the legal provisions.

Chart 8.1.1 Salary Payment in Accordance with Current Wage Structure

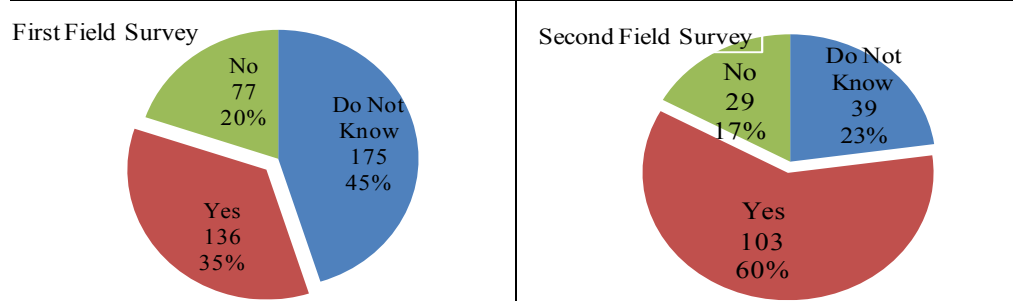
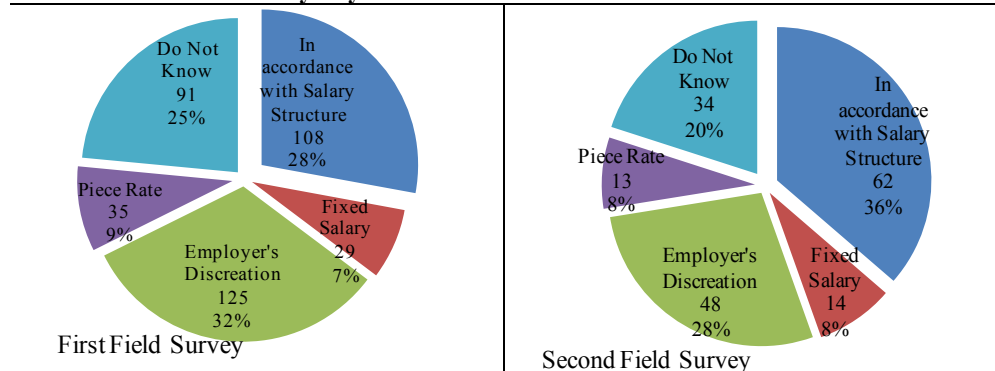


Chart 8.1.2 Mode of Salary Payment



The disaggregated data reveals that only less than one third of the workers (28 to 36 percent) receive salary as per the legal provision. Around 28 percent (SFS) to 32 (FFS) of workers claimed that they are paid every month at employers' discretion. However, a substantial number of workers in the surveys, (20 to 25 percent) are in dark whether they receive their salary in accordance with the wage structure (Chart 8.1.2). This reflects the low awareness of workers about the details of the sector's seven-grade wage structure.¹²² Only around one percent to four percent workers claimed that they either partially or fully

¹²² The compliance is not a simple yes/no binary variable but a matter of degree. Workers' knowledge on the compliance too being a matter of degree, the level of awareness of workers was followed through scale questions.

knew about the declared seven-grade structure (Chart 8.1.3). Only a small section of workers (2 to 7 percent) could accurately tell the amount of minimum wage for the sector (Chart 8.1.4). Probing further, the surveys reveal that one to two percent workers' monthly salary (in the month prior to interview) was less than BDT 1500, and another four to five percent of workers received total monthly salary of less than BDT 2000. Thus, around five to seven percent of workers fall below the coverage of factories complying with the mandated minimum wage (Chart 8.1.5).¹²³

Chart 8.1.3 Respondents' Awareness Level on Current Wage Grades

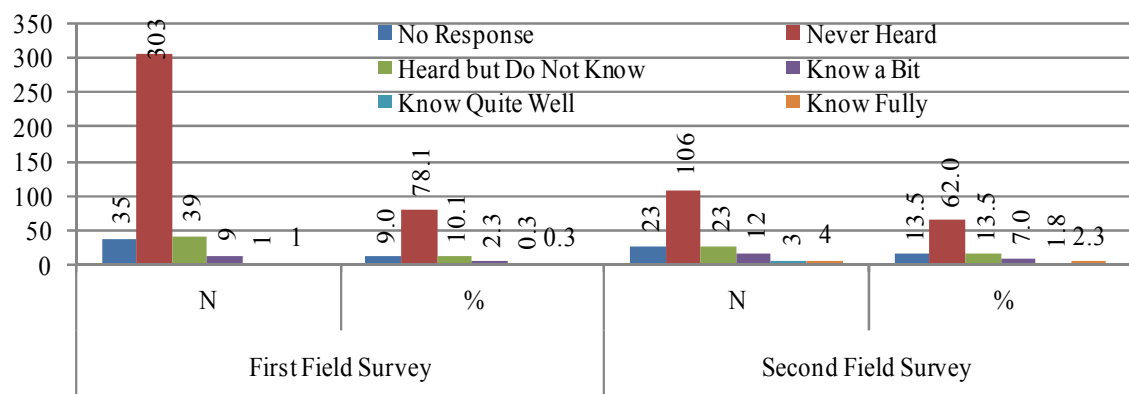
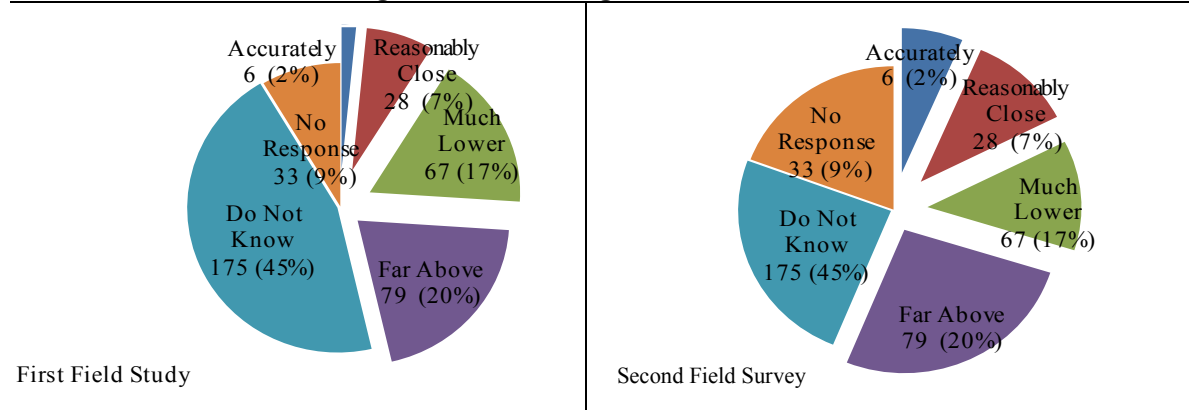
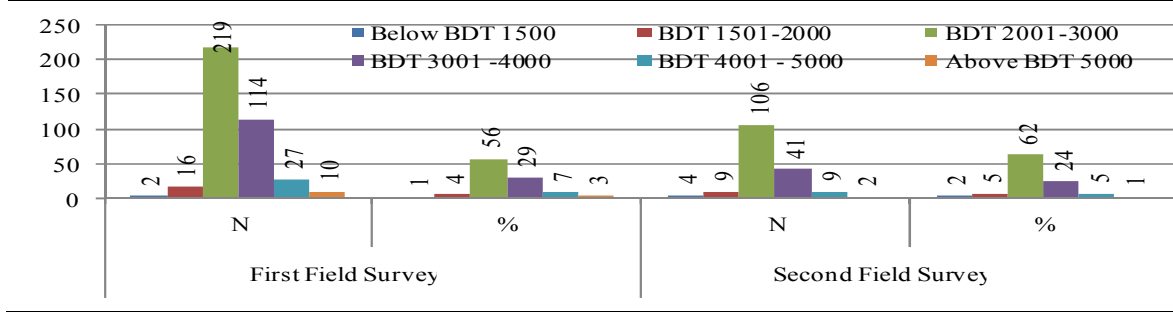


Chart 8.1.4 Workers' Knowledge on Minimum Wage Amount



¹²³ Income receipt of less than BDT 2000 has been considered as below the minimum despite at the time of interviews the minimum wage was BDT 1662.50. This is due to two reasons. First, a wage revealed by a worker includes not only salary for the 8 hours of work but also payment of overtime. Second, workers' recounting of the previous month's salary was memory based, thus categorizing salary just below or above the minimum wage was not realistic. Many of the workers found it difficult to recount the exact wages received.

Chart 8.1.5 Compliance with Current Minimum Wage Provision



This finding marginally contrasts the BGMEA’s claim of 99.49 percent compliance.¹²⁴ A number of studies in recent years found that the minimum wage compliance remains quite low. Hossain and Islam (2008) found that 44 percent of factories did not provide minimum wage till December 2007—over a year after the declaration of minimum wage structure; while Karmajibi Nari (2007) and Mostafa (2008), in their respective studies, found much lower rates of compliance.¹²⁵ A recent estimate by the Government of Bangladesh (GoB 2010) puts the figure to be in a similar range. According to the report, one-fourth of Bangladesh’s garment factories do not comply with mandatory standards on pay, working hours, and conditions. In comparison with these studies, the state of non-compliance seems to be sheer underestimation. However, point to be noted that the surveys conducted for this dissertation are the most recent ones, and covers representative samples of garment workers. In sum, minimum wage provisions are increasingly being met, but still there are factories (around 5 to 7 percent) which are yet to be compliant with the minimum wage rate.

¹²⁴ Based on monitoring of minimum wage implementation up to July 1, 2008 in 2753 factories, the BGMEA (2008) report finds only 14 factories of violation of minimum wage provisions. It, however, excluded monitoring of 1858 factories due to unavailability during the visit (e.g. address change or due to the reason of factory closure). Considering the total number of garment factories, as reported in the status report (4706), the compliance rate comes down close to 60 percent.

¹²⁵ The first study was based on a sample survey of 200 workers from 200 factories in Dhaka, Gazipur, Narayanganj, and Chittagong. The other two studies found below 50 percent compliance on minimum wage based on a large number of interviews with garment workers.

Working Hours and Overtime

Garment workers' salary hardly corresponds to any defined working hours. The surveys reveal that most workers do not know whether their salary corresponds to any number of hours they work per day (Chart 8.1.6). Around 30 percent (SFS) to 35 percent (FFS) workers reported that they received the salary for work of 8 hours per day, while 12 percent and 15 percent workers respectively received salary for working for up to 10 hours, and 11 hours or more a day. Chart 8.1.7 exposes a high proportion of workers who work more than the permissive level hours per day. At least one fifth of the workers (20 to 38 percent) who work on either on a piece rate or a fixed salary could not tell the corresponding working hours to their wages. As regards overtime payment, the FFS reveals that 32 percent workers received overtime payment for work of more than two hours, and 44 percent workers for work of less than two hours a day. The SFS shows that the majority of workers (67 percent) received payments of overtime for less than two hours per day.

Chart 8.1.6 Salary Corresponding Working Hours

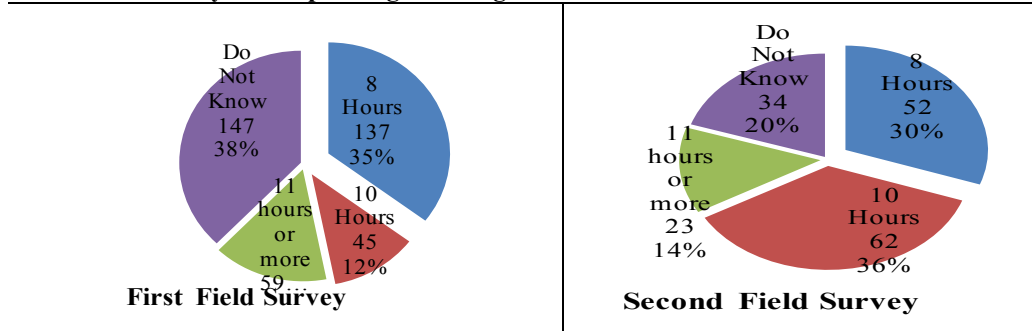
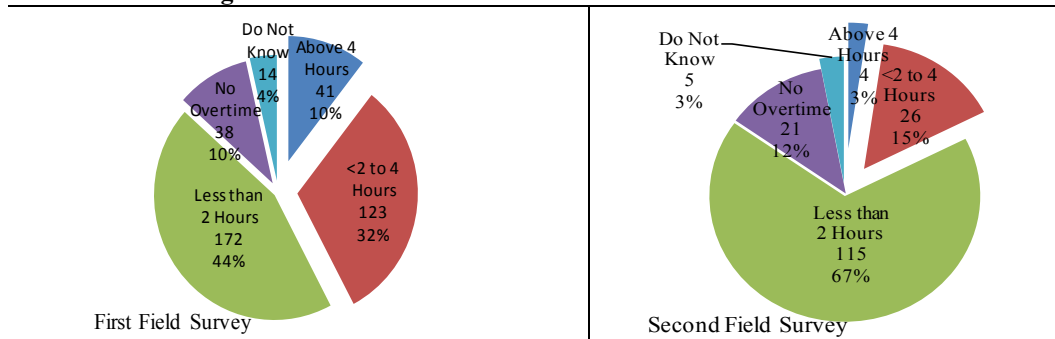
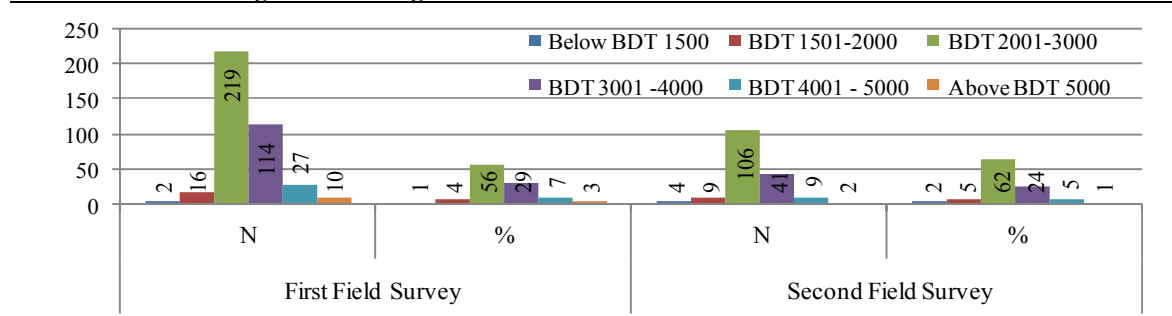


Chart 8.1.7 Average Hours of Overtime



Workers and their representatives claim that working hours are not recorded properly, and as a result, workers are deprived of due wages.¹²⁶ Much of the deprivation is, however, related to lack of awareness on overtime hours and payment counting methods. When asked, what constituted normal working hours, the replies by many of the participants did not resemble the standard of eight hours. To the workers, working ‘dawn to dusk’ is normal work hours.¹²⁷ A key informant highlights, “As workers do not know the overtime hours and rates of overtime accurately, there are wide scope to deprive workers, which hardly any employer in the garment sector will not exploit” (KII WR9). The survey responses too exhibit workers’ poor knowledge about overtime counting.¹²⁸ At least three-fourth of the workers neither knew how to calculate overtime pay receivable, nor heard of any counting method. Few workers heard, but they could not elaborate; only around three percent of the respondents have been found to know it completely or partially (Chart 8.1.8).

Chart 8.1.8 Knowledge on Counting Method of Overtime



¹²⁶ A FGD participant notes, “We work from eight o’clock in the morning till eight/ nine in the evening, but our attendance cards are marked five o’clock in the evening as work-end time” (FGD Gazipur 1). A female worker informs, “We usually work till 8 o’clock in the evening, but sometimes we have to work till 10 to 11 o’clock at night, and during urgent shipment we hardly have time limits to work—often crossing midnight” (Survey Respondent, Dhaka). A number of participants in the FGDs too complained that the overtime payment is not counted against extra hours worked (FGDs Dhaka 1, 2, 4 and 5), rather “payment of two hours is fixed even if we work 12 hours per day,” adds a FGD participant (FGD Dhaka 1).

¹²⁷ By ‘dawn to dusk’, workers meant work from eight in the morning till sunset around six in the evening.

¹²⁸ The survey respondents were asked whether they knew the method of counting overtime and were subsequently inquired on the level of their knowledge on the subject. They were also asked whether they knew how many times the overtime rate is against per hour salary. The rate of overtime is according to Bangladesh labor law double the rate of per hour basic rate of salary.

In the absence of the awareness of overtime counting method, the modes of overtime payment vary significantly. The surveys reveal that around one-third (34 percent in the FFS to 41 percent in the SFS) workers received overtime payment at fixed rates; another one-third (34 percent in the FFS to 30 percent in the SFS) received payment at variable rates but did not know how the rates were determined; and around one-tenth (10 percent in the FFS to 12 percent in the SFS) respondents had no overtime due to their work on a piece-rate basis or fixed salary (Chart 8.1.9). The surveys show that a substantial number of respondents are currently receiving their overtime payment at the rate lower than the minimum compulsory level—around 35 to 37 percent workers receive overtime payment at a rate less than BDT 10 per year, within which substantially low rate (BDT 5 per hour) is for around 6 to 12 percent workers (Chart 8.1.10).¹²⁹

Chart 8.1.9 Mode of Overtime Payment

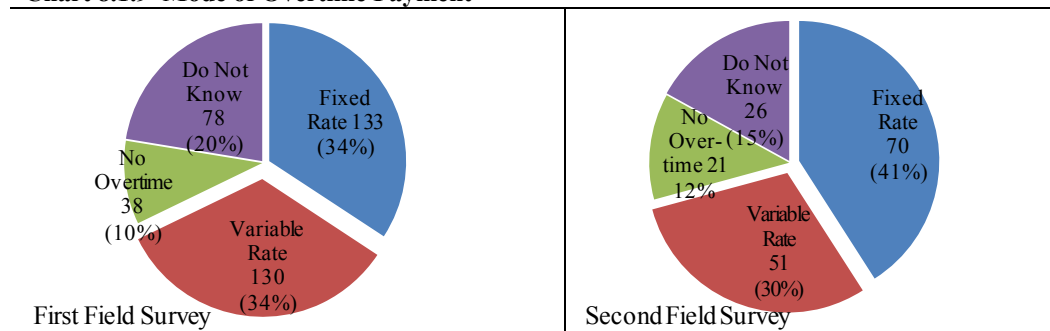
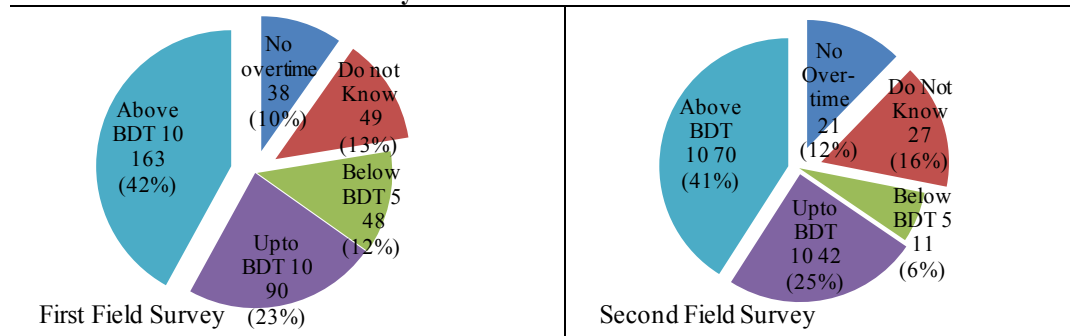


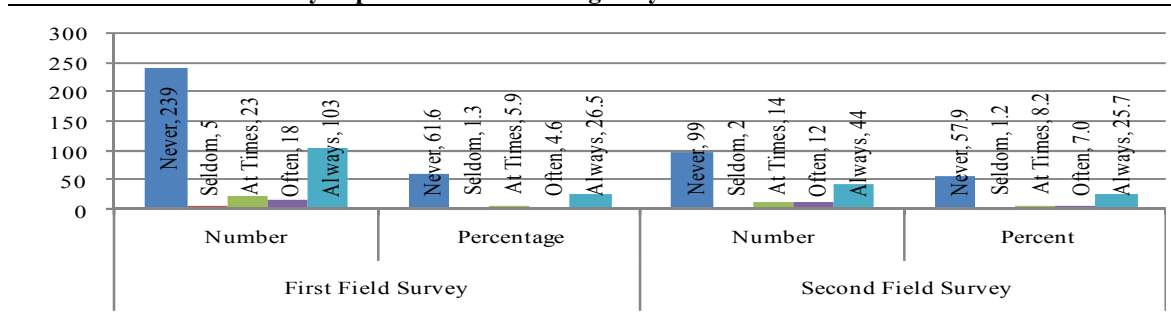
Chart 8.1.10 Basis of Overtime Payment



¹²⁹ Even in accordance with the minimum wage declared in 2006 (BDT 1662.50) for the sector, the minimum overtime payment per hour is BDT 10.80. A minimum wage of BDT 3000 entails a higher amount of per-hour overtime rate.

The extent of overtime violations, however, is difficult to ascertain due to lacking awareness. The low level of workers' education can hardly be pointed as the reason though. True, the overtime calculation is a mathematical exercise which is hardly understood by most of the garment workers due to their educational background. Most of the respondents are at least functionally literate to be able to read the pay-slips. The surveys reveal that over half of the workers (around 58 to 62 percent) never received any pay-slip (Chart 8.1.11).¹³⁰

Chart 8.1.11 Extent of Pay-slips Received with Wage Payment



Overall, the non-compliance with and violation of labor law provisions related to working hours and overtime payment is clearly discernable. The findings, however, reveal several areas of contentions. The wage payment hardly corresponds to any definite working hours. A high proportion of the workers continue their work for more than the permissive level of overtime per day. Working hours are not even recorded properly, and workers are deprived of due wages accordingly. These findings contrast sharply with the employers' claim (BGMEA 2008)—91 percent of factories provide overtime payment in line with the legal provision. The overtime violations, like violations of the minimum wage rate, are far from trivial in magnitude. Especially, if the spread of violations is

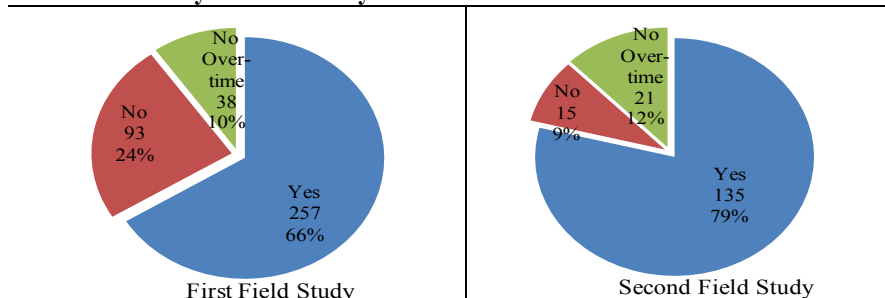
¹³⁰ Only less than a third of the workers have claimed to have received pay-slips from the employers together with wage payment. A simple yes or no binary answer was not recorded since few of the respondents claimed to have received pay-slips occasionally (either seldom or often), one such occasion being the presence of buyer.

considered—around more than a third of the workers do not receive the legally mandated overtime payment, and approximately another one third of the workers (those do not know the rate and have no set overtime) are at risk of not receiving it.

Schedule of Wage Payment

The irregularity of wage and benefits payment has been at the center of grievances of the workers. Bangladesh’s labor law specifies the period of wages, and has provided clear guidelines on the payment schedule.¹³¹ The compliance is, however, an area of contention. The surveys reveal that while more than two third of the workers receive their salary and overtime together on a same date, the payment on the same date is not followed for around one-tenth to one-fourth workers (Chart 8.1.12). Workers claimed that some employers pay the dues in two installments—salary and overtime payment of two hours are paid in the first, and the rest of overtime payment is made in the second installment (FGDs Narayanganj 2, and Dhaka 4). “This payment tactic is often used by the employers with the first installment is on record and the other is not,” claims a workers’ representative, “to comply with the rules related to regularity as well as permissible level of working hours as overtime” (KII WR7).

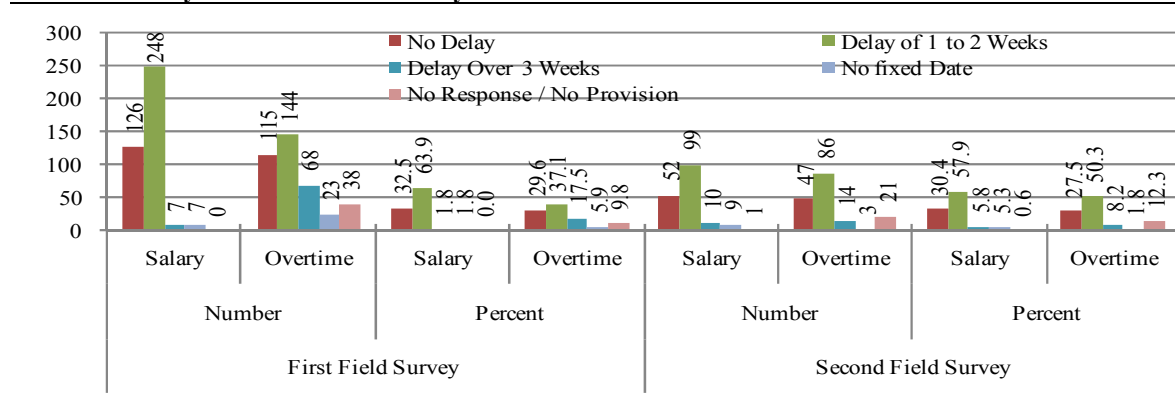
Chart 8.1.12 Payment of Salary and Overtime on Same Date



¹³¹ The BLL 2006 states that the period of wages must not exceed thirty days, and wages should be paid within the expiry of seven working days after the last day of wage period.

The date of payment provides a clearer picture of regularity. Payment schedules for the workers in the FFS show that the salary and overtime payments are made with no delay (within first week) for only one-third (33 percent in case of wage and 30 percent for overtime) workers. Such compliance in the SFS is close to half (47 percent) for wages and nearly a third (28 percent) for overtime payment. The non-compliance, thus, relates to large portion of factories, and more to overtime than salary payment. Over a week to two weeks delay of payment reported in terms of salary is by 58 to 64 percent of workers, and as regards overtime the same figure is 37 to 50 percent. Around two to six percent of workers reported delay of three weeks to a month in payment of salary. Overtime payment is kept due for over three weeks for eight to 18 percent of workers (Chart 8.1.13). While majority of the workers reported due payment of either or both salary and overtime, the payment of salary and overtime is always (18 to 23 percent), often (nine to 12 percent), or at times (17 to 24 percent) kept due for over one third of the workers (Graph 8.1.14).

Chart 8.1.13 Payment Schedule of Salary and Overtime



Looking further deep through workers' testimonies, the surveys reveal that at the time of the interview, no dues were reported by 27 percent (SFS) to 30 percent (FFS)

workers. Another 19 to 26 percent of respondents have reported a week of due payment.¹³²

The rest—the larger portion of workers—have their salary and overtime payment kept due for two weeks to over a month (Chart 8.1.15). The mean days of difference in between payment of salary and overtime are more than two weeks—14.91 days to be exact.

Chart 8.1.14 Extent of Due Salary and Overtime Payment

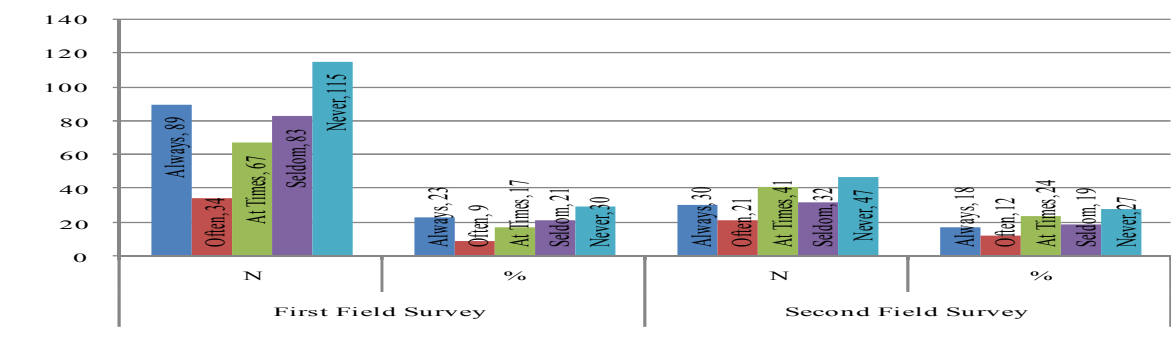
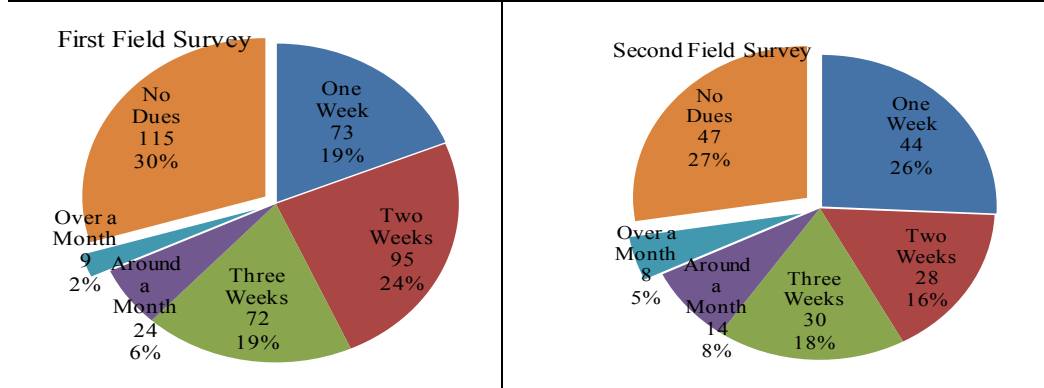


Chart 8.1.15 Number of Days Either Salary and Overcome Kept Due



Arguably, timely payment of wage and overtime is a case of non-translation for the workers. It is revealed that a large proportion of workers do not receive salary and overtime at the same date. It also reveals that while irregularity of payments is both related

¹³² The non-compliance on timely payment both in its moderate (up to two weeks) and severe (three weeks and over) forms lead to due salary and overtime payment to workers. But the question whether such non-compliance is a regular practice led to enquire the extent of due salary and overtime payment (Chart 8.1.15). Almost all the workers representatives interviewed are of the opinion that delays in providing either or both salary and overtime is a common practice. However, a number of workers' representative expressed that a month of delay while is regular for most factories, a delay of two to three months for salary and overtime payment is only for factories under sub-contract (KIIs WR 1, 4, 7, 8, 9, 10, 13, and 15).

to wage and overtime, the overtime payment irregularity is more regular, and employers often take scrupulous tactics to evade responsibilities of paying dues as well as of complying with the standards/rights provisions.

Income and Expenditure Composition and Balance

The composition of and balance in between workers' income and their expenditure influence the state of income security. The FFS shows that garment workers' average monthly total income is BDT 2615 including of average basic income BDT1839, overtime payment BDT 640, and other allowance BDT 136. The average total income of workers in the SFS is BDT 2864 that too comprises average basic income BDT 2091, overtime payment BDT 595, and other allowance BDT 178. The major share comes from the basic income payment—around 70 to 73 percent; overtime payment constitutes around 21 to 25 percent; and other allowances around five to six percent (Chart 8.1.16). In comparison, the average monthly expenditure of workers' family is around BDT 4378 to BDT 4728. The expenditure is predominantly related to fulfillment of basic needs for them and for the members of their families.¹³³ It is noteworthy that the share of food costs in total monthly expenditure of the families of the garments workers is the highest (around 60 percent in the FFS to 45 percent in the SFS) (Chart 8.1.17).¹³⁴

¹³³ The surveys show that workers average monthly family expenditure is BDT 3095 to BDT 3088 on food, BDT174 to BDT 437 on clothing, BDT 906 to BDT 1207 on housing, BDT 356 to BDT 507 on education, BDT 128 to BDT 270 on recreation, BDT 113 to BDT 329 on conveyance, and BDT 238 to BDT 359 on other expenses which often include remittance to parents and siblings in rural areas. The average total of each of these expenditure heads do not, however, add up to the total since respondents often were not able to recollect the exact amount spent on a particular head. Recognizing the shortcomings of the memory based counting, I first enquired about the total expenditure of respondents' family during the preceding month of the interview, and then asked to segregate the expenses.

¹³⁴ The second highest expenditure is housing occupying 18 percent of the average total. Another 22 percent is spent on other necessities like clothing, healthcare, education, recreation and conveyance. Other expenditures lumped together with unidentifiable expenses and remittance to rural family members share around 5 percent of total. In a nutshell, food and housing related expenditures are predominant, and within a year (during the

Chart 8.1.16 Composition of Workers' Income

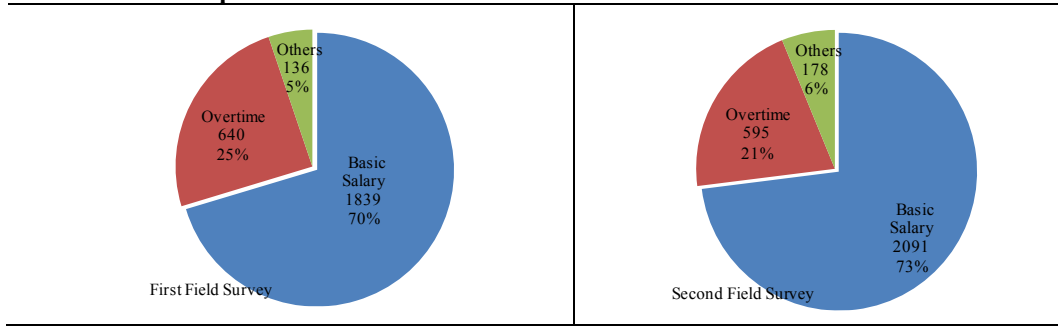
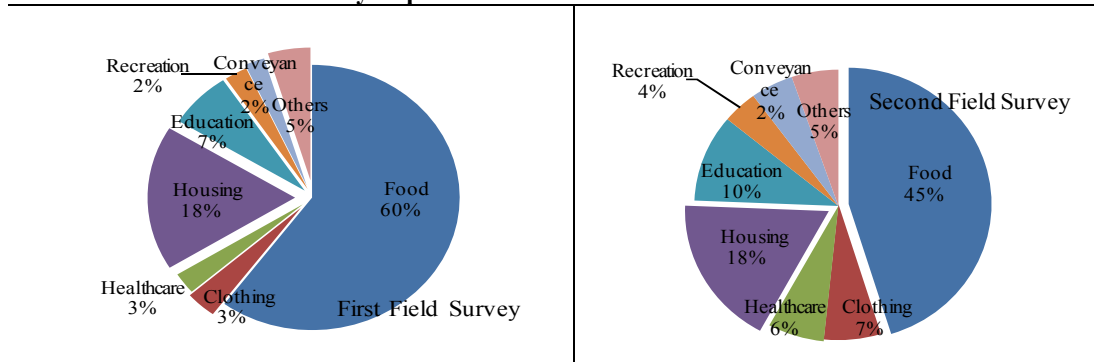


Chart 8.1.17 Share of Monthly Expenditure



The analysis of the workers' income and family expenditure shows a wide negative balance. On an average, the family expenditure of a garment worker is BDT 1763 higher in the FFS and BDT 1864 higher in the SFS than individual income in respective surveys. Chart 8.1.18 exposes that the imbalance is indeed widespread when compared by income-expenditure ranges. Only 6 to 10 percent workers reported income in the range of above BDT 4000 to above BDT 5000, while the same range of family expenditure is reported by around 47 to 53 percent workers.

The imbalance implies that workers have to cope in every month with low earnings coupled with increasing cost of basic needs particularly the food items by different means. Being dependant on other family members' earnings is one of such means. Increasingly single income earners find it most difficult to cope. Over two-third of the respondents who

time difference in between surveys) expenditure has increased by BDT 500 on an average whereas nominal wage has remained unchanged.

reported imbalance in their income and family expenditure have to depend on either family members' income or/and personal loans. Another coping mechanism is loan from relatives, friends, colleagues, and local shopkeepers that constitute 18 to 25 percent (Chart 8.1.19).

Chart 8.1.18 Comparisons on Monthly Average Income and Family Expenditure

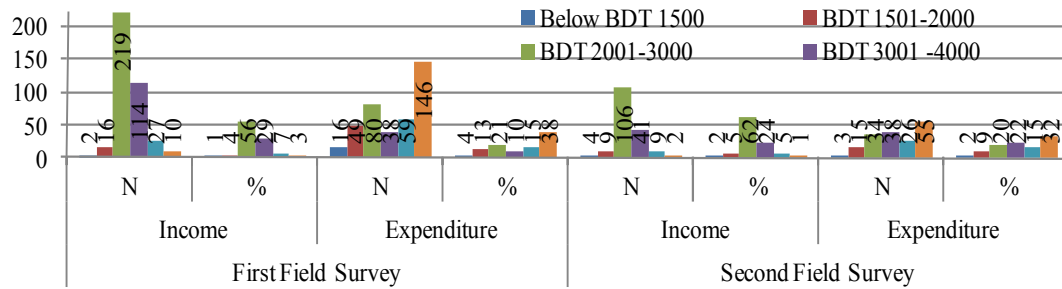
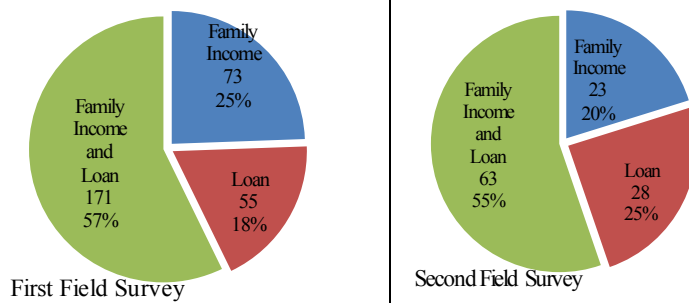


Chart 8.19 Ways of Filling Income-Expenditure Gap



Most of the workers rely on their social networks. Workers who even did not report any loans from friends, families, or from any organizations have had their bills for food items to local shopkeepers and house rent to house-owners unpaid for months. The FGDs reveal that in view of the regular loans to cope with the growing imbalance, the workers look forward to work more hours of overtime, and receiving the festival bonuses in order to repay debts. Indeed, the regular income-expenditure imbalance and the coping mechanisms indicate that workers either increasingly get indebted or continue to be dependent on other family members' income let alone supporting rural family through remittances. Workers' inability to fully support their families is clearly discernible.

Social Welfare Supports

The RMG workers are deprived of social supports from the government or from the factory owners or from any other charitable organizations. The surveys reveal that they sometimes receive healthcare support inside the factory in the form of first-aid, supply of cheap medicine, prescription by doctors, and they sometimes receive food inside the factory in the form of a light midday meal. A numbers of workers have informed that they get uniform from the factory but brought to notice that the uniform is given only when the buyers visit the factory (FGD Gazipur 2). All the respondents have reported the lack of housing and education facilities for their children (Chart 8.1.20 and Chart 8.1.21).

Chart 8.1.20 Social Supports at Workplace

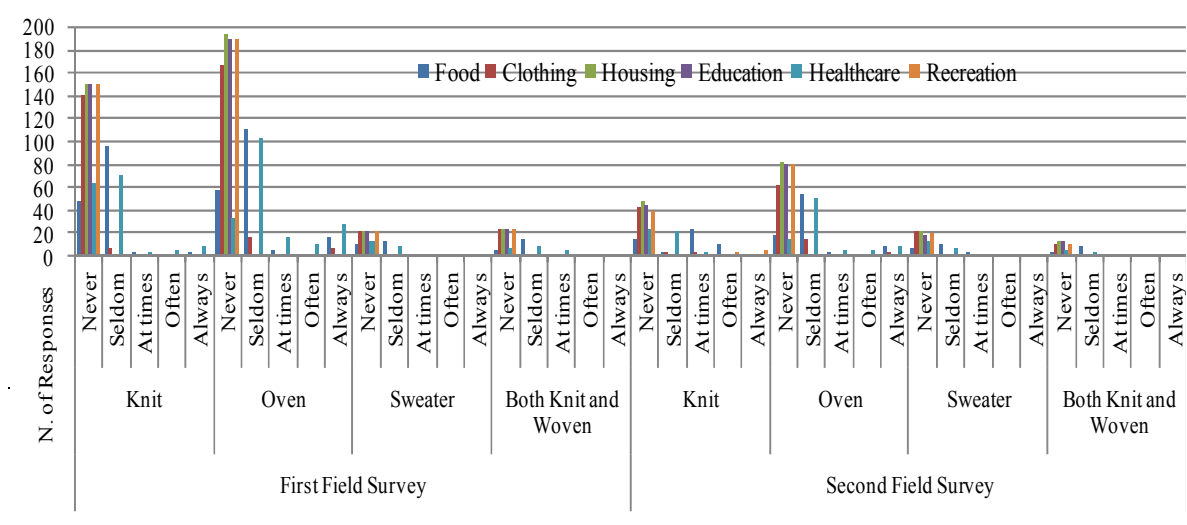
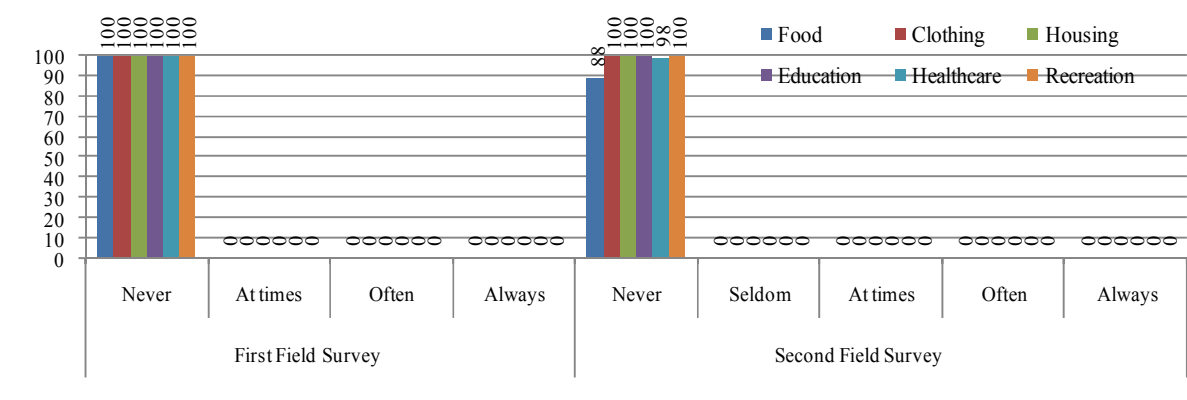


Chart 8.1.21 Social Supports beyond Workplace



Another instrument for social support of the workers is the workers' participation in company's profits. The labor law provision clearly obliges employers to create participation fund and welfare fund for workers to share company's profits. However, no workers in all the FGDs ever heard of this provision, and confirmed the fact that in nowhere in the garment sector such funds for workers have been created.

Adequacy of Current Wage for a Decent Living

The current minimum wage for the sector, declared in July 2010 and effective from November 2010, is BDT 3000 (approximately USD 43 at current price). The current minimum is an over 80 percent increase from the previous minimum in effect from October 2006 (BDT 1662.50—approximately USD 27 at current price). Whether the current level of minimum wage is capable of providing basic needs expenses for the workers along with their families (according to Census of 2001, average family size in Bangladesh is 4.8) is an issue of workers' income security. In view of the World Bank definition of extreme poverty as living on less than US \$1.25 in purchasing power parity (PPP) terms per day, poverty line in Bangladesh translates into BDT 37.35.¹³⁵ Minimum BDT requirement for one person per month would be (BDT 37.35 x 30 days) BDT 1120.50. Minimum BDT requirement for an average family per month would be (BDT 37.64 x 30 days x 4.8 family members including both adults and children) BDT 5378.40. Thus, if the prime yardstick of the wage fixation is determined as absolute poverty line; and promoting workers above the

¹³⁵ The US\$ 1.25 per capita per day poverty line is estimated on the basis of 2005 PPP value. If the USD 1.25 (PPP) is calculated for the poverty line in Bangladesh—an inflation adjusted estimate for a recent month, we use the data on 2005PPP for Bangladesh, CPI index for 2005 and CPI for a recent month (March 2010). The Formulae for calculating current PPP (inflation adjusted) for US\$1 would be as follows: Current PPP = 2005 PPP * [CPIcurrent/CPI2005] where (1) 2005 PPP= 22.6 (World Bank 2007); (2) Bangladesh CPIcurrent (as of March 2010)= 217.08 (GoB 2010a); and (3) Bangladesh CPI2005 = 164.21 (GoB 2009). Current PPP for \$1 would be currentPPP = 2005PPP * [CPIcurrent/CPI2005] = 22.6*(217.08/ 164.21) = 29.876. The 1.25 dollar PPP would be = 29.876* 1.25 =37.35.

poverty line or in other words set in a way so that no workers fall below that threshold that amount becomes BDT 5378—close to double of the current minimum.

The relative poverty measure according to the World Bank is USD 2 (PPP) per day. The above calculation being applied, the USD 2 per day translates into BDT 59.75 per day, and then the need of a person to graduate poverty line would be (BDT 59.75 x 30 days) BDT 1792.56. But the minimum wage for workers to allow them along with their family members has to be (BDT 59.75 x 30 days x 4.8 family members) BDT 8604.29.

Another of the major indicators of measuring poverty is ‘calorie intake’. The cost of minimum food for every adult person to get 2122 Kcal is around BDT. 48.90 at current market price which was BDT 49.02 on October 1, 2009, BDT 47.91 a year back, and BDT 37.00 in June 2006. According to this estimation every single adult person requires BDT 1467 every month for food (minimum calorie intake) only. And a family with 4.8 members (adults and children are not differentiated since the estimate is only relevant for poverty level calorie intake) will require BDT 7041.60 per month for food only (Table 8.1).

Table 8.1 Cost of Daily Minimum Calorie Intake Requirement

Name of Food Item	Calorie Intake (K.Cal.)	Amount (gm)	Estimated Price ¹³⁶			
			June, 12 2006	August 3, 2008	October 1, 2009	May 25, 2010
Rice	1396	397	7.74	13.49	9.53	11.12
Flour	139	40	0.74	1.56	0.88	.88
<i>Dal</i> (lentils)	153	40	2.04	3.00	4.56	3.12
Milk	39	58	1.62	2.61	2.61	2.61
Oil (mustard)	180	20	2.00	2.32	2.32	2.40
Beef	14	12	1.78	2.28	2.64	3.00
Fish	51	48	7.68	6.72	8.16	8.64
Potato	26	27	0.42	0.43	0.86	0.33
Vegetables	36	150	4.00	4.80	6.00	6.00
Sugar/ <i>Gur</i>	82	20	0.98	0.70	1.16	0.80
Fruits	6	20	1.50	2.00	2.30	2.00
Cost of preparation	-	-	6.50	8.00	8.00	8.00
Total	2122		37.00	47.91	49.02	48.9

Source: Updated from Hossain and Asaduzzaman (2006)

¹³⁶ Cost of items is based on retail price in Dhaka City, published by the Trading Corporation of Bangladesh.

In order to calculate the living cost of a worker and an average family, the estimate needs to include the cost of other basic necessities. This dissertation finds that the garment workers' average expenditure on food items is on average 52.5 percent (see Chart 8.19 for details), and other expenses including housing, education, health, recreation and others are the rest 47.5 percent. Employing this share of expenditure, it is evident that a single worker requires BDT 1327 for other expenses totaling to BDT 2794. The similar exercise for a family of 4.8 members requires at least BDT 6370 for other expenses and totaling to BDT 13411. In view of attaining 2122 K.cal. food intake per day, the total cost of every family thus stands much higher than the current minimum wage.

The higher poverty lines (relative poverty and calorie intake of 2122 kcal) are obviously desirable since an income at a higher level not only enable workers to make a better living but also make them capable of withstanding economic insecurities. Invariably, ability to withstand shocks is not same for all the workers. The latest minimum wage hardly provides high security threshold ensuring a decent living. In sum, the minimum wage for the sector is inadequate for ensuring workers and their families' decent living. Poverty indicators explored above as yardsticks show rather a much higher amount of minimum wage requirement for a person and his or her average family.

Overall, workers have hardly attained the security of adequate income, either earned or in the form of social security and other benefits for them along with their families to participate with dignity in their communities. Minimum wage fixation is irregular (the first being in 1984 with a 14 year gap in 2006 for the second, and third, the last one is in 2010), and does not capture the minimum requirements of workers along with their families for a decent living. The meager minimum wage is still subject to violation: non-

compliance of salary payment according to wage structure is widespread, and the mode of salary payment is largely dependent upon employer's discretion. Working hours, salary and overtime payment are larger areas of non-compliance. The salary corresponding to permissible working hours is hardly maintained. Working hours and overtime hours are not recorded properly. Poor knowledge of workers on overtime counting has often enabled the employers' to pay their workers below the permissive level. Salary and overtime are increasingly paid on the same date, but the often used tactics of employers to separate part of the payment of overtime from the total pay can be said deceptive attempts to comply with the standards/rights provisions of the law. Nearly half of the factories keep workers' salary and overtime due for more than two weeks, and such non-compliance with the law is more widespread for the overtime payment.

The income and expenditure composition and balance of workers show a high level of vulnerability of workers to both periodic/ transient economic (e.g., price hike) and natural (e.g., flood) shocks. The comparison of average income and family expenditure shows a negative balance, forcing workers to be either dependent on family or be indebted.

Indeed, while the employers hardly abide by the government mandated wage structure for the sector, the government too hardly follows any set yardsticks in declaring wage structure and minimum wage for the sector. The determination of minimum wage could follow different principles. The Minimum Wages Convention (ILO Convention 131) is one which suggests to balance between (a) the needs of workers and their families, taking into account the general level of wages in the country, the cost of living, social security benefits, and the relative living standards of other social groups; and (b) economic factors, including the requirements of economic development, levels of productivity and the

desirability of attaining and maintaining a high level of employment. Although Bangladesh has not yet ratified this particular convention, the minimum wage setting could reflect its spirit since the BLA explicitly intends to provide protection for wage earners against unduly low wages. This is in line with the promises of the current government to align all labor aspects with that of the ILO. Also, being a signatory to the Millennium Declaration, Bangladesh is obliged to meet the set targets of the MDGs including the poverty reduction and promotion of decent work. Thus, the wage setting should accordingly eradicate poverty by countering the declining earnings of low-wage, low-skilled workers, and low-income families, and by offsetting living costs (food, housing, health, education) that is becoming increasingly out of reach for low income families. Instead, the wage setting below- the-poverty threshold, poor implementation of standards, and non-existence of social support both within and beyond workplace continue to keep the garment workers as working poor.

2 EMPLOYMENT SECURITY

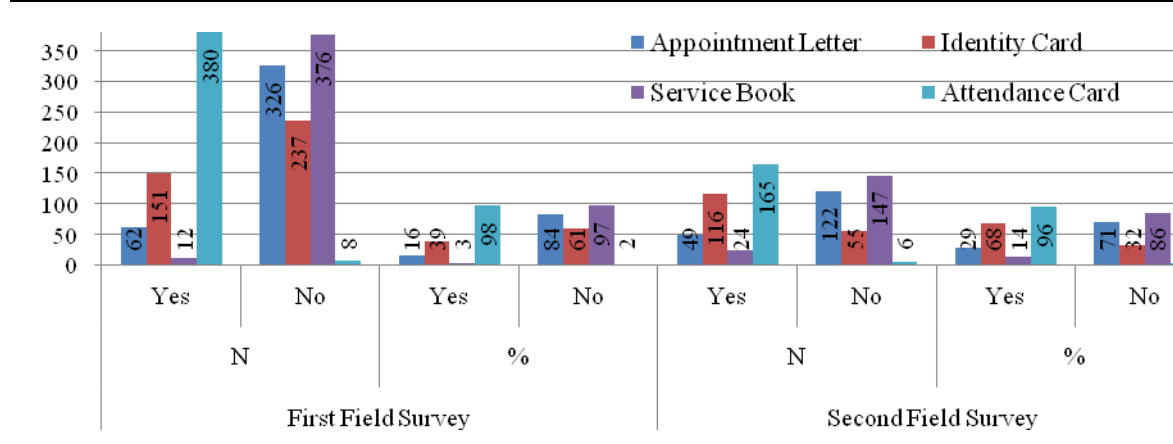
Employment security is defined as protection against unfair or arbitrary dismissal, and sudden loss of earning (ILO 2004a). Two aspects of employment security are explored below. The first relates to employment contractual arrangements e.g., appointment letter, identity card, attendance card, and service book as tools of protection against unfair and arbitrary dismissal. The second relates to provisions of protection against sudden loss of earnings e.g., pension, provident fund, leave with pay, maternity leave with pay.

Contractual Employment Arrangements

There are widely contested claims on the availability and effectiveness of contractual employment arrangements in garment factories. A study conducted by Begum (2002:203-

5) shows that except for a few higher category of workers, no garments workers receive any written appointment letter. Similar picture was revealed in another study, which shows that only 5 percent of garments workers had got appointment letters (Hossain and Islam 2006:20). The field surveys show that the unavailability of appointment letter, identity card, and service book is widespread.¹³⁷ The only available relevant provision is attendance card—nearly 96 percent (SFS) to 98 percent (FFS) of respondents have identity cards in their processions (Chart 8.2.1). These findings indeed differ with the employers’ claims of compliance—proclaiming that the appointment letter is available in 86 percent of factories, and identity card is provided by 84 percent factories (BGMEA 2008).

Chart 8.2.1 Availability of Employment Contract Provisions

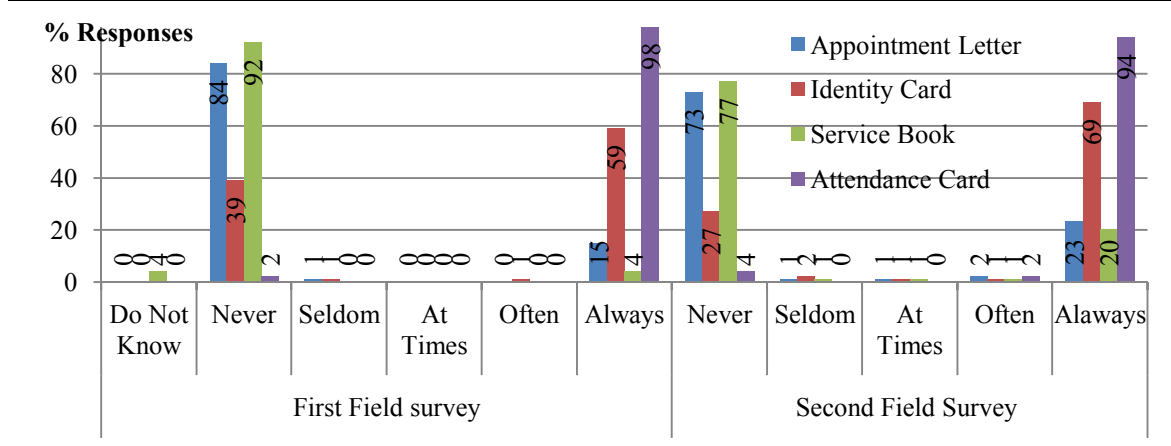


The availability of the provisions is, however, often attached with conditions. First of which is a minimum months of service: respondents complained that the factories provide identity cards only when the workers’ job period exceeds a threshold of six months. Second, the availability is subject to payment: a charge of BDT 50 to BDT 100 to get the identity cards is often forced. Another prominent condition is the presence of

¹³⁷ About 84 percent (FFS) to 71 percent (SFS) of respondents do not have any appointment letter; about 61 percent (FFS) to 32 percent (SFS) of respondents do not have any identity card, and about 97 percent (FFS) to 86 percent (SFS) of respondents do not have service book.

foreign buyers or their representatives in the factory. A workers’ representative informs that newly appointed workers are given identity cards for a certain period, and those cards are often withdrawn from them after a few days, and made available to the workers only during the foreign buyer’s visit to the factory (KII WR 6). The surveys too reveal that workers’ perceive Appointment Letter (84 percent in FFS to 73 percent in SFS), and Service Book (92 percent in FFS to 77 percent in SFS) to be never effective in their respective factories. The provision of Identity Card is perceived always to be effective by 59 to 69 percent workers in their respective factories. The only provision deemed to be effective in their respective factories (94 to 98 percent) is Attendance Card (Chart 8.2.2).

Chart 8.2.2 Effectiveness of Employment Security Entitlements



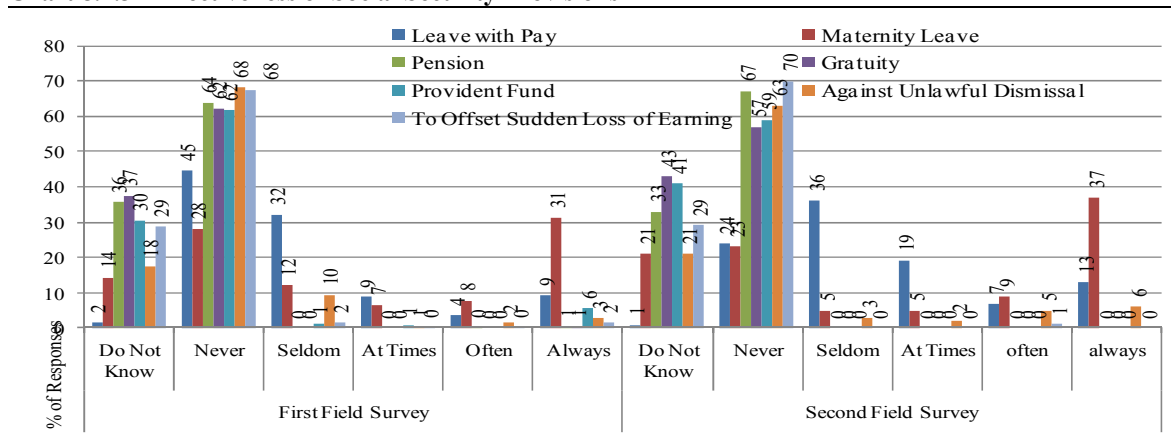
Workers’ representatives in their respective KIIs overwhelmingly agreed to the fact that most contractual employment provisions are yet to be fully effective. They particularly mentioned the ineffectiveness of the Appointment Letter and Service Book provisions. A workers’ representative states, “The service book is effective in around two to three percent of factories. The benefit of service book is however hardly received by the workers because employers often write negative comments about the workers in service books, if those exist

at all.” (KII WR 7). The unavailability and ineffectiveness of these provisions have led to scrupulous employment contract between the workers and employers.

Social Security Provisions

Social security provisions such as leave with pay, maternity leave, pension, gratuity and provident fund provide employment security to the workers. As regards effectiveness of these provisions, the responses in surveys reveal that majority of the workers perceive that most provisions but maternity leave are never effective in their respective factories.¹³⁸ The maternity leave provision has been perceived to be always effective to about one-third of the responses (31 to 37 percent). Notably, close to similar percentage of workers (23 to 28 percent) perceive the provision to have never been effective in their respective factories (Chart 8.2.3).

Chart 8.2.3 Effectiveness of Social Security Provisions



The workers’ responses to the effectiveness of the maternity leave provision evidently make it difficult to judge the state of its effectiveness in factories. This is

¹³⁸ The provision of pension in 64 to 67 percent, gratuity in 57 to 62 percent, provident fund in 59 to 62 percent, provisions against unlawful dismissal in 63 to 68 percent, and policies to offset sudden loss of earnings in 68 to 70 percent responses are considered to be ineffective.

presumably due to the low level of awareness of workers on the legal provisions on maternity leave. Many of the workers while believe that workers are provided leave of absence during the time of pregnancy, and are allowed back to work after child-birth. This perception does not have any resemblance with the actual legal provisions of a leave of 16 weeks with full pay. A workers' representative informs, "The practice of maternity benefits is not uniform across the sector; while some factories give four months of maternity leave but often leave with pay for 2 months and another 2 months without pay" (KII WR 9).

In case of other provisions e.g., pension, gratuity and provident fund, most of the respondents of the FGDs claimed that those were never available and effective in their factories. "In most of the cases, workers are terminated from the job, and thus authorities do not pay gratuity to them," notes a workers' representative (KII WR 5). As regards leave with pay, the FGD participants across the study areas noticed that they rarely got leave, and even on weekend they have to work for overtime hours. One common complaint is that the leave application is rarely entertained and even if the owners consider their applications, the leave period is reduced and provided without pay. Noteworthy, the FGD participants claimed that no leave with pay is granted to those who do not have status of full-time permanent worker (FGDs Dhaka 2, Narayanganj 2, Gazipur 1, and Chittagong 2).

As regards provisions against unlawful dismissal, workers' representatives claimed that the legal provisions are hardly followed by the employers. They, however, argued that while most of the workers do not have formal proof of employment contract (e.g., appointment letter) it is difficult to establish by the workers whether the job terminations were unlawful or not. The workers' representatives inform that they regularly come across cases of unlawful termination/discharge which they bring to the notice of employers for

appropriate compensation as per the law, and in case of unsuccessful negotiation, provide support to workers to file cases in the labor court.

The available literature on the state of social security provisions too shows that most of the factories never provide pension, gratuity, provident fund, and maternity leave (Mohiuddin 2004; Morshed 2007). The current study corroborates those findings but contrasts widely with the BGMEA (2008) that claimed over 90 percent factories providing leaves of different types i.e., medical, festival and annual.¹³⁹ The sharpest contrast is in the areas of maternity leave provisions. While the current study unveils that about 23 percent to 28 percent factories never make those provisions available, the BGMEA claims that all female workers do receive their entitled provisions.

Overall, the employment security provisions have been hardly translated into employment security for the garment workers. The state of the contractual employment arrangements shows that the unavailability and ineffectiveness of appointment letter, identity card, and service book are widespread. The only available and broadly effective employment contract related provision is attendance card. The legal provision of allowing employers to terminate workers without explaining any reason by giving written notice is widely practised, and the law which entitles employers to dismiss workers without serving prior notice showing workers as guilty of misconduct is widely abused. This in effect translates into low protection against unfair or arbitrary dismissal, and sudden loss of earnings. The social security provisions of pension, gratuity, and provident fund are hardly made available and effective in garment factories. While the maternity leave provision is deemed to effective in nearly over one third of the factories by the workers, large scale

¹³⁹ The present study does not differentiate between the different types of leave. However, overall workers' perception is that only in a very small percentage of cases such leaves are available.

violations of the labor law in terms of uniform applicability of the provisions particularly on the length of leave, and due payment with leave is widespread too.

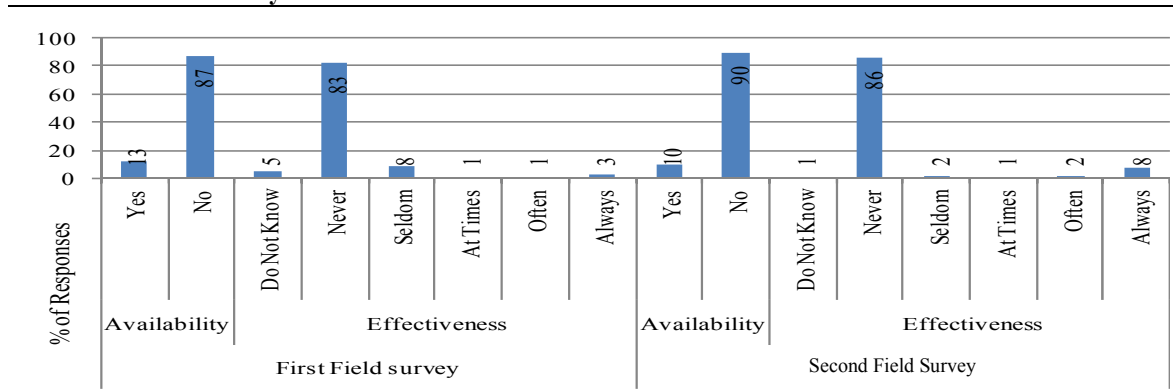
3 JOB SECURITY

Job security is defined as promotion of worker’s ability to pursue a line of work in conjunction with interests, training and skills, and allowing some control over the content of job, and the opportunity to build a career (ILO 2004a). Two aspects are analyzed here: (a) policies and practices of freedom of choice in work; and (b) scope of salary increase, and promotion.

Freedom of Choice in Work

The workers’ ability to pursue job-tasks in conjunction with their interests, training, and skills depend on the industries’ policies and practices of freedom of choice in work. The surveys reveal that most workers (87 to 90 percent) perceive that they have no freedom in choosing the type and function of the work they do in their respective factories. The effectiveness criteria of the issue also raises similar responses—83 to 86 percent perceive that the freedom of choice in work has never been effective (Chart 8.3.1).

Chart 8.3.1 Availability and Effectiveness of Freedom of Choice in Work



The workers join the factories either as trainee or junior operator, and job tasks performed by them are decided by the supervisors or mid-level management. The workers, as revealed in FGD, could not even remember whether they were ever asked if they liked or disliked a particular job. A worker says, “We do any job that is ascribed without saying a word because we know any request to switch the job-tasks would bring hard -times, and might even lead to job termination” (FGD Dhaka 2). The hard-times in workers’ view range from verbal abuse to physical assault. The job-tasks, to the FGD participants, are never freely chosen, and who would perform what sort of task is all the time a priori decision of the management.

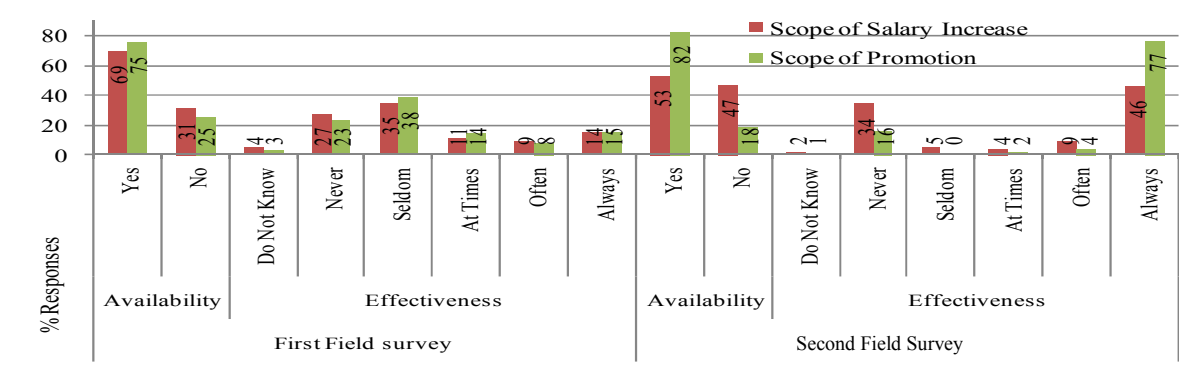
The consultation and sharing with workers on the job-roles are totally absent. A workers’ representative states that “the freedom of choice in workplace is hardly effective for workers in garment factories. Workers have to give up their freedom once they enter the factory gates; they are bound to do whatever they are asked to do” (KII WR 16). In one of the FGDs, when probed whether the workers have some control over the content of the job, a participant admits, “We are considered to be machine—a similar one to the swing machines we operate, and machines never control the job. It is the man (supervisor) who controls us and tells us what to do and what not to do” (FGD Dhaka 1).

Scope of Salary Increase and Promotion

Workers were quite positive about the scope of salary increase and the scope of promotion in their respective current job. Over half to two-thirds of the workers perceive that they have good scope of salary increase in their workplaces. The scope of promotion in the workplace is too perceived to be positive by over two-thirds of the respondents (Chart 8.3.2). Many respondents, however, were of the view that the scopes are not equally

applicable to all workers. “When any worker remains in the good books of the employers, her/his salary increases earlier and in bigger amounts. (S)he also gets promotion easily and faster than others,” note the workers in the FGDs.

Chart 8.3.2 Availability and Effectiveness of Scope to Salary Increase and Promotion



Gender discrimination in terms of promotion is particularly highlighted. A workers’ representative notes, “Males are promoted in greater numbers and faster than females” (KII WR 11). Most of the FGD participants across the study areas think that the scope of salary increase is subject to good working experience and hard-working track records. But, overwhelmingly, the important factor of all that have been cited so far is the managerial discretion. The unitary and often the arbitrary discretions of the employers with regard to providing such facilities have been highlighted. “The scope of salary increase mainly depends upon superiors’ wishes,” says a workers’ representative (KII WR 3).

Employers’ representatives contrast sharply. They claim that employers regularly increase salary of the workers based on work-skills and needs of the factories (KIIs ER 3 to 7). The workers in FGDs, citing their own cases in point, told that after a year of work they had a pay rise. But the amount of increase was quite meager and bounds by no rules such as a particular percentage of wage increase. To them, to have a bigger pay rise, workers have to switch jobs, which they do quite regularly. The low retention rate of the garment sector

is an evidence of this. Noteworthy, every time a worker switches a job, (s)he has to forfeit the due payment of monthly wage and overtime allowances. In respect of the scope of promotion in work, a substantial number of respondents (18 to 25 percent) replied that there was little scope for promotion. To them, the chance of promotion mostly depends upon the supervisors or top management.

In sum, the standards and rights provisions related to job security have partly translated into promoting workers' ability to pursue a line of work in conjunction with interests, training, and skills, and allowing some control over the content of job and the opportunity to build a career. This categorization holds true due to two reasons. First, while the garment workers have scopes to take up a career in the sector, they hardly have the opportunity to pursue work in line with their interests and accumulated experience, and they have very little control on the content of the job. The roles performed by the workers are solely decided by the supervisors or management. The job-tasks are never freely chosen. It is a priori decision of the management without any consultation process involving workers. Second, the factories provide good scope of salary increase and promotion, yet the decisions usually lack specific guidelines and thus, subject to employers' discretions. Nonetheless, the job-tasks provide on the job training, which is quite important for continuing garment work and build a career in the sector, to workers having no prior skills.

4 WORK SECURITY

Work security is defined as protection against and safeguards of unsafe and hazardous working condition (ILO 2004a). A number of related indicators including safety equipment and hazards (e.g., fire-fighting instruments, accessible entrance, emergency

stairs, work protection kits), occupational accidents, hazards and diseases (e.g., first aid, emergency medicare, safe drinking water), and work and workplace environment (e.g., work facilitation provisions, physical work environment) are analyzed below as indicators of protection against unsafe and hazardous working conditions. The other work security provisions that have been looked in details, such as health and life insurance, accident insurance, timely working break, and limits on working hours are regarded as safeguards in unsafe and hazardous working conditions.

Protections against Unsafe and Hazardous Working Conditions

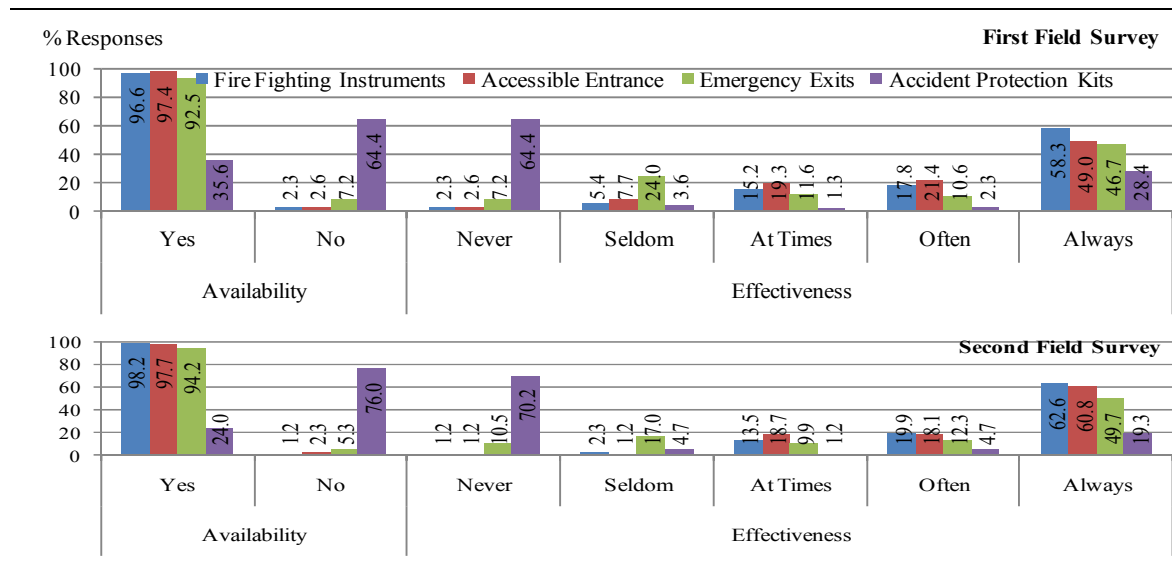
The policies and practices on protections against unsafe and hazardous working conditions are claimed to have been in disarray by the workers and their representatives. Such claims get credence in view of occupational risk and accidents in the sector, and occupational illness of workers. Morshed (2007) states that the garment factories lack written policy or guidelines on safety and health provisions. In this context, a number of indicators related to each of the three areas of protections against unsafe and hazardous working conditions— (a) safety equipment and facilities; (b) occupational accidents, hazards and diseases; and (c) work and work place environment—have been explored in turn.

Safety Equipment and Facilities

The survey respondents reveal that safety related facilities including fire-fighting instruments, spacious entrance and exits, emergency stairs, first aid, and accident protection kits are available at varied levels across factories. While the provisions of fire-fighting instruments, spacious entrance, and emergency exits are widely (around 90 percent) available, the provisions of first aid, and emergency medicare are mostly (56 to 80 percent)

available. The availability and effectiveness of the accident protection kits are, however, perceived to be low (in less than one-third responses) (Chart 8.4.1).¹⁴⁰

Chart 8.4.1 Availability and Effectiveness of Safety Instruments and Facilities



FGD participants across the study areas inform that though fire-fighting instruments have been put in place in most factories (58 to 63 percent factories are perceived to have always effective fire-fighting instruments), most of these factories hardly conduct emergency evacuating fire-fighting drills. The lack of fire-fighting equipment is regularly brought to fore as the main reason behind casualty in every fire-accident in the sector. The concerns on firefighting instrument itself are reflective of the numerous fire-accidents in garment factories.¹⁴¹ “The factory owners take licenses from the fire service authorities by showing only some fire-fighting equipment. In most of the cases, they do not prepare their

¹⁴⁰ Recognizing the difference between the availability of particular safety equipment/facility, and the effectiveness of such provision, respondents were asked whether the equipments/facilities were effective in their respective workplace. In effect, the respondents were asked to scale the availability of the provisions.

¹⁴¹ Since 1990, more than 240 people lost their lives in different garment factory fires. Major fire accidents and casualties (in bracket) are (a) Garib & Garib sweater, Gazipur 2007 (21); (b) KTS Garments, Chittagong 2006 (62); (c) Saraka Garments, Dhaka 1990 (32); (d) Shanghai Apparels, Dhaka 1997 (24); (e) Macro Sweater, Dhaka 2000 (23); (f) Chowdhury Knitwear, Narsingdi 2004 (23); (g) Shan Knitting, Narayanganj 2005 (23); (h) Lusaka Garments, Dhaka 1996 (22); (i) Jahanara Fashion, Narayanganj 1997 (20); and (j) Globe Knitting, Dhaka 2000 (12) (BILS Newsletter, various issues).

staff members for possible accidents,” informs a government official (KII GR 5). “Workers do not know how to operate the fire-extinguisher, and even have doubt whether the fire-fighting instruments put in place would really be able to save them in case of fire,” doubts a worker (FGD Dhaka 5).

Another concern for safety is the barriers to evacuation in case of fire. A number of workers in the surveys informed that the main entrances of the factories remain locked during the time of operation, and the emergency exits are also blocked. Terming the emergency exits as ‘death traps,’ a workers’ representative says,

In most factories, emergency fire-exits have been added after several accidents in the sector. These are usually narrow steel-made stairs attached to a building, more to comply with the law of the country than to ensure safe exits of workers at times of industrial accidents like fire. The exits are usually quite narrow to allow 500 or more workers to evacuate quickly and often blocked for deterring stealing of fabrics. Workers are either trapped in fire or die in stampede in the emergency stairs (KII WR 5).

Participants in the FGDs have also noticed that authorities neither conduct training for accident prevention nor provide any safety equipment like gloves and masks.

Occupational accidents, hazards and diseases

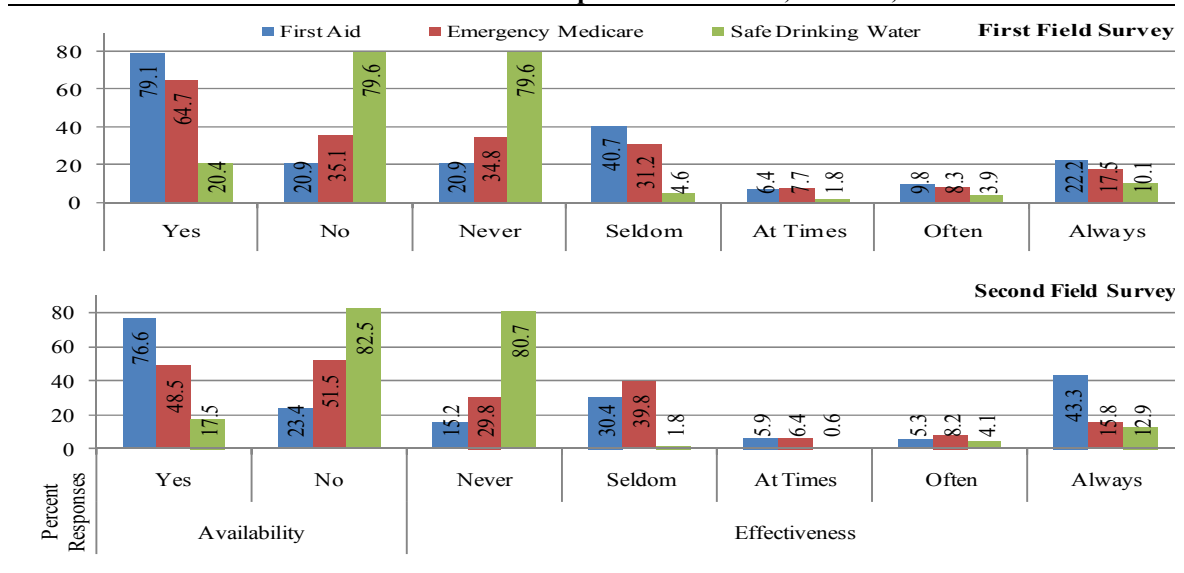
Workers engaged in garment sector are prone to various types of occupational risks and accidents. The most common risks in the sector are the ‘pricking of finger by needle’ followed by ‘cutting hand’. Workers’ representatives consider that garment authorities usually do not provide information on occupational risks to the workers. One of the workers’ representatives elaborates,

Safety and health rules are not communicated to the workers and there is no system in place to consult workers on those issues. There is also lack of safety signs, posters, or notices at workplaces. Factories do not keep record of work related accidents. Managers and supervisors even do not know their responsibilities on these rules (KII WR 9).

Most of the workers’ representatives consider providing workers with information on occupational risk is an area of negligence. FGD participants also feel that authorities do not take adequate measures to prevent accidents.

The surveys covered the state of the availability and effectiveness of the related provisions. The responses reveal that First Aid, Emergency Medicare, and safe drinking water are available at varied levels across factories. First Aid is mostly (within the range of 77 to 79 percent) available. Emergency Medicare is partially (within the range of 49 to 65 percent) available. The availability of safe drinking water is, however, quite low (Chart 8.4.2). The water-borne diseases being most prevalent amongst workers, access to Safe Drinking Water is of great concern to workers.

Chart 8.4.2 State of the Provisions related to Occupational Accidents, Hazards, and Diseases



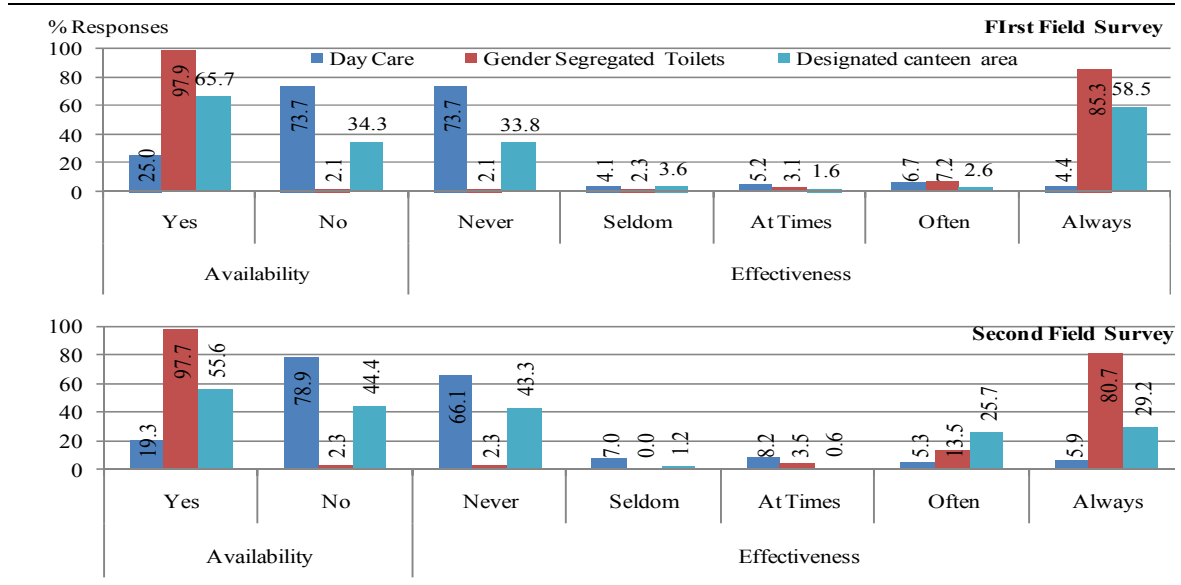
On other provisions, the respondents inform that first-aid kits are usually available in the factories, and many employers arrange emergency Medicare. Nonetheless, such provisions are often insufficient in quantity, and poor in quality, and often subject to buyers’ presence in their respective factories. One of the common complaints of the

workers is that authorities usually do not look after the workers if they fall sick. The workers are sent back home in case of sickness during work hours.

Work and Workplace Environment

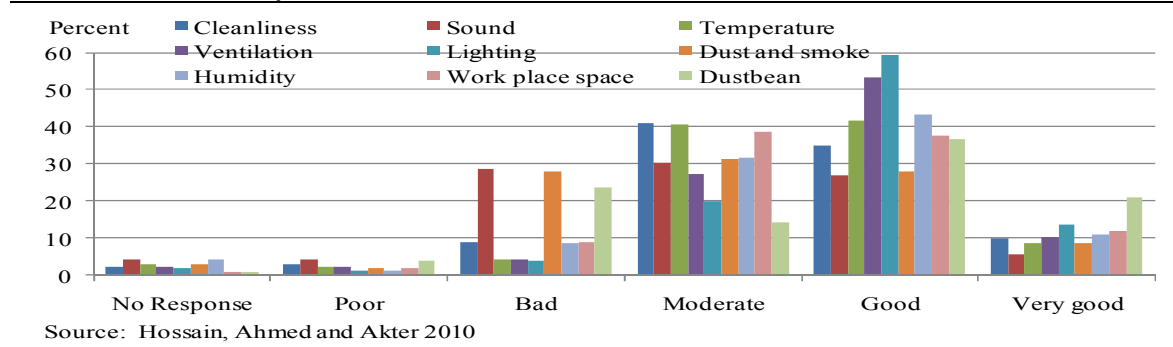
The work and workplace environment is an area of contention too. Most prominent of the contrasting claims are in the areas of work facilitation provisions such as daycare for children of working mothers, designated canteen, and gender segregated washrooms. The surveys while reveal that the provision of gender segregated washrooms are mostly available and effective (within the range of 98 percent in terms of availability and 81 to 85 percent in terms effectiveness), the provision of designated canteen area is partly available and effective (within the range of 56 to 66 percent in terms of availability and 31 to 59 percent in terms effectiveness). Nonetheless, the availability and effectiveness of daycare is low (within the range of 20 to 25 percent, and 4 to 6 percent respectively) (Chart 8.4.3).

Chart 8.4.3 State of the Provisions related to Work Environment



The other areas of physical work environment which include cleanliness, sound, temperature, ventilation, lighting, dust and smoke, humidity, workplace space, and dustbin have not been followed in the factories covered by the conducted surveys, but secondary literature provides ample evidence of the state of these provisions. Begum (2002) finds that the workplace of the garment workers is dirty; the sound of the machines exposes them to noise that exceed the tolerable level; ventilation system is poor; and floor space per worker is very small. Hossain, Ahmed and Akter (2010), however, showed that the provisions except sound/noise, dust and smoke, and dust-bean are mostly perceived to be moderate to good (Chart 8.4.4).

Chart 8.4.4 State of Physical Work Environment

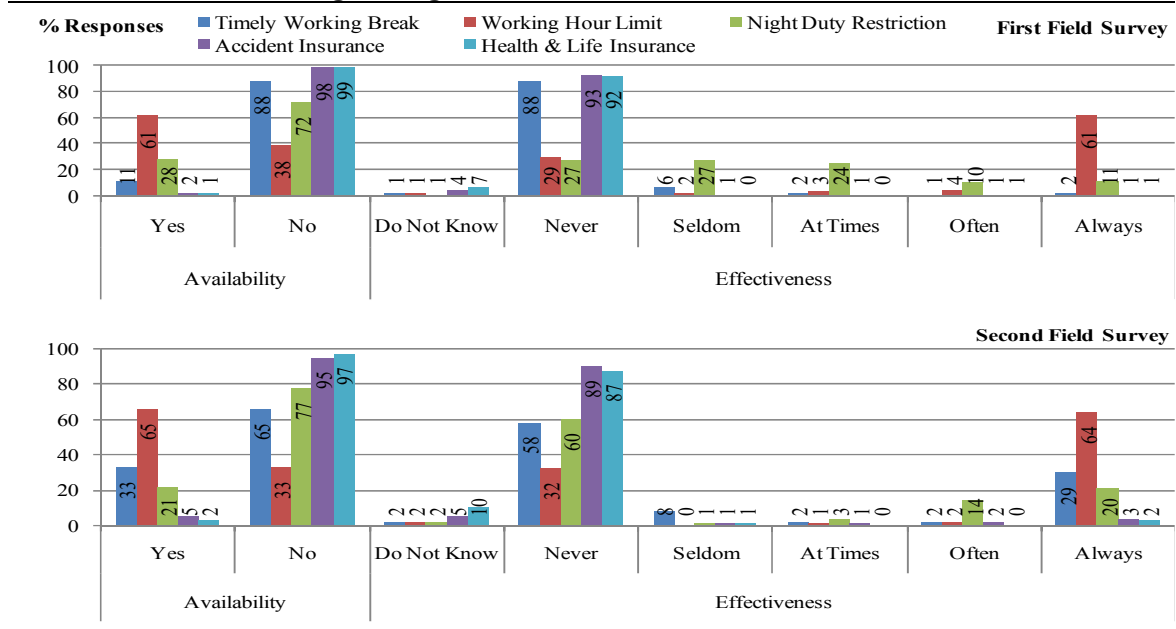


Safeguards of Unsafe and Hazardous Work Environment

The limits on excessive working hours are safeguards against unsafe working condition. The two field surveys reveal that while there is usually a limit on working hours, the provisions of timely working break and night duty restriction for women are hardly maintained (Chart 8.4.5). Workers informed that regular working hours are usually maintained except during times of emergency export shipments. However, probing on the regular hours of work, it is clear that workers mean certain hours of work as regular without any reference to permissible work period including the overtime. FGD participants

informed that during the time of shipment, night duty is mandatory. About 27 to 60 percent of respondents have mentioned that night duty restriction is never effective for female workers. The low compliance (21 to 28 percent) of the night duty restriction is a violation of the law provision.

Chart 8.4.5 State of the Safeguards against Unsafe and Hazardous Work Environment



As regards the availability of health and life insurance, and accident insurance, 95 percent of the workers in two surveys reported non-availability of such provisions in their respective factories (Chart 8.4.5). A workers’ representative explains,

Life insurance is not available in any factory. Few factories have group insurance, but whether those are life insurance or accident insurance, we do not know. A factory indeed has insurance against accidents but workers are not insured (KII WR 4).

Overall, the standards/rights provisions related to protections against unsafe and hazardous working conditions, and safeguards for unsafe and hazardous working conditions have been hardly translated into work security. The exploration of (a) safety equipment and facilities; (b) occupation accidents, hazards and diseases; and (c) work and

work place environment reveals that state of these three areas of protection is in serious disarray. The protection against unsafe and hazardous working conditions is an area that has attracted little attention from the employers, and accordingly workers are prone to occupational risks and accidents. The physical conditions of the workplaces are moderate—not yet fully worker-friendly and workplaces lack sufficient safety provisions. The limits on working hours, timely working break, and night duty restriction for women as safeguards for unsafe and hazardous working conditions are often not maintained. Similarly, other safeguards e.g., insurance system is hardly available to workers.

5 SKILL REPRODUCTION SECURITY

Skill reproduction security is defined as workers' access to education, skills and training to develop capacities and acquire the qualifications needed for socially and economically valuable occupations (ILO 2004a). Two issues, i.e., scope to enhance work skills, and scope of skill development for alternative employment are the focus of this section.

Scope of Work-Skills Enhancement

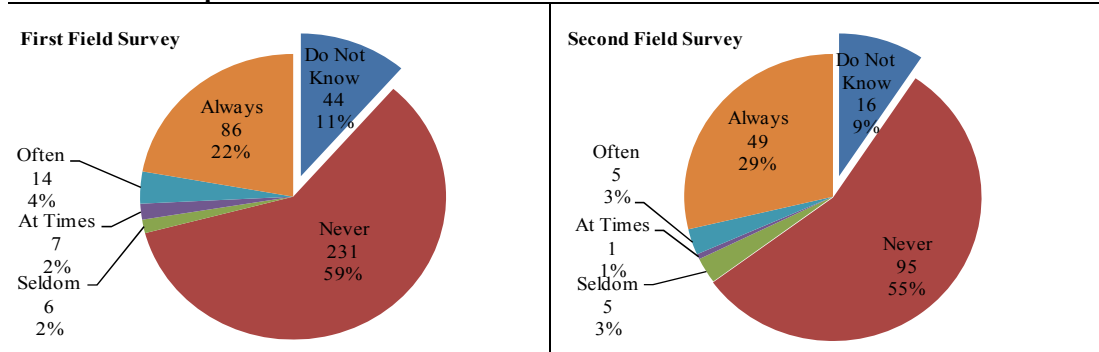
Garment workers are expected to gain work-skills through their respective job responsibilities and on-the-job training provided by the management. However, FGDs across the study areas reveal that employers never arrange training programs for the workers. Workers gain skills through their peers. A worker representative articulates,

No formal training on the job is usually organized by the employers. Only a few garment employers realize the need of any training for performing the job tasks. Most employers do not want to invest in training since they think that workers will learn to do the job from their peers or supervisors. Since the employers have ample scopes to dismiss workers any time, the burden is on the workers—learning to do the job or leave (KII WR 15).

The surveys reveal that workers perceive the scope to enhance work-skills to be limited. About 55 to 59 percent workers considered that they did not have such scopes. About 22 to 29 percent workers felt that they had always opportunities to gain work-skills in their factories (Chart 8.5.1).

The most common form of training is ‘learning by doing,’ and at times with the help of experienced co-workers. The majority of those who have reported that there are scopes of skill enhancement, took training from the senior operators (peers) during their lunch period, as revealed in further probe.

Chart 8.5.1 Scope to Enhance Work Skills



To generate opportunities to gain and retain skills through employment training is one of the focal areas of work of the employers’ associations. The associations have collaborated with several ministries of the Government of Bangladesh and some local and external development partners, and initiated a number of projects to upgrade skill development countrywide. BGMEA, in particular, has established five technical training centers (TTCs) in 2007 to provide training to garment workers for ensuring supply of skilled manpower to the factories in the capital city.¹⁴² All these programs include

¹⁴² Three other recent projects of the BGMEA are (a) Partnership between BGMEA and Social Development Foundation; (b) Public Private Partnership between BGMEA and Government; and (c) Public Private

components of training to develop skilled human resources. These are indeed recent initiatives, which till date have catered to a small proportion of the need of skilled manpower. The BGMEA states that the sector is in a deficit of 2.6 million skilled workers.

Scope of Skill Development for Alternative Employment

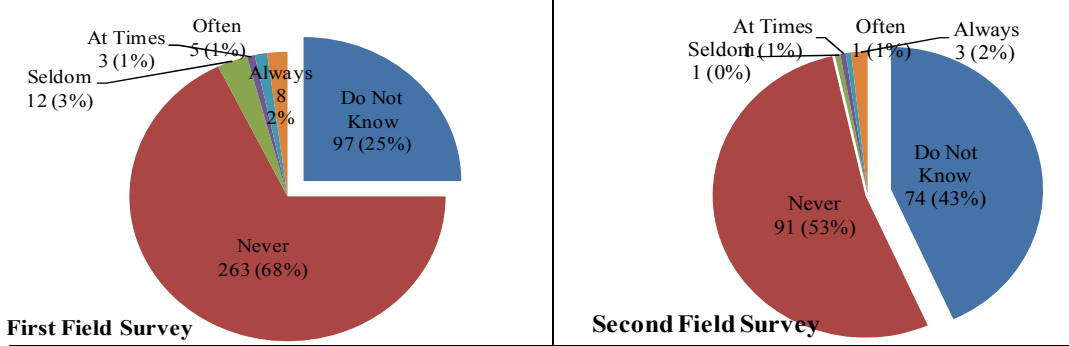
The garment job does not provide any recognized qualifications. Workers often leave a job of a junior operator from one factory, and take a new job in the same position at another factory. The work experience in one factory is hardly taken into consideration in assigning new job-tasks at another factory. A worker says,

It is not that the owners give us a certificate saying what role we performed. Even if they did, I doubt whether the new employer will care anything about it. Every time we take a job, it is a new one. Thanks that they accept us most of the times in our previous position. I myself switched job twice, and I do not have any certificate saying what my job was previously (Survey Respondent, Dhaka 1).

Although there had been numerous complaints in the discussions that followed in the FGDs that in number of cases, workers had to start afresh from the position of trainee when they started new jobs. They usually can switch to jobs in their respective positions. The skills gained through work can be of use in related activities like tailoring and embroidery, but hardly be used in other professions should they want to take up a new one other than garment work. The scope of skill development for alternative employment is mostly non-existent. Indeed, most workers (53 to 68 percent) consider such scope to be never available in their respective factories. Over one-fourth of the workers (25 percent to 43 percent) do not have any clues on whether they attain any skills that can be utilized in places other than garment factories (Chart 8.5.2).

Partnership between BGMEA and World Bank. The government too has undertaken training programs for the garment workers to improve their relationship with the owners of the garment factories.

Chart 8.5.2 Skill Development for Alternative Employment



Overall, the standards/ rights provisions relating to work-skill enhancement and skill development for alternative employment have translated partly into workers’ skill reproduction security. This categorization is relevant for the following reasons. First, while the garment job provides little opportunity for workers to attain qualifications needed for socially and economically worthy occupations, it provides skills and training to develop capacities to continue the profession only in this sector. The on-the job training through ‘learning by doing’ is the dominant—if not the only—form of acquiring skills for the workers in the sector. Second, the job experience in the sector though hardly provide any avenue for alternative employment other than work associated with the sector, the job experience itself has provided workers valuable skills which could be in good use should alternative employment schemes develop in the country.

6 LABOR MARKET SECURITY

Labor market security is defined as promotion of adequate employment opportunities (ILO 2004a). Two issues, namely workers’ scope of switching job within the garment sector, and opportunity to avail non-garments job are elaborated below.

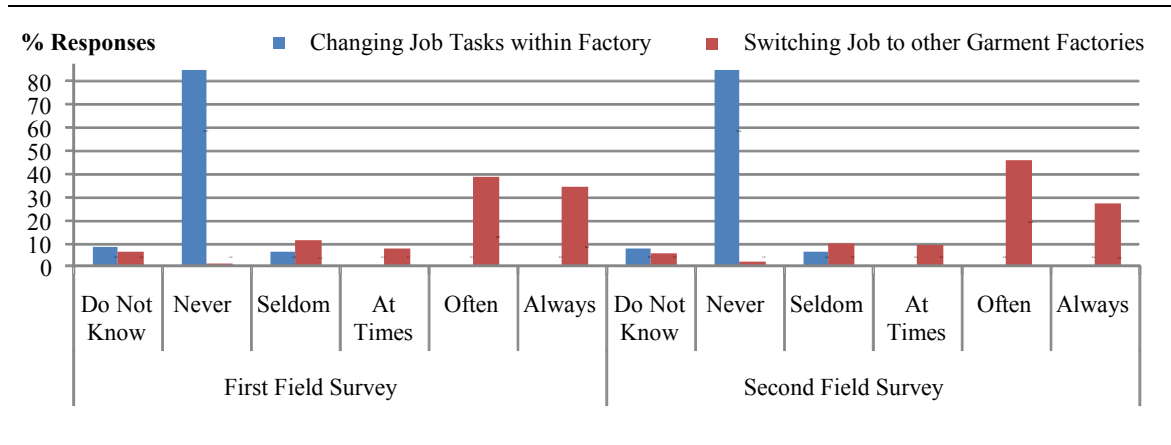
Scope of Job Switch within Garment Sector

Seemingly, the availability of adequate employment opportunities in the garment sector means that workers would be able to change job within the factory, and switch to jobs in other factories freely. The responses of two surveys reveal that the scope of changing job types within the factory is very limited, and the opportunity to switch jobs in other factories of the sector is widely prevalent (Chart 8.6.1). The job-tasks for entry level workers as trainee or junior operator are not so diverse, and can be performed by persons with no or little prior skills. Workers overwhelmingly confirm that the job-tasks are assigned by the supervisors and the only option left with the workers is to quit the job and look for different work in other factories should they dislike the assigned job-tasks.

The scope of changing job tasks was verified further in FGDs. The participants reveal two important dimensions. The first is that it is the supervisors' discretion whether or not to change the job-tasks upon request from the workers. However, the decisions of the supervisors, according to the participants, depend on the state of relationship that workers have with the supervisors, not track record of hard work. The second is that workers very rarely come up with such requests to change job-tasks since they know that such request will hardly be entertained and might invite verbal abuse—a tool widely used by the supervisors to discipline workers. A FGD participant puts,

Supervisors think that they have done us favors already by giving us work. The request for changing job-tasks to them is nothing but a sign of *kamchor* (intentions of work avoidance), and the punishment of such acts could be severe, even to job termination. Only the brainless creatures would think of making such requests (FGD Dhaka 4).

Chart 8.6.1 Scope of Job Switch for Workers



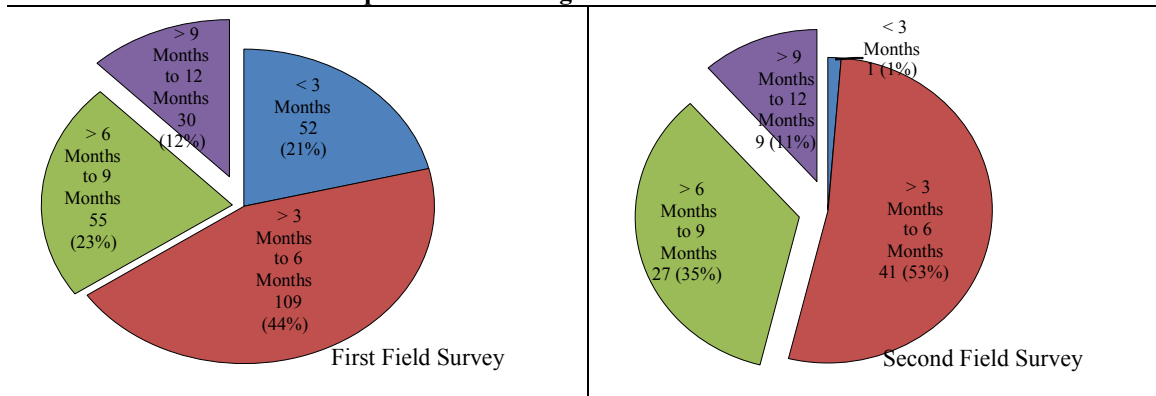
As regards the opportunity to switch jobs in other garment factories, the majority of the respondents in both the surveys perceive that there are either often (39 to 46 percent) or always (28 to 35 percent) scopes to switch to other factories (Chart 8.6.1). The comparison between work experience in the sector and current factory of the study respondents shows that the workers change their jobs quite frequently. The low retention rate is most visible for respondents having work experience of over two years. About 30 percent workers have overall work experience of varied years; among those workers only 12 percent have been working in their current factories for more than two years. Only 5 out of 388 respondents have more than five years' work experience in their current factories. Alongside, the SFS shows that out of total 171 respondents, 78 respondents have been working in the current factory for less than a year and 45 respondents for over a year but less than two years in their current factory (Table 8.2).

Table 8.2 Work Experience in the Garment Sector and Job Period in Current Factory

Work Experience in Garment Sector	Job Period in Current Factory																	
	First Field Study								Second Field Study									
	> 1 Yr	1 Yr	2 Yrs	3 Yrs	4 Yrs	5 Yrs	8 Yrs	Total	Percent	> 1 Yr	1 Yr	2 Yrs	3 Yrs	4 Yrs	5 Yrs	8 Yrs	Total	Percent
> 1 Yr	170	0	0	0	0	0	0	170	44	26	0	0	0	0	0	0	26	15
1 Yr - 2 Yrs	36	66	0	0	0	0	0	102	26	10	23	0	0	0	0	0	33	19
2 Yrs - 3 Yrs	15	18	15	0	0	0	0	48	12	13	8	16	0	0	0	0	37	22
3 Yrs - 4 Yrs	13	4	7	4	0	0	0	28	7	9	2	6	11	0	0	0	28	16
4 Yrs - 5 Yrs	7	3	5	2	3	0	0	20	5	10	7	4	2	2	0	0	25	15
5 Yrs - 8 Yrs	2	4	1	1	1	1	0	10	3	10	5	3	0	1	3	0	22	13
8 Yrs	3	1	1	1	0	3	1	10	3	0	0	0	0	0	0	0	0	0
Total (N)	246	96	29	8	4	4	1	388		78	45	29	13	3	3	0	171	
Total (%)	63.4	25	7.5	2.1	1.03	1.03	0.26	100	100	45.6	26.3	17.0	7.6	1.8	1.8	0.0	100	100

The distribution of respondents who worked for less than a year in their current factory reveals further the state of the workers’ availing the job-switching scopes (Chart 8.6.2). Amongst the workers in both surveys who have work experience of less than a year, a large majority of them have worked for less than six months (65 percent in the FFS and 54 percent in the SFS). Whereas about 23 percent (FFS) to 35 percent (SFS) have worked above six months to nine months, only 11 percent (SFS) to 12 percent (FFS) workers have work experience in their current factories of over nine months to a year.

Chart 8.6.2 Distribution of Respondents Working Less than a Year in Current Job



The number of FGDs in different parts of the study areas unearthed the reasons for workers' availing such job switching opportunities. According to the workers, "We switch job for our betterment. After years of service in one factory, the salary increase is very poor. We get higher pay when we go to other factories" (FGD Dhaka 3). Indeed, the factors that influence the workers to switch their jobs are predominantly pay related—in workers' terms, "good salary, extra allowance, and more overtime opportunity". The other reason came out of discussion is the abusive behavior of the mid-management (usually the supervisors) of the factories. Workers claimed that they are often forced to look for jobs in other factories due to supervisors' abusive behavior. Many workers often change their factories foregoing the due salary and overtime payment.

Opportunity to Avail Non-Garment Job

Workers have very limited scopes in availing non-garment job should they consider changing the profession. The work-skills gained through garment work in factories (sewing, cutting, or knitting) can be used only in work those are related to the sector e.g., tailoring, embroidery. The limited opportunity is due to fact that the country does not have any similar kind of industries that might have utilized the garment work-skills. The alternative non-garment jobs taken after quitting garment work are independent business (tailoring shop), *rickshaw* pullers (for male) or work as domestic workers (for female).

In view of the non-availability of jobs which builds on the garment work-skills and experience, it is a puzzle, where then workers go after few years of garment job. This is more so, garment workers are predominantly young in age and few workers work for long years. In my sample of 388 workers in the FFS and 171 workers in the SFS, only 20 and 22 workers in respective surveys have work experience of more than five years. The lack of

alternative job creation in the country that can utilize prior garment work experience and skills either send the workers back to rural areas from where they had initially migrated for the garment job or leave them in cities in which the garment factories operate. There is hardly any evidence to say it certainly that the workers go back to their rural homes. In contrast, the anecdotal evidences clearly point to the opposite. The only possibility then is the waste of skills and experiences—that the former workers stay in the cities, and possibly take up the jobs such as rickshaw pulling (for male) and domestic work (for female), which they disregarded while taking a garment job initially.

Apparently, standards/rights provisions related to workers' scope of job switch within the garment sector, and the opportunity to avail non-garment jobs have translated mostly as opportunities of adequate employment opportunities. This categorization takes place due to a high opportunity of job switch within the sector despite lacking opportunity in changing job types within factory as well as in availing non-garment jobs. There are both the push factors (e.g., misbehavior by the supervisors, low benefits) and pull factors (e.g., higher salary and other benefits) in the decision of workers to switch jobs to other factories. The widespread scope to changing jobs to other factories did not, however, translated into workers' enhanced power to negotiate better the terms and conditions of employment with the employers, since there still remains a large pool of job-seekers in the country.

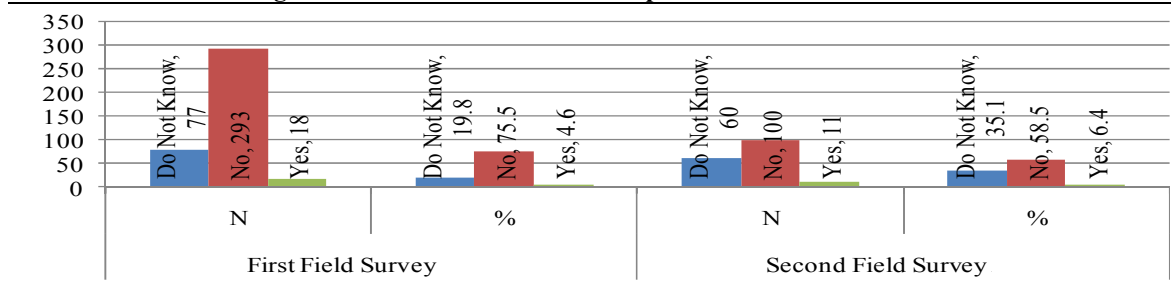
7 REPRESENTATION SECURITY

The representation security refers to individual and collective representation and bargaining—having a voice in the procedures, both at workplace and labor market level, which affect one's working life (ILO 2004a). Two aspects of representation security i.e., FoA and CB are discussed below.

Freedom of Association

Garment workers are entitled to form and join trade union. The practices at workplaces, however, reveal no significant trade unionism at plant levels. The study respondents were asked whether any sort of workers' associations were functioning in their respective workplaces. The responses show that only in a very small number of factories (4.6 percent in the FFS and 6.4 percent in the SFS) has some sort of associations of workers in their respective workplaces (Chart 8.7.1). These associations, on an average, less than 5 percent in number amongst all garment factories, are not all plant-level trade unions but many of those are workers' welfare and participation committees—often established by the employers in the factory.¹⁴³

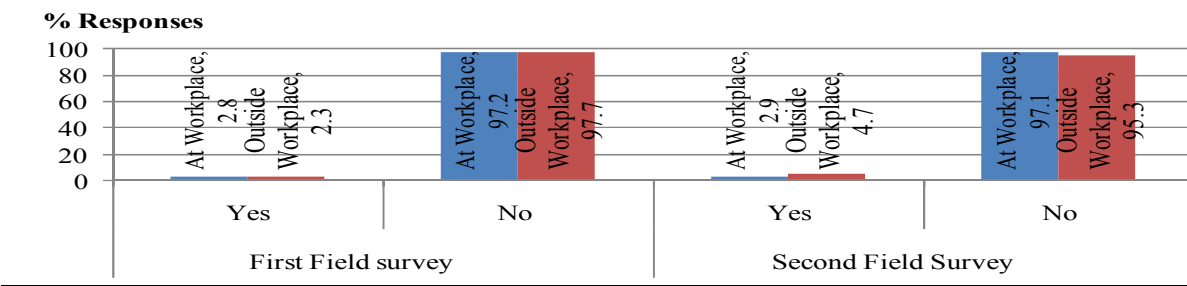
Chart 8.7.1 Functioning of Welfare Association at Workplace



The state of the FoA is further revealed through the membership of associations that exist at the workplaces and beyond. A small minority in both the surveys are members to these associations. While only around 3 percent workers claimed to have membership to or associated with some forms of associations within their workplaces, around 2.3 to 4.7 percent respondents are members of trade unions outside of their workplaces (Chart 8.7.2).

¹⁴³ I deliberately chose not to differentiate trade-unions and other forms of associations in the responses of workers. This is due to the widely known fact that trade-unions at the plant levels in the sector is mostly unavailable, and workers' tend to reply in the negative should one be asked only on the existence of trade unions. The high level of responses revealing that they do not know whether any form of associations exists (20 percent in the FFS and 35 percent in SFS) supports the presumption that workers unless involved in such associations may deny the existence of such associations.

Chart 8.7.2 Workers' Membership in Associations within and outside Workplaces



While the non-availability of associations within workplaces has been identified as the prime reason of low membership in associations in the FGDs, the other important reason is the workers' reluctance in joining unions due to fear of harassment and job termination by the authority. Workers overwhelmingly confirm that most employers expel workers from job if they find workers engaged in any sorts of activities of trade unions. "If we maintain contact with anyone involved in organizing workers, we run the risk of losing our job. It is seen as a 'crime' in the perspective of the owners," adds a worker (FGD Dhaka 5).

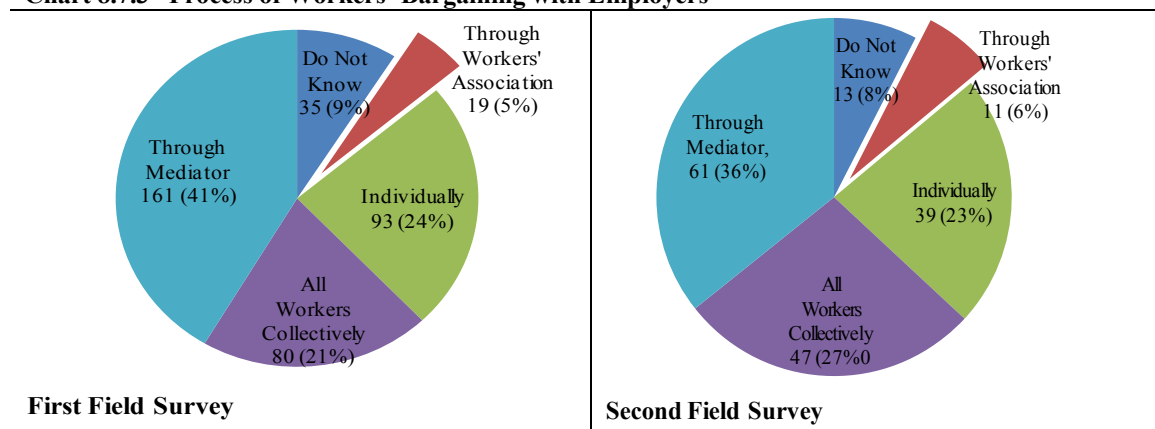
Ironically, a few participants in the FGDs across the study areas felt that since organizations cannot change their fate, they are not interested to be members of any organization. However, overwhelming majority of workers felt that some form of organization might have ensured their rights. They were able to highlight the benefits of organizing themselves. The workers know that the authority bows down to their legitimate demands more when demands are made collectively and in an organized manner.

Collective Bargaining

The scope of collective bargaining is very limited in the sector. Two surveys reveal that workers hardly bargain with the employers through trade unions or any other associations those exist. Rather, the predominant mode of bargaining is through mediator. While a very

small percentage of respondents (5 percent in the FFS and 6 percent in the SFS) reported to have bargained through unions or associations, majority of the respondents took the service of persons like supervisors and local influential persons to channel their demands (41 percent in the FFS and 36 percent in the SFS). Within the small percentage of respondents who reported that they bargain through workers’ associations, few have taken the assistance of trade union leaders who acted individually to settle the disputes between employers and workers on issues related to wage and overtime payment, and compensation at cases of dismissal from the job. These imply that workers’ associations have very little role in bargaining at the plant levels. This is more evident from the responses of the two surveys which reveal that over one-fifth of workers (24 percent in the FFS and 23 percent SFS) bargain with employers individually (Chart 8.7.3).

Chart 8.7.3 Process of Workers’ Bargaining with Employers



In view of the limited role of workers’ associations in the process of bargaining, two issues related to CB are important: the first is the grievance handling procedures, and the second is the right to strike. Participants in the FGDs were asked to elaborate on the state of dispute handling procedures in the sector. The discussions across the study areas revealed that no formal system of grievance handling is available at their workplaces. Workers have to carry out orders of the mid-level management, and the irony of fate is that

grievances are to be channeled to them (i.e., people at the middle of the hierarchy) against whom most of the complaints are. This has been reflected in the following statement of a worker,

Who is so courageous to complain the misdeed of the supervisor to the same supervisor or his colleagues? They are more close to the employers, and their statements on any incidence prevail over ours should by somehow we manage to complain against them to the big bosses (FGD Dhaka 5).

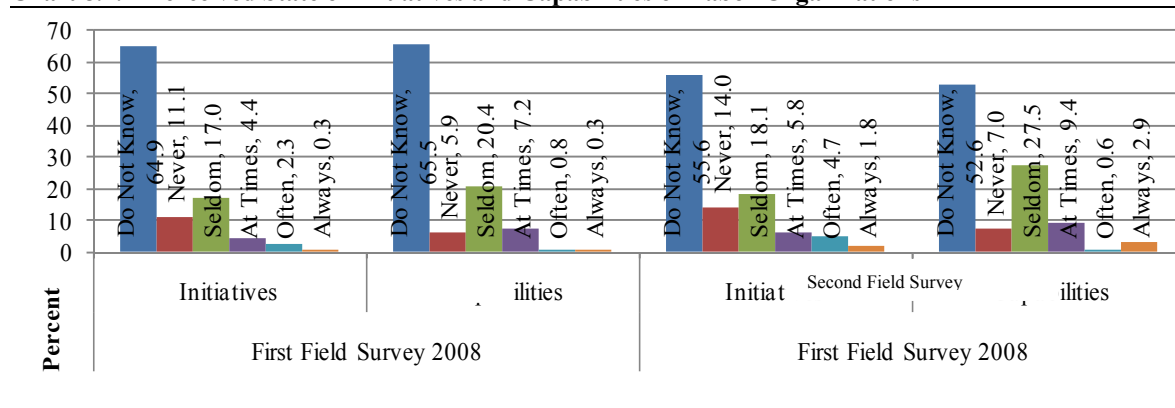
Nevertheless, this is the most direct way of raising grievances at the workplaces.

Participants informed that a number of garment factories have made available complaint boxes with a view to receive complains from the workers, however, they were of the view that these boxes are ‘face saving devices’ due to pressures from the foreign buyers, and of little use.

On the other important part of collective bargaining—right to strike—the awareness of workers about the rights is limited. While a large number of participants in the FGDs do not know whether they have rights to strike at their workplaces, the procedures to call a strike elaborated in Bangladesh’s labor law are almost unknown to them. Most of the workers, however, felt that even if such rights were there, those are on paper and is never recognized by the employers. When asked, whether they have observed strikes at their workplaces, most of the respondents in the FGDs replied in negative. Only a small proportion of FGD participants claimed to have seen strikes at workplace during their job period, and only a few amongst them have claimed to have participated in some forms in the strikes. Majority of the respondents could however provide a concrete reason—fear of management as the cause for strikes not observed. Most of the workers felt that strike is strictly prohibited at their workplaces, and any such action would only lead them to job-losses.

The lack of initiatives and capabilities of the labor associations, came to fore in the above discussions, is another important reason for the ineffective collective bargaining rights. The respondents were asked whether they perceive that labor organizations take initiatives as well as whether they have the capabilities to realize their legitimate demands. The responses reveal that only a small percentage of workers (0.3 percent in the FFS and 1.8 percent in the SFS) perceive that labor organizations always take initiatives on their behalf. While around 65 percent (FFS) to 56 percent (SFS) respondents did not know about any initiatives of the organizations, around 11 percent (FFS) to 14 percent (SFS) were of the opinion that organizations never take initiatives to meet their demands. The perceived capabilities of the labor organizations in meeting workers' demands are very low. While a majority of the workers (66 percent in the FFS to 53 percent in the SFS) were not able to scale the capabilities of the labor organization, only 0.3 percent (FFS) to 2.9 percent (SFS) of workers perceived the organizations to be always capable of realizing their legitimate demands (Chart 8.7.4).

Chart 8.7.4 Perceived State of Initiatives and Capabilities of Labor Organizations

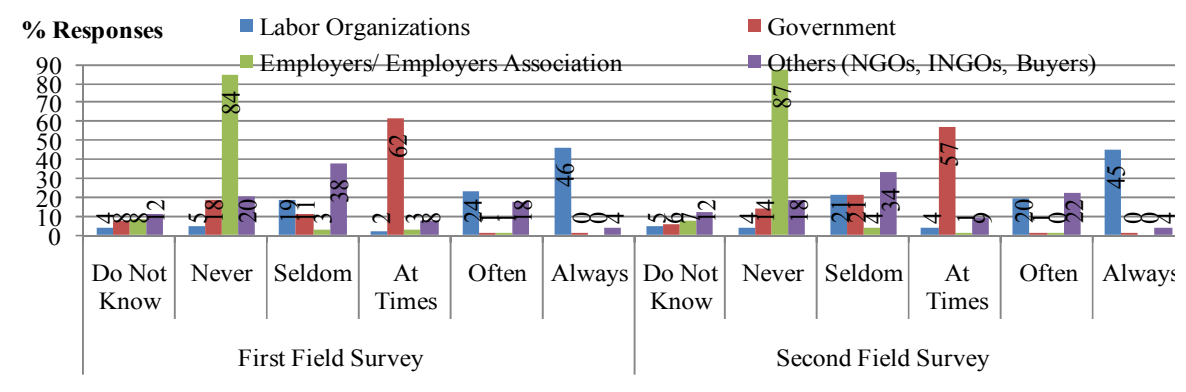


Such perception of low initiatives and capabilities of the labor organizations has also been echoed in the FGDs with workers. Two issues were identified as the main

reasons for such a dismal perception. First, lack of representation: workers perceive many of the labor leaders have no link with workers and thus unable to understand, prioritize, and channel workers' interests. Second, lack of united voice: workers observed that lacking unity amongst workers' associations have led to inability to establish common demand, and accordingly workers' demands often are used to gain favor for the leaders themselves. The labor leaders in their respective KIIs did not refuse to accept the problems associated with leadership, they were of the view that the cases of misguided leadership acts were the exceptions rather than the rule. They overwhelmingly asserted that trade unions hardly lack in terms of initiatives within the given conflicting interests of workers and employers, but the capabilities to win equitable outcome for the workers are subject to factors of workplace governance as a whole.

Indeed, a comparative picture of the major stakeholders (both primary and secondary) in the sector e.g., labor organizations, employers, government, buyers, and nongovernmental organizations reveal that workers perceive labor organizations to be most responsive in line with the workers' demands. While employers are perceived to be most un-accommodative to workers' demands (84 percent in the FFS and 87 percent in the SFS consider never responsive), labor organizations are considered to be accommodative to their demands by around 45 percent (SFS) to 46 percent (FFS) of workers. In their perceptions, the government is at times (62 percent in the FFS and 57 percent in the SFS) and the other stakeholders including NGOs (both local and international) and buyers are seldom (33 percent to 38 percent) responsive to workers' demands (Chart 8.7.5).

Chart 8.7.5 Responsiveness of Major Stakeholders in Line with Workers' Demands



It is therefore that the analysis of the two aspects of representation security shows that the related standards and rights provisions have hardly translated into representation security for the workers. Workers' representation is carried out by a number of federations in view of the non-existence of basic plant level unions or in-factory welfare associations. A minority of garment workers are organized through any association within and beyond the factories. The non-availability of trade unions in most factories and lacking unity amongst trade union federations clearly show the poor state of representation of the workers. While workers do feel that associations can hardly change their fate, there is, nonetheless, awareness on the possible role trade unions can take to channel workers' legitimate demands. Although Workers' low participation in trade union activities is subject to workers' unawareness about the existence of trade unions and sometimes even misunderstanding on their roles, the prime reason for not joining a trade union or its activities is the fear of losing job.

The state of collective bargaining too depicts a poor translation of existing provisions of labor standards and workers' rights. The foregoing analysis shows that workers hardly bargain with the employers through trade unions or any other associations those exist within and outside workplaces. Rather, the predominant mode of bargaining is

through mediator. In view of the limited role of workers' associations in the process of workers' bargaining, the standards/rights provisions related to grievance handling and strike have been rendered ineffective. As has been argued earlier, there is widespread belief that strike is strictly prohibited at workplaces, and any such action only leads to job-loss.

Another important issue germane to CB is the lack of initiatives and capabilities of labor associations to realize workers' legitimate demands which led to workers' low representation security overall. Workers at large perceive that many of the labor leaders lack strong linkage with the workers and thus they are unable to understand, prioritize, and channel workers' interests. Lack of unity amongst labor organizations has been also perceived to have produced misrepresentation. Nonetheless, a comparison on the responses of major stakeholders in the sector showcases that labor organizations are yet most responsive in line with workers' demands over other stakeholders like employers, government, buyers, and nongovernmental organizations.

CONCLUSION: STANDARDS AND RIGHTS IN (IN)ACTION FOR GARMENT WORKERS

This chapter explored the labor standards and workers' rights in (in)action—whether and to what extent the standards and rights provisions have translated to economic security for Bangladesh's garment workers. Juxtaposing expected transformative action of standards and rights provisions for garment workers, the exploration in turn looked deep onto numerous indicators of the seven forms of economic security. The state of translation of standards and rights provisions into forms of security shows that such provisions have either partly or hardly translated. The two specific criteria—availability and effectiveness—for judging whether the transformative action is in place conveyed not so straightforward links between the two variables of standards and rights at one end and the

different aspects of economic security on the other. In all the seven aspects of security, the standards/rights provisions are available to varied levels but the effectiveness criterion shows that many of the provisions are made ineffective to translate into positive outcome. The three forms of economic security— job, skill reproduction, and labor market—which have been judged to be in slightly better shapes compared to the others, however, exhibit wide contrast in terms of availability of the provisions and its effectiveness.

First, job security—the standards and rights provisions related to job security have partly translated into promoting workers’ ability to pursue a line of work in conjunction with interests, training and skills, and allowing some control over the content of job and the opportunity to build a career. Garment workers have little control over the content of the job, and hardly have the opportunity to pursue work in line with their interests and accumulated experience. Salary rise and promotion lack specific guidelines as well, and are plagued with employers’ discretion. Nonetheless, the line of work itself provides scopes for workers with no prior skills and training to build up a career.

Second, skill reproduction security—the standards/ rights provisions relating to work-skill enhancement and skill development for alternative employment have been translated partially. On-the-job training through ‘learning by doing’ being the dominant form of acquiring skills for the workers, the job itself provides skills and training to develop capacities to continue the profession in the garment sector. However, such skills hardly provide alternative employment opportunities or at best provide limited opportunity to attain qualifications needed for socially and economically worthy occupations.

Third, labor market security—the standards/rights provisions related to workers’ scope of job switch within the garment sector, and opportunity to avail non-garments job

have translated mostly as opportunities of adequate employment opportunities. Workers lack opportunity of changing job types within factory as well as of availing non-garment job. The high opportunity of job-switch within the sector even did not bring workers enough power to negotiate the terms and conditions of employment on an individual basis due to the existence of large pool of unemployed job seekers in the sector.

The transformative action related to other four forms of economic security— income, employment, work, and representation—are avenues of low translation. This is because of not only the inadequacy and ineffectiveness of the provisions but also widespread restrictions and violations.

First, income security—the related standards/rights provisions for the sector are either inadequate or subject to violation. Non-compliance of the wage and wage structure provisions by the employers is a question of degree not of existence. The mode of wage payment largely depends upon employers' discretion, and hardly follows the government mandated wage structure. The violation of standards/rights provisions is more prominent in case of overtime. The rate of overtime payment often falls below the permissible figure. Work-hours and overtime-hours are not recorded properly, and the salary payment hardly corresponds to permissible working hours. Workers are deprived of due wages and benefits. Current minimum wage for the sector is set below the poverty threshold. Wage fixation is irregular, and does not corroborate to the minimum requirements for workers along with their families to live a decent living. The wage structure along with poor implementation of available standards/rights, and the non-existence of social supports both within and beyond workplaces relegate the garment workers to working poor.

Second, employment security—the related standards and rights provisions are either unavailable and ineffective, or misused. The contractual employment arrangement provisions as well as social security provisions are largely unavailable and ineffective. Large scale violation of the labor law in terms of uniform applicability of the provisions particularly on the length of leave, and due payment with maternity leave is widespread. The legal provision of allowing employers to terminate workers without explaining any reason by giving written notices is widely abused. Indeed it is much easier and cost saving to fire a worker than to make the maternity leave with pay available for workers.

Third, work security—the related standards and rights provisions as protection and safeguard against unsafe and hazardous working conditions are either insufficient or in a state of disarray. The workplaces lack sufficient safety provisions. The physical conditions of the workplaces are yet to be fully worker-friendly. Occupational risks and accidents are quite regular. Workers are neither insured against accidents and deaths nor the limits on working hours, timely working break, and night duty restriction for women as safeguards against unsafe and hazardous working conditions are maintained fully.

Fourth, representation security—the related standards and rights provisions are either discouraged or prohibited. The poor state of representation of the workers is evident by the non-availability of plant level workers' organizations (both trade unions and welfare associations) and low level of membership to the associations which exist both within and beyond workplaces. Workers hardly bargain with the employers through trade unions or any other associations, rather, the predominant modes of bargaining are through mediators and on an individual basis. The workplaces in practice lack formal procedures of grievance handling. The right to strike is perceived to be strictly prohibited. Workers' unawareness on

the existence and roles of trade unions outside workplaces though has been one of the reasons of low membership and participation in trade union activities, the prime cause for not joining a trade union or in its activities is the ‘fear of losing job’.

With widespread violations of standards and rights provisions, the garment sector is indeed faced with an enforcement crisis. The crisis involves standards and rights provisions related not only to protection against unfair or arbitrary dismissal and sudden loss of earning (employment security), but also to protection against and safeguards of unsafe and hazardous working condition (work security). The provisions to provide workers with the adequate income and other benefits for them along with their families to participate with dignity in their communities (income security) are either inadequate or commonly violated. Also violated frequently are the long established standards/rights provisions to provide a voice of the workers both at workplace and at labor market level (representation).

Interestingly, these four aspects of workers’ economic security—income, job, work, and representation—are the areas in which the rights elaborated in the Bangladesh’s legal frameworks and the standards originating from three transmitting routes have fully or mostly converged in terms of availability, but diverged widely in terms of effectiveness. This implies that forms of economic security though reflect overall the labor standards and workers’ rights; the extent to which workers’ economic security is achieved is hardly a function of how specific and detailed those are. The effectiveness of rights provisions does not fully explain the variability of translation. The work security related rights reflect fully of those of the standards both in terms of availability and effectiveness. The rights provisions related to other forms of security are too elaborate and specific, and conform to

the labor standards provisions, and accordingly, provide workers with strong coverage of available instruments. However, the inherent weaknesses of the rights provisions related to these three forms have provided workers with limited protection with low recourse.

The translation of standards and rights to economic security is not determined by straightforward linkages between the standards and rights at the one end and economic security on the other. Rather, it is the outcomes of how the trade-off between the conflicting interests of workers and employers are dealt with, and balance in between are achieved. Violations of workers' rights are the result of the acts of either omission or commission. How institutional mechanisms in place to balance the conflicting interests of workers and employers do fail to provide workers with access to rights and to economic security, to which I turn in the next chapter, are indeed shaped by the representation of workers in the institutional mechanisms for decision making, monitoring, and enforcement of such rights.

CHAPTER IX

INTEREST PARTICIPATION IN BANGLADESH'S LABOR GOVERNANCE: THE POLITICS OF REPRESENTATION OF GARMENT WORKERS

The transformation of labor standards and workers' rights into economic security for Bangladesh's garment workers is shaped by correlation between standards and rights at one end and economic security at the other end of the nexus. The effectiveness, not mere availability of standards and rights provisions, vindicates workers' economic security. Workers' rights violations, in essence, are the result of either act of omission or acts of commission. While non-prioritizing the imperatives of workers' rights, lacking the resources and institutional capacities needed to enforce rights are the acts of omission, deliberately putting working poor's rights at risk or even violating the existing provisions are acts of commission. In effect, the system of interest participation in labor governance—how the trade-off between the conflicting interests of workers and employers are played and balance in between are achieved—determines the outcome for workers.

The governance of work and workplace is about the regulatory framework and administration of industrial and labor relations. There is hardly any dispute regarding the fact that governance based on democratic principles has significant benefits for employers and workers. However, the benefits accruing to particular groups or even to individuals are based on the effectiveness of the participation mechanisms and representation modalities inbuilt in the enforcement mechanisms of labor standards and workers' rights. The governance of garment work and workplace is of no exception to that. The legal framework is one aspect of effective governance for transmitting labor standards and workers' rights to economic security. The effectiveness of institutions along with the role of different actors

in shaping the relationship between standards, rights, and economic security are important ingredients of the standard-right-economic security nexus.

This chapter evaluates the garment workers' interest participation and representation in Bangladesh as factors influencing the translation of labor standards and workers' rights into economic security. Here, I argue that the existing institutional mechanisms to balance between the conflicting interests of workers and employers apparently fail to provide workers with access to rights and to economic security on account of acts of omission or commission of both the state and non-state actors of the labor governance. The prevailing institutional mechanisms for channeling the conflicting interests that define the role of both the institutions and actors have been shaped by the industrial and labor relations of the country. Indeed, the trade-off from interest participation or balance between equity and efficiency in the process of representation is the reflection of the vision and logic of action of Bangladesh's industrial and labor relations. This chapter has been arranged in two core sections: the first is an analysis of the enforcement mechanisms and its representation modalities, and the second explores the politics of representation in garment sector's work and workplace governance.

**GARMENT WORK AND WORKPLACE GOVERNANCE:
INSTITUTIONAL MECHANISMS AND REPRESENTATION MODALITIES**

A range of factors determines garment workers' representation and participation. These include, among others, the institutional mechanisms in the regulatory framework, the efficacy of the labor administration system, the operation of various bipartite and tripartite institutions, the capacity and role of employers' and workers' representative organizations as well as industrial and labor relations' norms and practices. The following section

examines the role of Bangladesh's regulatory framework and labor administration from the vintage point of their contribution in putting the institutional mechanisms of representation and participation of garment workers in place.

Regulatory Framework

Labor laws and other forms of regulation govern the work and workplace. As such, broad based participatory mechanisms and effective representations of workers are the determinants for the transformative framework of standards and rights into economic security for workers. This primarily owes to that fact that the regulatory framework itself is the outcome of competing demands from different interest groups. Below, I analyze the forms of regulation related to interest participation and representation of workers.

Bangladesh's labor regulatory framework recognizes the indirect form of workers' representation through trade union(s). In addition to collective bargaining, it incorporates provisions of other indirect forms. There are two such forms in operation for factories outside of the EPZs: (a) Participation Committee, and (b) Canteen Management Committee. Workers' Welfare Society (WWS) is recognized as an indirect form for factories within the EPZs.

Bangladesh's labor law accepts that collective bargaining limits the authority and prerogative of management, and allows for the representation of workers' interests as against those of management. In view of that the BLA 2006 incorporates sections dealing with scope and procedures of bargaining and settling industrial disputes. There are

provisions of both bipartite collective bargaining and tripartite negotiations which involve government representatives in addition to employers and workers.¹⁴⁴

The rules pertaining to participation committee are quite elaborated in terms of formation and functioning mechanisms (BLA 2006, Section 205 & 206). These compel the employers to form participation committee with equal number of representatives of both the workers and the employers. The formation is, however, subject to numerical ceiling—a minimum of 50 workers in a factory is required. Also, the objective of setting up the committee is narrow, only to inculcate and develop sense of belongingness and workers commitment. It leaves aside overriding issues of workers' interests—wages, overtime rate, working hours, working conditions; this, in effect, limit the scope for negotiation. Furthermore, the recommendations of the committee are non-binding.¹⁴⁵ For instance, the Canteen Management Committee is only accountable to employers who employ more than one hundred workers. The processes of formation of the committee and the representation of the workers are not specified; scopes of participative representation are, thus, limited only in cases of determination of foodstuff contents to be served, and charges to be made (BLA Article 92.3).

The EPZ Workers Association and Industrial Relations Act 2010 (EWA-IRA 2010) permits employers in the EPZs to form WWS. The law, however, sets up excessive and

¹⁴⁴ By the process of bargaining, trade unions and workers are allowed to engage in joint regulation of workplace affairs with the employers. The tripartite structures allow workers to participate in information and problem sharing, consultation and negotiation along with the employers and government representatives.

¹⁴⁵ For most industries, the existence of participation committee is yet to a large extent on paper only. If those committees even functioned, there are ample scopes of ignoring or even rejecting measures suggested due to its unbinding clauses. As per the BLA 2006, the employer and the registered trade union shall take necessary measures to implement the specific recommendations of the participation committee within the period specified by the Committee. If, for any reason, the employer or the registered trade union finds it difficult to implement the recommendations within the specified period, they shall inform the Committee about it and make all out efforts to implement the same as early as possible (Art 208.2).

complicated requirements for minimum membership and referendum.¹⁴⁶ It can even delay the formation of WWS for a period of one year, if the first attempt fails to acquire sufficient support in a referendum. It also permits deregistration at the request of 30 percent of the workers even if they are not members of that particular association, and postpones the establishment of another association for a year.

The EWAIRA 2010 provides opportunities for negotiation, conciliation, and arbitration for disputes of both rights and interests. However, if the process fails, the parties involved in the dispute are not entitled to go for strike or lock-out.¹⁴⁷ Even though, the law allows the concerned parties to go to the EPZ Tribunal for settling dispute, as of now no such tribunal has been set up. The first is an act of commission by the government in the form of deliberately suspending workers' rights to strike, while the second—by way of not establishing instruments to enforce rights—is an act of omission.

The participative representation mechanisms in the EPZs are indeed weak due to three more reasons explained next. First, the law imposes strict restrictions on strike action even after the withdrawal of the current deadline of strike suspension (October 31, 2013)—possibility to prohibit a strike if it continues for more than 15 days and considered to be harming the productivity. Second, the law prevents WWS from receiving any supports (including fund) from any outside source (i.e., trade unions, workers' rights NGOs).¹⁴⁸

¹⁴⁶ A WWS may be formed only when a minimum of 30 percent of the eligible workers seek its formation, and this has been verified by the Executive Chairperson of BEPZA, who shall then conduct a referendum for forming the association. The formation is subject to votes by more than fifty percent of the eligible workers, and more than half of which in favor.

¹⁴⁷ When a dispute is raised, workers and employers can initiate bipartite negotiation to settle the dispute. If negotiation fails, any of the parties can request to the conciliator to conciliate the dispute, or even go for arbitration. If the process fails, the parties to the dispute are not entitled to go for strike or lock-out since the provisions are suspended till October 31, 2013 in the law.

¹⁴⁸ Any support from outside source is subject to discretionary power of the EPZ regulating authority. Prior approval of the Executive Chairperson of the BEPZA is mandatory for accepting supports.

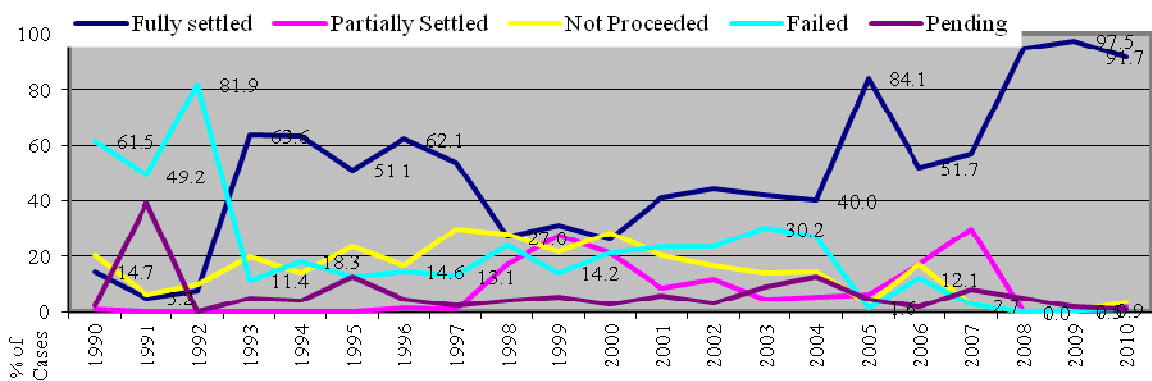
Third, the scope of interference in choosing workers' representatives still remains active since the procedure of election has been determined by the EPZ regulating authority—BEPZA.

In case of industrial disputes outside of the EPZs, however, the employer or the collective bargaining agent (CBA) on behalf of the workers has to go through three concrete steps i.e., negotiation, conciliation, and arbitration. In terms of coverage, both the rights-based dispute and interest-based dispute fall under its purview. The process, nonetheless, is cumbersome and dilatory. In principle, representation of workers through the CBA is accepted; though the efficacy of the representation mechanisms is questionable. Mainly, due to the fact that the garment industries hardly allow the trade unions to operate at the plant level, and accordingly, it fails the workers in terms of representing their interests through the selection of representative CBA(s).

In the recent years, percent of dispute cases reported to be fully settled through the conciliation machinery is more than 90 percent; the average fully settled cases during the first decade was 37 percent, which increased to 65 percent in the following decade (Chart 9.1).¹⁴⁹ It implies that when conciliation is utilized as means of dispute settlement, it works effectively in settling the disputes. However, over the years, only a small number of industrial dispute cases are taken up for conciliation. For example, during the period of 1990 to 2000, on an average, some 403 disputes per year went through the conciliation machinery, which was only 74 per year during the period of 2001 to 2010, and 246 cases per year during the period of 1990 to 2010 (see Annex Table 9.1). Of these disputes, only 57 percent were settled either fully (50 percent) or partly (7 percent) annually, while 15

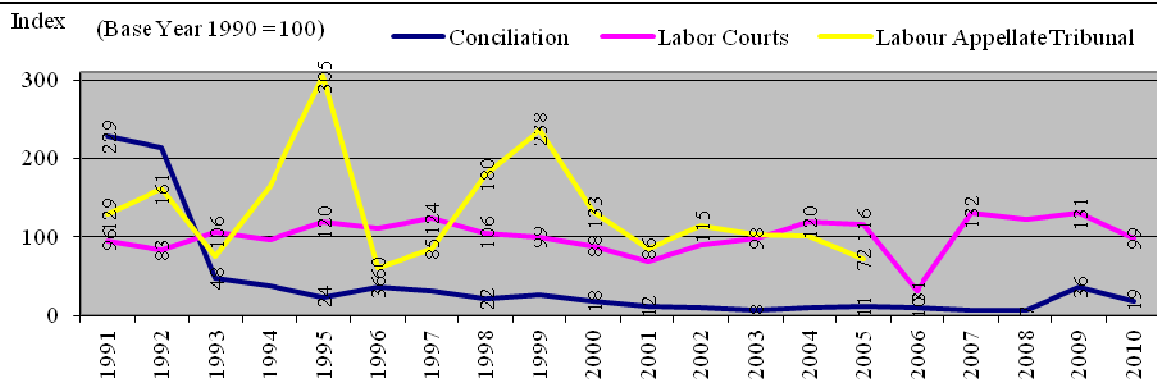
¹⁴⁹ Segregated data on garment sector disputes are not available. Only a small percentage of the cases above are from the garment sector itself.

percent failed at the conciliation level, and the remaining were either ended without settlement (21 percent), or remained pending (7 percent) (Chart 9.1). In contrast, on average 4995 and 274 disputes annually went through the labor courts and labor appellate tribunal respectively during 1990-2010 (see Annex Table 9.3). The comparative trends of industrial disputes taken up for conciliation against the cases referred to labor judiciary show that the first has a declining trend while the other is on the increase (Chart 9.2).



Data Source: Bangladesh Labor Journal, various issues, Department of Labor, GoB

Chart 9.1 Status of Disputes Taken Up for Conciliation



Data Source: Bangladesh Labor Journal, various issues, Department of Labor, GoB

Chart 9.2 Functioning of the Dispute Settlement Mechanisms

The other formal national tripartite institution that provides representative participation opportunities for workers is the Tripartite Consultative Council (TCC). It recommends on formulation of labor policy, amendment of the existing labor laws,

improvement of industrial relations, and adoption of ILO Conventions and recommendations by the Government. It currently accommodates 20 members each from workers, employers, and government. The absence of criteria for the selection of members, however, has led to change of representatives every time it is reconstituted (KII CS 3).¹⁵⁰ Obviously, the selection of members is in line with the allegiance to political party in power (KII CS 12). The institution too meets irregularly, and this irregularity renders representative participation opportunities of workers worthless.¹⁵¹

On the whole, the regulatory framework for bringing the balance between the conflicting interests is weak. Although, the government initiated framework incorporates instruments to ensure participation, it often fails to provide sufficient leeway to induce cooperation of the conflicting interest groups (i.e., the stakeholders). Both due to the acts of omission and commission by the government forces the formal bipartite and tripartite mechanisms to suffer in representing workers' interests. Accordingly, the grievances and disputes in the industrial sector including the garment are hardly dealt with through the formal regulatory frameworks.

LABOR ADMINISTRATION

The quality of work and workplace governance is determined partially by the efficiency of labor administration system promoted for policy setting, formulation, and implementation. At the centre of Bangladesh's labor policy formulation and implementation is the Ministry of Labor and Employment. Department of Labor (DoL) as one of its implementing

¹⁵⁰ The first council (National Labor Advisory Board) was formed in 1973, and then reconstituted in 1976, 1978, 1980, 1986, 1989 and 1991. The current council was formed in March 2009.

¹⁵¹ Till date since inception in 1976, the TCC held 51 meetings; the last one was back in July 2008 (KII GR 6).

agencies is responsible for overall administration and implementation of policies and programs. The DoL too acts as conciliation machinery that deals with labor disputes including strikes and lockouts. The inspection of factories, and prosecution against violations of labor laws in courts are prerogatives of the Department of Inspection for Factories and Establishments (DIFE). All garment factories except those in the EPZs are under the purview of DIFE's monitoring and enforcement, whereas for factories in the EPZs, the Department of Industrial Relations (DIR) acts as a substitute.

In spite of the presence of institutional mechanisms for enforcement of regulation, the effectiveness of those institutions is often questioned. Reasons of this are numerous, but two of them stand out. The first of the two core reasons is that it lacks resources to adequately inspect and carry out labor law enforcement. This includes not only lack of human resources¹⁵² but also shortage of transportation facilities and inspection equipments. The ILO Committee of Experts on the Application of Convention and Recommendation (CEACR) in its 2007 report noted that the human and material resources for inspection in Bangladesh were hardly changed in last two decades, whereas the number of registered premises and number of workers in those premises have increased by 67 percent and 140 percent respectively. Notwithstanding the regulatory obligation of the Government to appoint requisite number of inspectors for investigating workplace activities (BLA 2006, Article 318), only 92 inspectors are responsible for carrying out inspections in all the 25000 registered factories of the sector. Interestingly, although there are around 15 teams consisting three to four members per team currently conduct random inspections in all factories; only six of them are designated for the garment factories outside of the EPZs (KII

¹⁵² The DoL's manpower of 714 is spread over its one head office and four divisional offices, sixteen regional offices, four training institutes (Industrial Relations Institutes), and thirty Labor Welfare Centers in different industrial areas. Of 285 allocated personnel of DIFE only 226 are filled (KII GR 4).

GR 5). The situation is such that even if all the inspectors are deployed in the sector, the inspections would not be well-knitted. Similarly, only 60 Councilors of the DIR have been assigned to ensure the proper implementation of the EWAIIRA (KII ER 7). Whereas the scarcity of human and material resources left the garment factories outside EPZs almost uninspected, the factories in the EPZs more or less rely on foreign buyers' pressure to comply with the regulatory provisions.

The second core reason of weak enforcement is that the labor administration has been plagued by discretionary scopes. Investigation into any complaint and subsequent action largely depend upon the discretion of the inspector(s) due to lack of well-defined rules of inspection procedures. There is no in-built mechanism to listen to voices of the workers in cases of work and workplace law violations (KII GR 5). Indeed, inspection is rarely a regular event for the sector. Hossain, Ahmed and Akter (2010) reveal that almost over two thirds of the garment workers never found any government officials to come and inspect their workplaces. Workers too allege that the officers on inspection duty often return back without talking to workers; they take information from the employers only (FGD Gazipur 2). Inspectors only inspect factories/ workplaces only after accidents/ disputes take place. "Reacting to complaints rather than pro-active investigation driven enforcement is the norm for our labor department," says a workers' representative (KII WR 8).¹⁵³ The allegation of corruption of the inspectors is widespread (FGDs Dhaka 3, Narayanganj 1, and Gazipur 1). Indeed, negative perception of workers about the inspectors work to detrimental effectiveness. "Labor offices are always in favor of

¹⁵³ Such enforcement mechanisms which only act as reaction to incidents have been termed to suffer from the 'fire brigade approach.' "Partnering with the trade unions along with enhancement of resources, power and coverage of inspections could have been vehicle for increasing the reach and effectiveness of enforcement, but that has never been used," a workers' representative added (KII WR 8).

employers. They hardly respond to our call; even if they visit factories, they do not pay attention to our causes,” says a worker (FGD, Gazipur 1).

The enforcement mechanisms are further hampered by the low administrative status of the inspectors in Bangladesh’s overall administrative hierarchy. This is an instance of acts of commission by the government. Knowingly the obligation in the ILO Convention 81, to which Bangladesh is a signatory, to ensure the status and conditions of service of inspection staff is such that they are assured of stability of employment and are independent of changes of government regimes and of unwarranted external influences (Art 6), but the government has not accorded sufficient status and power to the inspectors. In effect, the decisions of the inspectors remain mostly unimplemented at the workplaces.

Again, the legal provision pertaining to penalties for labor law violations have made the existing enforcement institutions ineffective. The BLA 2006 provides numerous provisions of penalties—both financial and imprisonment—for the violation of labor law. These penalties are truly not at all significant (KII WR 4, 5, CS 1, 3, 13). Some of these penalties (Section 289, 290, 291, and 294) include: (a) imprisonment for a term which may extend to one year or fine which may extend to BDT 5000 (USD 71), or both for the payment of wage at a rate below than the rate of minimum wage; (b) fine up to BDT 3000 (USD 43) and imprisonment up to 6 months or both, based on the degree of severity of accidents, for failure to give notice of accidents; (d) maximum fine of BDT 10,000 (USD 142) and imprisonment up to 2 years for unfair labor practices; and (e) 1 year imprisonment and fine up to BDT 5000 or both for illegal strike or lock-out (see Annex Table 9.1 for the detailed penalty structure). The current penalty system fails in bringing a balance between savings accrued by violating labor law provisions, and the cost of compliance. In the

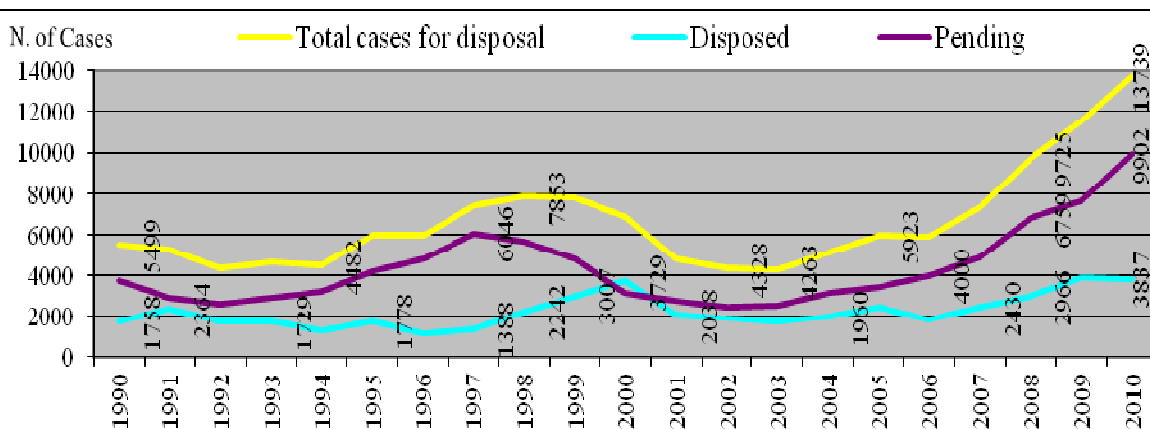
backdrop of numerous types of law violations, the government in an effort to change the provision of punishment for the labor law violating employers, the monetary penalty has been reduced to a BDT 5000 (USD 71) waiving the imprisonment provision (BLA 2006, Article 307). This move has indeed favored the employers, further weakening the effectiveness of the enforcement system that in turn results in piling-up of individual grievances and industrial disputes.

The labor courts deal with both industrial disputes and individual grievances. A dispute may be referred to labor courts by the employers, the workers, or by the government. Besides access to the Court and Tribunal, the law allows workers' access to the criminal court for offence of criminal nature. But there is also time limit of six months to file criminal case against employer. The jurisdiction of the High Court Division can be invoked on the grounds of violation of fundamental rights or any procedural error by the Labor Courts. Workers' access to justice, however, is time-bound.¹⁵⁴

While for workers filing a case at the labor courts is subject to time-limits, the time taken to settle a case is rather long. Most of the labor courts fail to dispose-off the cases within the statutory time limit of 60 days. "Six months to over a year appears to be normal, and the actual time for resolution can be much longer, particularly if brought to appeal," reports a key informant (KII CS 1). Farooque (2009) shows, about 50 percent of the cases at Chittagong Labor Court took a time period between 12 months and 36 months. The time required for 25 percent of the cases ranged between three years and five years. About 8 percent of the cases took more than five years. The average time taken to decide the cases by

¹⁵⁴ A worker is required to apply to the court within twelve months from the day of incidence. There is also thirty days time limit to appeal if the application to register trade unions is rejected. Any party aggrieved by an award, decision, sentence or judgment given by a Labor Court may proceed with an appeal to the Tribunal within sixty days of the judgment, and the decision of the Tribunal is final (Section 217).

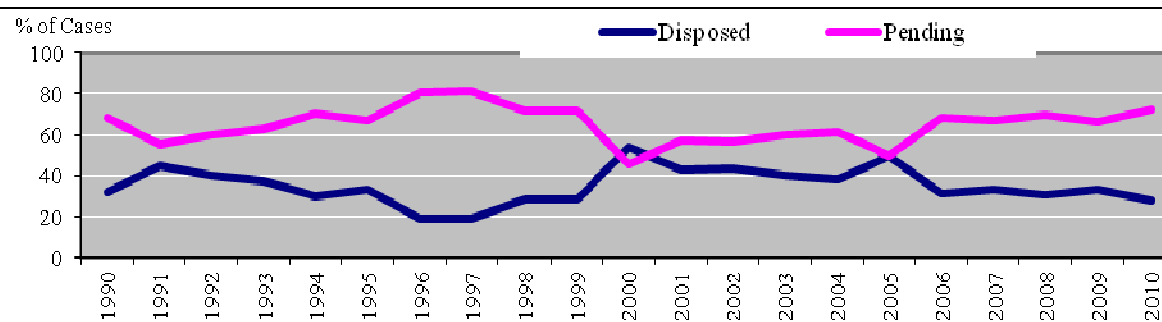
the First Court and the Second Court of Dhaka was more than 17.5 months and 31 months respectively. An annual average of 4047 cases were filed at labor courts during 1990 to 2010, of which on an average 2248 cases were disposed-off and others remained pending. The pending cases increased in proportion to number of cases filed (Chart 9.3, and Annex Table 9.3).



Data Source: Bangladesh Labor Journal, various issues, DoL, GoB

Chart 9.3 Industrial Disputes Handled by Labor Courts

The status of handing the cases in labor courts reveals the underlying weaknesses further. On an average during the last two decades around 35 percent cases were settled while the others remained pending and piled up for disposal for the next year. At the end of 2010, a total of 9,902 cases left pending. Interestingly, the comparison between the disposed and pending cases clearly indicates that the trend is a diverging one (Chart 9.4). While during the 2000 to 2005 period, the gap narrowed down, but the following period witnessed the gap to be widening, implicating continued weakening of the machinery in solving labor disputes.



Data Source: Bangladesh Labor Journal, various issues, DoL, GoB

Chart 9.4 State of Working of Labor Courts

The long time -period for settling disputes through labor courts is due to number of reasons. Two of which is of paramount importance in terms of government’s acts of omission in prioritizing resources to make the labor judiciary functional. First, on the account of adequacy of courts: the coverage of labor courts is low due to the inadequate number of courts. Currently, there are seven Labor Courts—three in Dhaka, and one in each of the four divisional headquarters. The maiden appellate tribunal with only one Bench is in Dhaka.¹⁵⁵ Second, on the count of composition of the courts: the BLA 2006 provides that a Labor Court shall consist of a chairman and two members—one of which is the representative of employers and the other is the representative of workers. This representative character of the labor courts is not extended to cases related to wage and payment, and to workers’ compensation for injury by accident (BLA 2006, Chapters X and XII) for which the court is constituted with the Chairman only. The chairmen of the courts are appointed by the government from sitting District Judges or Additional District. “The selection of judges for labor courts follows no standardized procedures, thus political pressure from the ruling party at times play important part for recruitment,” informs a key

¹⁵⁵ The inadequacy looms large against the vested power of the government. The government has according to the BLA 2006 the power to establish as many Labor Courts as it considers necessary. Also, the Government is empowered to appoint as many as members as required for the Tribunal to form several Benches for smooth functioning (BLA 2006, Article 214).

informant (KII CS 3). Remuneration and benefits of the members of the courts are reported to be poor leading to disinterest in attending court sessions. Absence of employers' and workers' representatives is often the cause to this kind of delay.¹⁵⁶

Another important barrier to access to labor judiciary is the lack of awareness about the entitlement. When asked at the FGDs, many of the workers wondered whether they really could take the employers to the courts. Hossain, Ahmed and Akter (2010) have shown that garment workers hardly know whether they can take legal measure in case of conflict with their employers. The lack of knowledge on the case-filing procedures, in effect, accentuates the emergence and growth of the middlemen (intermediaries) to access the legal facilities, which often cost the workers handsome amount of money. The discontent in terms of the access to justice is widespread amongst workers. They allege that the court always favors the employers; the nature of the verdict often depends on the amount of money given as bribe, muscle or corrupt practices (FGD Dhaka 5).

In summary, the labor administration for promoting compliance with labor laws and for resolving labor disputes is weak. Not only broad based participatory mechanism and effective representation of workers are lacking, the administrative mechanisms often fail to provide the workers with amicable solution of grievances and disputes due to either non-prioritization of the imperative to make labor administration functional for workers, or deliberately putting workers' at the vulnerable end. The acts of omission and commission allow labor administration to deny the voices of the workers effectively, let alone bringing a balance between the conflicting interests of workers and employers.

¹⁵⁶ Unreasonable delay due to time petitions by the employers has been reported by workers. A garment worker's testimony to this end is a case in point. "I had been spending over last one year in the corridors of the labor court with the hope that one fine morning I shall get my job at the Anjeer Apparel back. I see regularly that the management hardly takes heed of the Summons of the court and was able to deny justice to me by asking extension of time," says a garment worker (FGD Gazipur 2).

Overall, the presence of hierarchical power in the labor governance established through legal provisions and lack of enforcement has been the key to workers' grievance and industrial disputes. The failing regulatory framework to induce cooperation and collaboration is one of the reasons for the continuance as well as aggravation of the conflicting nature. The weak labor law enforcement mechanisms fail the workers in terms of grievance handling and dispute resolution. Both the regulatory framework and administration provide weak machineries in bridging the conflicting interests of workers and employers. A wide gap in workers' representation continues. This lacuna is filled in the sector in an *informal way* since the formal institutions hardly provide avenues to handle grievance and resolve disputes. Arguably, development of the informal labor relations within a formal production process is indeed unique to Bangladesh's export garment manufacturing sector resembling the distinctive character of *indirect* workers' participation and interests' representation of theirs, to which I turn next.

WORKERS' INTEREST REPRESENTATION: CHANNELS AND OUTCOME

The participative interest representation system in the garment sector to constitute, aggregate, resolve, and mediate diverse interests of individuals and groups is a complex one. The complexity is due mainly to the fact that the formal system of interest representation and participation as articulated above is poor and heavily tilted towards employers. How workers' interests are aggregated, articulated and transmitted within the narrow vision and logic of action of the industrial and labor relations, and in the absence of formal legal and administrative commitments to participatory process, are thus determined by its informal system. The channels of interest representation and its subsequent outcome in terms of balancing the conflicting interests are presented below.

Interest Representation Channels

Industrial disputes and conflicts are unavoidable parts of industrial and labor relations because of the differences of interests. The current worker-employer relationship is precarious as it does rely upon an unfair balance of power; hence, it is liable to degenerating labour unrest and industrial disputes. The forms of interests of garment workers, and the process of aggregating those interests into groups and in turn articulating the interest-led demands delineate the interest representation channels for garment workers.

The monetary demand related workers' interests are most obvious since these clearly pull in opposite directions in the conflicting interest between labor and capital. A common sense answer to the question why do garment workers and management engage in conflict is that workers want a better wage while the employers try to minimize the cost. If this is true, it is only a partial answer. Garment workers, as evidenced from the previous chapter, are subject to systematic exploitation, violence, and repression, long and stressful working hours, casual employment relationships, and exclusion from the social rights, protection and benefits they are entitled to. In line with those, garment workers' resistance against labor standards and workers' rights violation in work and workplace reflect their interests.

The industrial and labor relations in the sector have hardly been harmonious since its inception, but began to worsen since the late 1990s. The conflicting nature, however, is most pronounced in the recent years. Numerous authors (e.g., Dannecker 2004, Mahmud and Kabeer 2006, Mahmud 2009) document the systematic exploitation of the workers as the ground for workers' movement to emerge. Mahmud (2009) even argued that workers failed to mobilize for their rights as workers and citizens due to barriers spanning from the

cultural, social, and the economic spheres of the lives of garment workers. True, problem of poverty along with the lack of voice, agency, and organization of garment workers as embedded in Bangladesh's hierarchical social and economic relationships make the workers highly risk averse. The extreme negative attitude of employers coupled with workers' economic vulnerability constitutes a powerful disincentive to mobilization (Mahmud 2009). This is not to claim that no individual protest takes place. Individual action by garment workers even by women transcending the feudal, religious, and traditional gender relations is increasingly being used to protest unfair treatment, to bargain for higher wages, or to demand arrear payments. Nonetheless, workers' resistance against labor standards and workers' rights violation is primarily collective.

Evidently, in every year during the period of 2006 to 2010, on an average, there have been around 162 cases of workers' collective resistance against the violation of labor standards and rights.¹⁵⁷ In the same token, in 2006 and 2007 the numbers of such cases were 115 and 120 respectively, the other three years witnessed more such incidences than the average. Higher number of incidences was recorded in 2008 and 2009 numbering 195 cases each, and in 2010, the number of agitation cases was 183. Indeed there were strikes and protests just about every week during the last five years—over three such cases each week. Although, during the months of June to October in each year, the number of incidences is higher, hardly there is any month during the period in which there is no incidence of agitation and protests (Chart 9.5).

¹⁵⁷ No database on workers' resistance against labor standards and workers' rights violation exists. I have recorded such incidences case by case from the DIFE's reports of industrial disputes which inspectors considered each year, along with the print media reports (from 10 national dailies). True, not all the disputes are taken up by the DIFE, and also reported in the print media. The minor incidences obviously do not come to light, thus, the number of workers' agitation and disputes would be higher than the numbers reported here.

Workers' resistances have been related to wage and benefits in general and working hours, payment schedule, and low wage in particular. The analysis of the resistance cases reveal that during 2006 to 2010 about 59 percent (53 percent for due wage and overtime payment, 3 percent for delayed payment schedule, and another 3 percent for due employment benefits) is somehow related to monetary dues; and only 19 percent is related to the increase in demand for salary and benefits (Chart 9.6). Workers' protests are while largely in response to specific violations of rights such as non-payment or delay in payment of wages and overtime, their demands also relate to working hours, leave and rest, and freedom of association and collective bargaining (around 1 percent of cases each). Lay-off or factory closure was the background to around 7 percent of workers' protests. Violation of employment contract, particularly employers' misconduct and unlawful and arbitrary dismissal were the causes behind around 12 percent of incidences in the sector.

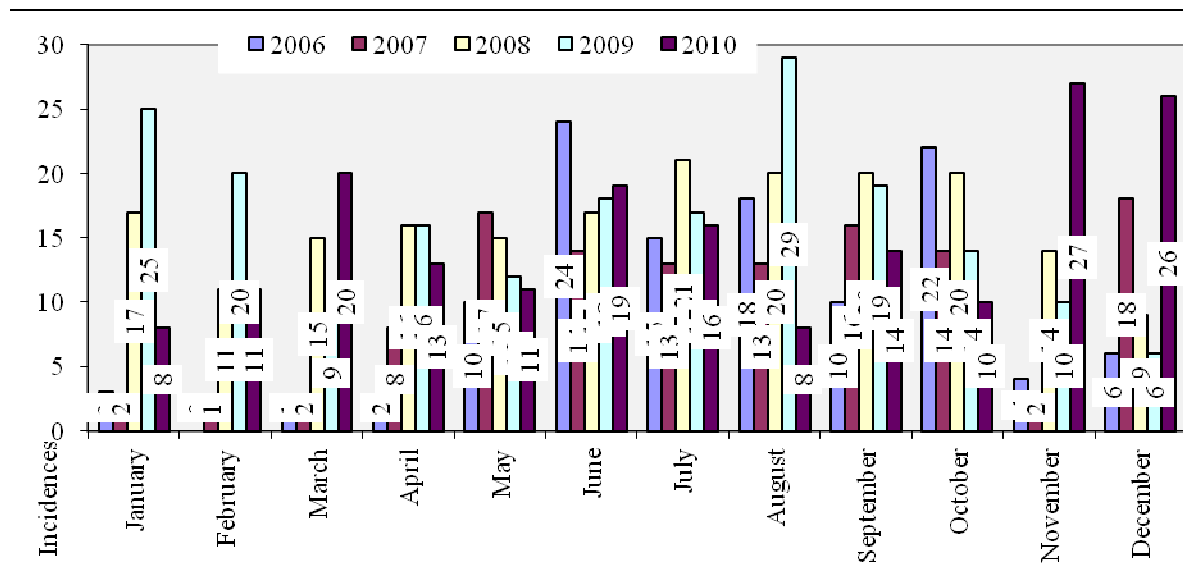


Chart 9.5 Monthly Distribution of Garment Workers' Agitation

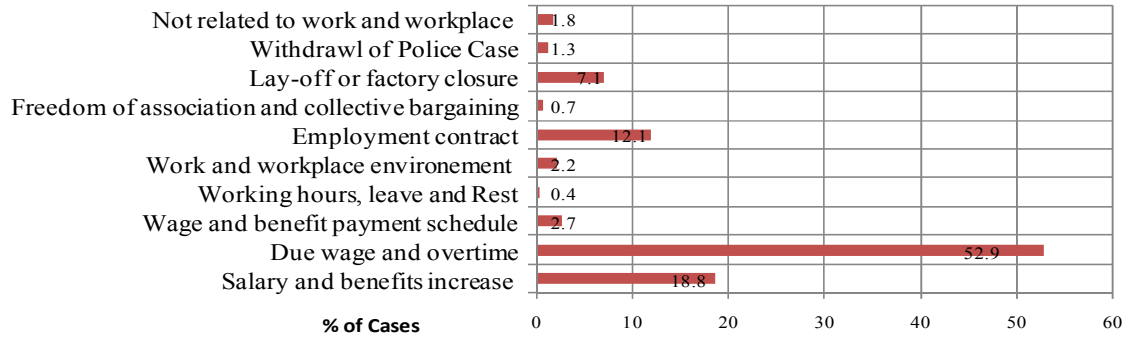


Chart 9.6 Background Demands in Garment Workers' Agitation

The demands are broadly work and workplace related, and specifically in relation to systematic exploitation much of which is beyond the demands of a decent living from the current below poverty-level wages. Overall, the interests are general in nature, not at all of any special types. The spatial and sectoral distribution of the incidences showcases that profoundly. In almost all the areas, where there are garment factories, there are protests and agitations. The incidences are closely proportionate to the number and type of factories in different areas. Dhaka and Gazipur districts while witnessed large proportion of the number of agitations (48 percent and 36 percent respectively), woven factories were the sites of 62 percent of incidences and 31 percent of incidences were recorded in knit (including sweater) factories (Chart 9.7).

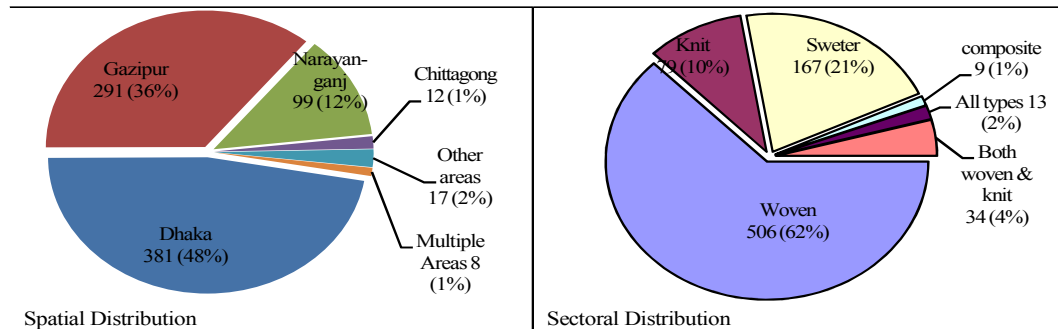


Chart 9.7 Spatial and Sectoral Distribution of Workers' Agitation

The work and workplace related general interests are exhibited by two other facts of the of workers’ agitations. First, the majority sites of workers’ agitation and protests were either solely inside factory (59 percent) or started from inside the factory and stretched beyond (36 percent). The focus of the conflict was predominantly individual factory. Around 81 percent of agitation cases during 2006 to 2010 were targeted towards individual factory; mass scale protests were recorded in around 19 percent cases (Chart 9.8).

The manifested workers’ interests pursued by their representatives go far deeper than the problem of poverty level wages. Temporary contracts, systematic exclusion from social security benefits, repression of trade union organizing, and problems in accessing state provision of basic services are often the issues taken forward by the representatives along with the problem of low wages. However, the workers’ interests as exhibited in their agitations are of latent nature. The latent interests get manifested by workers themselves only when systematic exploitation becomes unbearable to them.

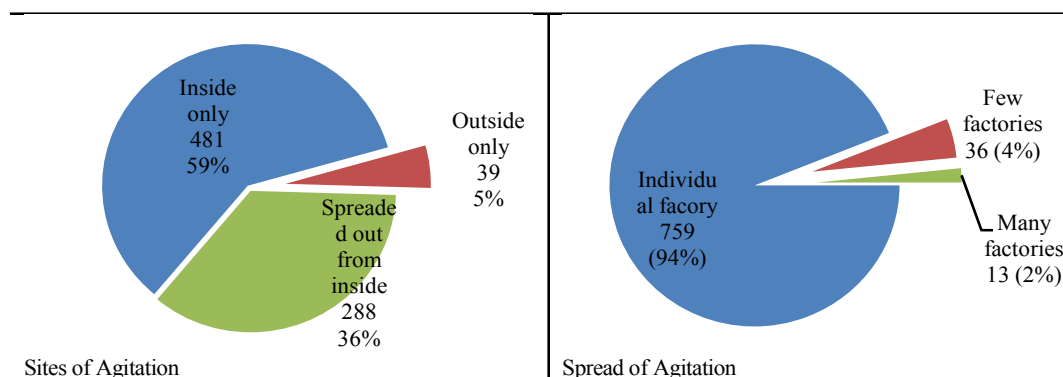


Chart 9.8 Sites and Spread of Workers’ Agitation

The reason of the interests being latent is that workers keep their grievances suppressed since they understand that expression to which might lead to abuse by mid-management or even to job loss. The workers identified fear of job loss as the main reason

for lack of initiative for collective action. The cost of individual protest is individual— it is quite easy for management to fire one worker without creating too much of a disturbing effect on other workers. Workers see moving to another factory as an easy and relatively less costly alternative to protests and mobilizations.¹⁵⁸ Thus, the interests are mostly covered and only get ignited with sudden outburst of a particular incidence e.g., humiliation and abuse, termination of job, or even sudden lay-off or closure of factories. When conditions become too oppressive or there is no scope for bargaining, a worker either simply leaves the job (for good or for joining another factory) as a silent protest, or channels the demands through formal or informal interest groups. When managements arbitrarily dismiss workers or even keep workers wage and overtime payment unpaid, workers are often left with little option but to stage a public protest in the hope of forcing the employers to listen to them, or the government to intervene on their behalf. Whether the latent-general-workplace related interests of garment workers would be expressed individually or collectively by themselves, or if expressed in which form are, however, determined by how such interests are aggregated together and articulated, which is where I am to turn next.

Interests Aggregation and Articulation

Garment workers' interests groups are of both formal as well as informal types of organization. The manifested interests take the form of associational groups explicitly to represent the interests of garment workers, and of institutional groups pursuing social and political functions in promoting workers' interests. These are the formal organizations

¹⁵⁸ I am not claiming that the garment workers do not make individual protests. Usually the individual protests, according to Mahmud (2009), are carried out by (a) more experienced who think that (s)he will be able to find new job quickly; (b) who thinks that her/his claims would be backed up by fellow colleagues; and (c) who is desperate.

through which workers' interests are clearly articulated. The latent interests take the form of non-associational groups—rarely well-organized but having common identity e.g., issue at hand, and of anomic groups—generally spontaneous with a collective response to a particular grievance.

The national level and industry-wide trade union federations are the institutional groups. According to records of the Register of Trade Unions, there are 32 national-level trade union federations representing workers in various industry including garments.¹⁵⁹ In the garment sector itself, there are sixteen national garment labor federations, and twenty Dhaka division based garment federations.¹⁶⁰ Another key institutional group is the alliance of the National Federation of Trade Unions—*Sramik Karmachari Oikkya Parishad* (SKOP). The plant level trade unions are the associational groups for the sector. According to the records of the Register of Trade Unions, there are 7,297 plant-level unions in the whole industrial sector of which only 139 unions are in the garment sector (DoL 2010). These plant level unions are affiliated with the 36 national and division based garment federations. The garment factories in the EPZs are still exempted from forming trade unions, and instead, workers are allowed to form associations (WWS) on the basis of referendum by workers. A total of only 128 such workers' associations have until today formed in 282 enterprises at 10 EPZs of the country (BEPZA 2010). In view of the

¹⁵⁹ National level federations are combination of basic and industrial federations. According to Article 200(5) of BLA, 2006, not less than 20 trade unions formed in different types of industries may, jointly, constitute a federation on national basis. According to the records of the Register of Trade Unions, these federations include 1264 plant level unions in different industrial sectors of Bangladesh.

¹⁶⁰ According to Article 200 (1) of BLA, 2006, any two or more registered trade unions formed in establishments engaged, or carrying on, similar or identical industry may, if their respective general bodies so resolved can constitute a federation by executing an instrument of federation and apply for the registration of the federation. At present, a total of 108 industrial federations are registered.

inadequacy of plant level unions and associations, the sector's workers' representation is carried out by multiple national and/or industrial federations.

Whilst multiplicity of these groups is an important feature, it is also one of the great weaknesses in representing workers' interests. The weaknesses span from autonomy— independence of the representative mechanism from the employer and government, to legitimacy—relationship of the representatives to the constituency represented, and to efficacy— articulation of a coherent workers' voice by filtering multiple, fragmentary and often contradictory interests.¹⁶¹ Proliferation and fragmentation of trade unions have been widespread, and have badly undermined their efficiency, representativeness and credibility. Four of the following factors are indicative of its failure to be truly representative.

First, along with the non-representative character of the unions at the plant level, the ever growing organizational multiplicity suffers from poor organizational strength caused by lack of membership. The official statistics on membership widely vary with the claims of leaders of respective trade unions (see Annex Table 9.7 for the varied membership claims). Even if one takes the testimony of the labor leaders into account, hardly three national level federations (Bangladesh Mukto Sramik Federation—BMSF, Bangladesh Jatiyatabadi Sramik Dal—BJSD, Jatiya Sramik League—JSL, and Bangladesh Sanjukta Sramik Federation—BSSF) have members around 0.2 million of workers. Other federations' membership ranges between around six thousand members to 0.1 million

¹⁶¹ The labor movement in Bangladesh had been weak although a glorious past is often highlighted by the present day trade union leaders. Even if one accepts those movements as partially successful, those movements are the offshoots of various political movements developed against various repressive regimes such as colonial and military ones. Hence, many historical peasant and worker movements e.g., Fakir-Sannyasi movements, Faraizi movements, Swadeshi movements and Khilafat-non-cooperation movements against the British colonial regime, six-point demand movements during the 1960s and the anti-autocratic movements during the 1980s lacked independent working class character (Rahman 2009).

members. Needless to say, these members are from whole of industrial sector not from the garment sector alone which employs over two million workers itself.

Second, the female membership in trade unions varies widely, ranging from as low as two percent to as much as around 33 percent (BILS 2009). The average rate of female participation in the selected federations stands at around 16 percent. This is, however, due to fact that three federations namely Bangladesh Jatiya Sramik Jote - BJSJ (43 percent) Bangladesh Mukto Sramik Federation – BMSF (32 percent) and Jatiya Sramik Federation – JSF (33 percent) exhibit higher percentage of average female participation. While these three federations’ average female participation rates seem to be outliers in comparison with number of other federations, three federation’s namely Bangladesh Sanjukta Sramik Federation – BSSF, Jatiya Sramik League –JSL, and Jatiya Sramik Federation, Bangladesh - JSF,B female participation as members are very low representing 2.0, 4.7 and 5.0 percentage points respectively (Annex Table 9.7). Low female membership of the trade unions highly contrasts with the overall percentage of women employed in Bangladesh, estimated around 24 percentage of the workforce, and over 70 percent in the garment factories. This reveals that men disproportionately occupy membership of trade unions, percentage of women joining trade unions remains generally lower than the percentage for men, while in contrast, there are more female in the garment sector vis-à-vis male workers.

Third, unions along with their members are highly politicized, and devoid of any working class ideology.¹⁶² The multiple national and industry-wise federations are mainly

¹⁶² Trade unions in Bangladesh lack any unique working class ideology. Either of the two ideologies developed during the early twentieth century in the region i.e., radical and leftist in the jute and cotton mills, and the tea gardens in Bombay and Bengal, and the *Sattagrah*—non-militant, peaceful and democratic movements introduced by Gandhi in the cotton textile mills hardly instilled in their working. Politicization of unions and its leaders is evident by the lack of distinctive ideological base like Revisionism in Germany,

the result of political outsider wanting to establish unions of their own with a view to increasing their political influence. The different political views among the workers and their unions coupled with opportunism of trade union leadership are largely responsible for the multiplicity (Khan 1986). Indeed, almost all the trade union federations are affiliated with political parties.¹⁶³ Even, the alliance of the national federations—SKOP which had originated to act as collective national platform with diverse ideological backgrounds, gradually weakened its strengths because most leaders have had political affiliations and therefore, could not escape the influence of their respective political parties (Nuruzzaman 2006). True, few trade union leaders, specially belonging to left-leaning political parties have never changed their political affiliations. As well, not all unions explicitly claim to be affiliated with a political party. The reluctance to engage in allegiance is, however, due to either fear of repressive measures against the leaders by the regime in power or possible gains from incumbent or future regime. Indeed, due to the ideological divide coupled with factional split, trade union strengths have become disjointed.

Fourth, the trade unions suffer heavily in terms of finance in representing workers' interests. The average income of most of the unions has been low and almost inadequate to carryout regular advocacy through direct and indirect means. This is not because of the poverty of the workers but because of certain other factors including workers' apathy towards trade unions, and trade unions' competition amongst themselves (KII WR 6).

Syndicalism in France, Fabianism in England, or Class Collaborationism in America as well as by the existence of the traditional social formation largely based on feudal and peasant relations (Rahman 2011).

¹⁶³ The biggest trade union federations are the labor fronts of the three large political parties of the country – the Bangladesh Nationalist Party (BNP), the *Awami League* and the *Jatiya Party*. Trade unions and political parties are closely affiliated both financially and through networks. The top leadership of the political parties appoints labor leaders either from within the working class or from the rank and file of the parties with which the trade unions are affiliated. In either case, the appointed labor leaders remain loyal to the parent political parties. Indeed, with a change of political regime, there often is also a shift in union alliances between federations. Thus, the ruling party's confederation usually has the most affiliated unions.

Under condition of competitive multiplicity, most of the unions are interested in increasing their membership figures rather than collection of subscription regularly (KII WR 12). The insufficiency of funds adversely affects low-coverage of unions' ability to represent, and at the same time it also compels to depend on the blessings of the government, donations from political parties, employers, and international NGOs rendering their positions vulnerable to manipulation even against the interests of workers.

The non-associational and anomic groups, in contrast, are perceived to be more representative to workers' interests due to the existence of workers' apathy in expressing their interests through formal channels. There are unregistered trade unions numbering over thirty. There are too loosely structured platforms of unions and union leaders e.g., Garment Industry and Workers' Protection Alliance, Garment Sramik Sangram Parishad, and Garment Workers Unity Council, and forums run by workers' rights NGOs e.g., Sramik Nirapotta Forum which work to uphold garment workers' interests as non-associational groups. These platforms have less formalized structure, and many of them are issue based e.g., OSH, living wage. Nonetheless, all these groups consist of people who share a common interest. These groups are of a latent in nature.

The anomic groups in the sector are spontaneous uncoordinated protests by the workers themselves. The less confrontational struggles on the factory premises take place through workers coming together spontaneously to lodge a complaint with the factory management. In situations of extreme and prolonged violation of rights primarily related to delay and non-payment of wages and overtime dues, protests spill onto the streets and to other factories. Along with the regular demand of due wage and benefits, compensation, wage and benefits hike, it often requires a sudden action by the owner/management to

spark off an outburst that unites all the workers and moves outside the factory floor. These triggers harassment and abuse of workers (5 per cent), or closing factory, or sudden lay-off of the factory (7 per cent), or police cases filed against workers (2 per cent) (Chart 9.8). With no mechanism within enterprises to alleviate labor-management tensions, worker dissatisfaction often builds up over a long period, and protests are sparked off by a specific incident. Protests are perceived to be ways workers can motivate employers and government officials to take their interests and aspirations seriously.

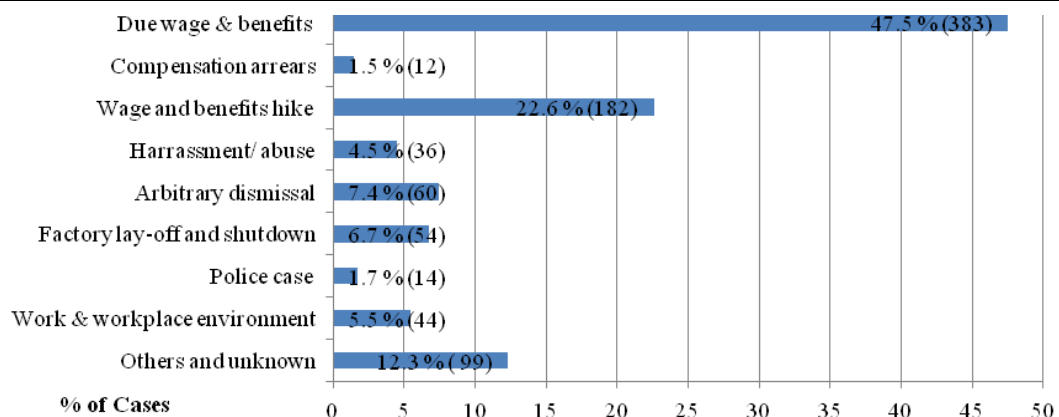


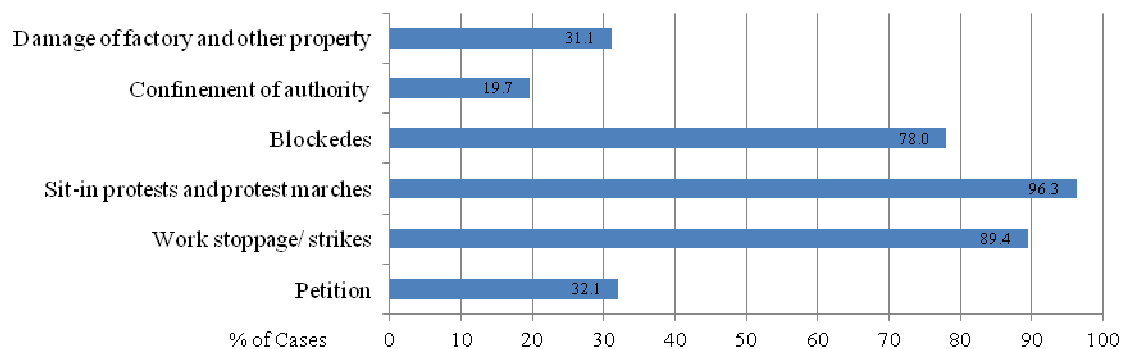
Chart 9.8 Triggers of Workers' Agitation

The outcome from the interest representation depends upon how do diverse interests groups influence (or fail to influence) the policy making process. Two different channels are in place: (a) interest advocacy; and (b) interest intimidation. Through both channels, the demands, intentions or inclinations of individual and/or collective actors are provided to political parties, government, bureaucracies, legislature, public, and mass media. The influence for a particular outcome is, however, done through either direct or indirect means.

The institutional and associational groups take the legitimate and constitutional channels, and their means for establishing rights as well as for protesting to violation of rights take the form of continued public advocacy. Despite the fact that these direct means of advocacy predominantly involve personal contact and petition, they also use indirect means—addressing the public by petition, demonstrations etc., to gain publicity in the media and by doing so, public support. The non- associational groups which have over the years been more formalized due to enduring nature of workers’ demands act similar to the associational groups, and continue advocacy through both official and unofficial means on issues related to payment of below-poverty level wages, delay in payment, excessive hours of work, abusive treatment, and the appalling health and safety conditions. While these groups’ mode of raising voices are at most times organized and official in nature, they at the same time resort to movements such as street protest, occupation or *gherao* of a manager’s office or a factory, spontaneous and sporadic outburst, vandalism, assault and militancy largely representing spontaneous, unorganized and unplanned forms.

The latent-general-workplace related interests are expressed collectively by workers’ themselves in anomic groups. The interest articulation tactics involve indirect means of addressing the employer, government and public e.g., wild-cat strikes, demonstrations, sit in protests and protest marches, blockades, confinement of authority, and damage to factory and other property. In nearly nine-tenth (89 percent) of the agitation cases during 2006 to 2010 involved some sort of strikes, with the numbers of participants ranging from a few dozen to over thousands. Many strikes erupted seemingly without warning when factories were operating normally, and the workers spontaneously left the sewing/knitting machines and walked out of the job. Sit-in demonstrations at the factory

gate or in nearby roads, and protest marches were used in over 96 percent of cases. In close to one-third (32 percent) of the cases, collective petitioning or sending representatives to employer(s) to air workers' grievances was used. In around 20 percent of cases, confinement of authority has been used as the tactics for pursuing demands. Blockades of major transport arteries such as roads and highways had been another favored tactic to amplify the public impact of their protest, and force the employers and government to take notice. At least, more than two-third cases involved blockades. Close to one-third cases involved damage to factory or to other property, attacks on bosses' representatives or clashes with security and law enforcing agencies (Chart 9.9).



Note: Multiple tactics recorded

Chart 9.9 Interest Articulation Techniques

Overall, the institutional and associational groups along with non-associational groups make best use of interest advocacy to influence policies. Based on the autonomy, legitimacy, and efficacy, these groups hardly are able to articulate a coherent workers' voice by filtering and prioritizing multiple, fragmentary and often contradictory grievances and aspirations of garment workers. In contrast, perceiving that available forums for interest representation are inadequate or dysfunctional, the anomic groups resort to the strategies those engage workers in civil disobedience to gain publicity in the media and by

doing so, public support and policy influence. The next section follows the consequences and outcomes to interest intimidation and articulation.

Interest Articulation Consequences and Outcome

Both the interest advocacy and interest intimidation channels of interest representation lead to negotiation of interests. But, the consequence to the first strategy of public advocacy is less direct and immediate. In contrast, the interest intimidation route provides direct and immediate outcomes. Depending on the modes of interest articulation and forms of workers' participation, the consequence to and outcome of interest representation diverge.

Consequence to Interest Representation

The immediate consequence to individual protest is usually mixed. This ranges from the promise of consideration of demands by employers, to threats of job termination and intimidation, to abuse and job termination and falsified charges. "In case we complain, normally they (employers) don't listen to us. They use bad language and hurl abuses on us and tell us to leave the job. At times, they listen, only when other workers support the cause," says a worker (FGD Narayanganj 1). Workers reported that the language is often so abusive that they are either ashamed to return to workplace the following day or forced to stage public demonstrations with the support of colleagues. The following cases illustrate how the abusive behaviour turns into work stoppage and public demonstration.

The workers of the sewing section of one of the factories of Outright Group at Kafrul, Dhaka stopped work and started demonstration after Production Manager slapped a female worker for her faulty work. They staged demonstrations in front of the factories to press their 14-point demands, including immediate payment of their annual increments. Workers of two other factories of the group nearby expressed solidarity to their demands and joined demonstrations, leading to closure of all three factories for three days (DSI Media Report Database, June 29, 2006).

Workers' testimonies too reveal that the costs of mobilization and participation in protests are quite high. The workers who do participate in protests have their salaries cut or even sacked causing resentment to workers to outburst, and for colleagues to express solidarity. The following case bears the testimony of the dynamics of such transformation.

Around 1700 workers of Merina Apparels went on a rampage in Fatulla industrial area over termination of jobs, leading to a clash with police that left 30 workers and three policemen injured. The management of Merina Apparels sacked over 230 workers on charge of assaulting a factory official. Several hundred workers of other adjacent garment factories joined them. They barricaded Dhaka-Narayanganj roads for about one hour and vandalized a number of garment factories, and vehicles (DSI Media Report Database, October 30, 2007).

There are number of incidences in which workers' were handed-over to the police on cases of alleged theft and misbehaviour with management consequent to complaints. The first agitation noted below provides evidence to the fact that bitterness caused due to harassment and filing police cases against workers led to further protests. A number of agitation cases burst into out of proportion with the employers' handling of protests by hired hoodlums.

The second case shows the dynamics of such transformation.

Over one thousand workers of the Uro Mode Fashion went on rampage ransacking the garment factory and the BEPZA office in protest of 'assault' on two workers. Workers alleged that two of their colleagues were beaten up and handed over to police when they went to the management to know about a rumor of their retrenchment (DSI Media Report Database, August 18, 2007).

At least 50 workers of a garment factory in Tejgaon, Dhaka were injured when over 200 outsiders, allegedly hired by the factory authorities, attacked the workers who were protesting the repression of two of their leaders by the authorities. The outsiders beat up the workers, mostly women, and also confined five workers to the office of an executive of the Padma Poly Cotton Knit Fabrics. Police rescued the workers in unconscious state several hours after the incident. Over 2000 workers laid a siege to the factory following a rumor that the five workers were beaten to death inside the factory office (DSI Media Report Database, January 10, 2007).

The harsh treatment of the management on issues of shared interests turns the individually articulated interests subsequently into a collective one. The collectively

expressed interests, however, take different forms from sit-in protests and protest marches, blockades, confinement of authority, and vandalism. The promise of consideration of the demands/interests of the workers by the management/ owner, in contrast, usually persuades workers to continue the work as usual. The following two cases point to the workers' willingness to carry on work with the assurance of consideration of their demands.

Garment workers of Shikder Apparels in Narayanganj put up barricades on Dhaka-Sylhet highway, demanding payment of two-month salary arrears and overtime bills. During the hour-long blockade, the workers damaged a number of rickshaws. They removed the barricades after the factory owner assured them of paying their salaries soon (DSI Media Report Database, July 8, 2007).

About fifty workers of A&A Garments in Gazipur staged a demonstration in front of the factory demanding payment of their arrears. The workers put a barricade on Dhaka-Gazipur highway, however, withdrew after they were assured that the arrears would be paid within a month following a meeting held between law enforcing agencies and owners of the factory (DSI Media Report Database, June 21, 2007).

Nevertheless, “the promises to enhance wages and overtime, payment of arrears, and improved working conditions are hardly kept,” says a workers' representative (KII WR 13). Workers grievances pile up, and are kept suppressed until it finds suitable to vent out. The unwillingness of employer to discuss and negotiate with workers, and not fulfilling the assurance of consideration of the demands turns into further agitation and protests. The following case stems from the unwillingness of an employer to discuss and negotiate with workers.

Garment workers blockaded Rokeya Sarani, Dhaka and halted vehicular movement for over four hours protesting the expulsion of workers and suspension of production. The workers of SQ Sweaters, who have been agitating to realize their nine-point demand for the last six months, earlier withdrew the programs following the local ward commissioner's assurance of setting up a meeting of employer and workers. Fresh agitation flared up as the owner did not have the meeting with the workers in the stipulated one-month time instead left a notice on the factory gate of suspension of production for 15 days and expulsion of 28 workers for their involvement with the workers' movement (DSI Media Report Database, July 2, 2006).

The following two workers' agitation cases highlight the fact that the failing to fulfill promises turns into further protests and agitations. Such cases during 2006 to 2010 are numerous. The cases below thoroughly highlights that the un-kept promises of employers are dormant reflexes waiting for a trigger to burst into strikes of different sorts.

A garment worker of Savar EPZ was killed and more than 300 vehicles damaged during a clash, which originated from Universal Garments, after the owner of the factory failed to meet the deadline for payment of salary. Workers of other factories came out on the street, set two factories on fire, damaged more than hundred factories and put up barricades to drive home their demands. More than a hundred persons including workers, police and journalists were injured as employees loyal to the owners attacked the workers (DSI Media Report Database, May 26, 2006).

A few hundred workers of Joya Garments at Kanchpur clashed with police and barricaded Dhaka-Sylhet Highway for demand of festival (Eid) holidays. This clash follows from the earlier demonstrations inside their factory demanding their wages and festival bonuses, and subsequent assurance of the owner to pay their bonuses. But the authorities in the stipulated time paid bonuses in full to only half the workers and only one third of the bonuses to the other half. Workers set up a barricade on the highway protesting against discrimination. Police charged truncheons on the demonstrating workers who retaliated with bamboo sticks and hurling brickbats. The clash left at least 20 people, including policemen and pedestrians, injured. Several hundred vehicles were stuck in queues that stretched well over nine kilometers on the highway (DSI Media Report Database, September 30, 2008).

After a strike breaks out, the employer often calls in security guards or law enforcing agencies to seal-off the main factory entrance and prevent workers from getting outside to the streets, and staging demonstrations or blocking roads. The sealing-off the factory gate hardly diffuses the grievance rather fuels it. Such is the agitation case of Joya Garments in Narayanganj in which three security guards and thirty workers were injured in a clash between the agitating workers and the security guards.

The clash ensued when the agitating workers, who staged demonstrations demanding wage hike and protesting termination of some of the workers, tried to get out of the factory premises. The guards refused to let them go out which prompted the clash. The workers threw brickbats at the security personnel while the Ansar members fired 10 rounds of bullets in the air. The workers later put a barricade on Dhaka-Sylhet highway for an hour (DSI Media Report Database, January 25, 2008).

The workers' resistance cases during the period 2006 till 2010 show that intimidation through the security forces and hired hoodlums, and temporary shutdown of factories are often used strategies of the management to calm the agitation. Employers see such strategies as prudent to avert damage of valuables and continue production. One of the employers says, "Workers go for work stoppages and violent actions even on silly grounds. The owners are forced to close their factories to avert damage of valuables." "We try to help resolve the problems concerning wages and other facilities of workers. But they appear reluctant to take our help," he goes on (KII ER 4). However, such strategy to disperse agitation itself produces new grounds for further agitations. Particularly, this is the case when workers come to the factory for work but find out that the factory gates are locked for indefinite period, or information floats on the verbal and physical abuses of workers by mid-management or by their hired hoodlums, or police cases filed against workers. Indeed, the issues related to arbitrary dismissal, verbal and physical abuses and intimidation through security forces give vent to resentment to outburst.

The mishandling of the labor disputes at the enterprise levels are the triggers to others protests and agitations. The sudden shut-down of factory is a particular case in point.¹⁶⁴ With the intimidation, and closure of factories, many of the workers' protests while turned out to be severe labor disputes spreading across factories and even to neighboring areas, these cases at the initial level were either peaceful sit-in strikes inside factory or outside public demonstration. The following three cases show how factory shutdown consequent to workers' unrest or fear of unrest spiralled into further violence.

¹⁶⁴ Most factory closures do not even conform to the labor law provisions—advance notice of one month to workers and/or their representatives, publication of notice in newspapers, and duly informing the labor inspector.

Several thousand garment workers of Youngone Group at Dhaka EPZ came out of their workplace and demanded immediate resumption of operations at all units. Workers refrained from work after they failed to convince factory authorities to resume operations of one of the units—Savar Sportswear Ltd—as promised. Workers of the unit showed up to work in the morning and burst into protest seeing indefinite-closure-notice of the factory at the main entrance (DSI Media Report Database, June 26, 2006).

Apprehending violence by workers on eve of the festival in demand for wages, bonus and other facilities, three garments factories owned by foreign investors at Dhaka EPZ have been closed for indefinite periods. Of the three factories, Indian-owned GB Garments with around 400 workers was closed apprehending unrest on demand of longer festival vacation. Earlier, Korean factory Softex Garments with 2,200 workers and Taiwan-owned A-One Garments having 3,500 workers were closed for similar reasons (DSI Media Report Database, September 2, 2008).

Several hundred workers of Tongi's Nippon Garments staged protests in front of BGMEA office demanding outstanding salaries and reopening of the factory. The workers laid a siege on Panthapath link road. Three people had died in the late October labor unrest following the closure of the factory. The workers at that time alleged that the authorities of the garment factory announced the shutdown suddenly to deprive them of festival bonuses (DSI Media Report Database, January 5, 2010).

When a blockade occurs, security forces are called in to persuade and if needed discipline the protesters to abandon the action. Occasionally, such actions are sufficed to temporarily stifle workers' anger and prevent escalation, but it also creates more tension. This is because, with the refusal to comply, law enforcing agencies forcibly disperse the workers only to be gathered elsewhere close to the factory unorganized. Such blockades have often led to confinement of authority, and civil disobedience leading to blockades of highways, torching of transport and property, and often to solidarity strikes. In most of these incidents, there were physical clashes between protesters and law enforcing agencies. These clashes led to injury to or even death of members of both sides. The following three cases jointly showcase the consequence as grievances further transmitting into solidarity protests and into multiple agitations.

One person was killed and at least 100 people were injured while over 250 factories and 200 vehicles were ransacked, as garment workers in tens of thousands rampaged through the city and its suburbs to press home their 11-point demands. The workers ran amok on

streets, ransacking and setting fire to garment plants, other industrial units, and vehicles, besides some business establishments and a few houses along the Dhaka-Mymensingh Highway. The violence that erupted in Savar and Gazipur aggravated and fanned out to Uttara, Mirpur, Kafrul, Tejgaon, and Old Dhaka (DSI Media Report, May 24, 2006).

Several rounds of violent clashes between garment workers and law enforcers in Gazipur and Savar left 60 workers and 10 police injured. In Savar, several thousand workers of Biswas group poured out on Dhaka-Aricha highway demanding two months' back pay. Police fired around 30 rounds of teargas shells and over 100 rubber bullets in Konabari, Gazipur to quell the workers who were demonstrating against sacking of their co-workers from Standard Garments, and following a rumor about the death of another. During the clashes, raging garment workers smashed at least 20 vehicles in Savar and Konabari. A fierce battle between the workers and police erupted. In another incident, workers of Diganta Sweater Factory in Gazipur went on a rampage following a rumor about one of their colleagues' death in the factory. Workers became furious as the rumor spread, and ransacked machines and vehicles. They also barricaded Gazipur-Tangail road. As police rushed to the area to bring the situation under control a fierce clash broke out (DSI Media Report Database, August 31, 2008).

More than 200 workers of Shed Fashion, AM Design, Medlar Apparels in Jamgora, Rising Group in Kathgora and New Age Garments in Narsinghapur and 20 policemen were injured in clashes between the two sides after the workers protested the new wage hike, which they say is still too low. Vehicular movement on the Dhaka-Tangail highway remained suspended for about four hours after the angry workers put barricades on the road. They attacked several business establishments and vandalized vehicles including two police vans. Meanwhile, garment workers and activists of Communist Party of Bangladesh clashed with police in Narayanganj leaving at least 55 people injured. Police arrested 12 workers on the EPZ-Abdullapur road. Several garment factories had announced holiday fearing further clash (DSI Media Report Database, August 1, 2010).

Consequent to the above protests, police cases and mass arrests followed. In the first workers' agitation instance above, several cases were filed against unnamed workers; and the police arrested over 100 garment workers. The following two workers' agitation cases further highlights the charges made against workers were numerous, and number of workers charged is quite large ranging as many as sixty thousand unnamed workers.

The Chittagong EPZ authority filed a case accusing 50 unnamed workers for the alleged attack by the workers of the Uro Mode Fashion Limited. Over thousand workers went on rampage ransacking the BEPZA office and the garments factory to protest assault on two workers (DSI Media Report Database, August 18, 2007).

A total of 50,000 to 60,000 unidentified workers have been sued on charge of assaulting police and ransacking garment factories in Ashulia, Dhaka. More than

two hundred garment workers and members of law enforcement agencies were injured in series of clashes. The factories have been shutdown following the workers' agitation pressing demand for a minimum wage of Tk 5,000 per month (DSI Media Report Database, June 23, 2010).

Throughout the period 2006 till 2010, trade union leaders and worker activists were not spared by the law enforcing agencies. Workers' leaders who could have mediated the conflicting interests of the employers and workers, they themselves have been under fear of prosecution. "We are afraid of further repression and job loss if we launch agitation at this moment when the police force is working in favor garment owners. They randomly arrest us, different intelligence agencies gave us continuous threat by visiting our office," says a trade union leader (KII WR 10). Police arrested the then Garments Workers Oikhya Forum President Moshrefa Mishu during the mass agitations of workers both in 2006 and 2010. A leader of Garment Sramik Trade Union Kendra—Montu Ghosh—was arrested for his alleged involvement in instigating mass protests in the third instance above. Both the arrests proliferated into further battles of workers with the law enforcing agencies. During the period of 2006 to 2010, several labor rights activists including Moshrefa Mishu, Montu Ghosh, Bahraine Sultan Bahar, Shamima Nasrin were charged with criminal offenses. The police itself filed around 50 cases against workers and trade union leaders during last couple of years in charge of destruction and vandalism. It shows that the authorities remain keen to press for punishment of protesters, including penalties for breach of public order and sometimes also criminal sanctions in suspicion of 'illegal assembly and staging demonstrations.' But rather than helping to resolve disputes, it actually created the conditions for other disputes to emerge and escalate into severe forms. The outcome of such vicious reproducing violence is what I elaborate in the section that comes next.

Outcome of Interest Representation

The analysis of the agitation cases during 2006 to 2010 truly amplifies two outcomes. The first outcome, *denial of interests*, is that employers refute the workers' interests even the undisputable ones. Workers' resistance to standards and rights violations and interest aggregation for those standards and rights' promotion and protection are hardly accepted by the employers publicly. Accordingly, the outcomes are either of no action or handling of interests indiscriminately fueling further grievances and resentment. And the second outcome is a *coercive agreement*. The employers are forced to sit and discuss to settle the difference of interests. The government too is induced to act as mediator in the process. Of importance, both the outcomes are in one way or the other related to the power dynamics in representing interests.

In over 46 percent of the agitation cases during 2006 to 2010, no action followed for balancing the interests of workers against that of the employers. Indeed, the act of denial led the employers to terminate workers (around 3 percent), close factory *sine die* (15 percent) and file police cases against large number of unnamed workers and labor leaders (9 percent) in their bid to disperse workers' resentment. In around seven percent of cases the outcome is unknown (Chart 9.10). In all these cases, the denial led to condemnation of interest articulation mode thereby defaming workers and their genuine interests.

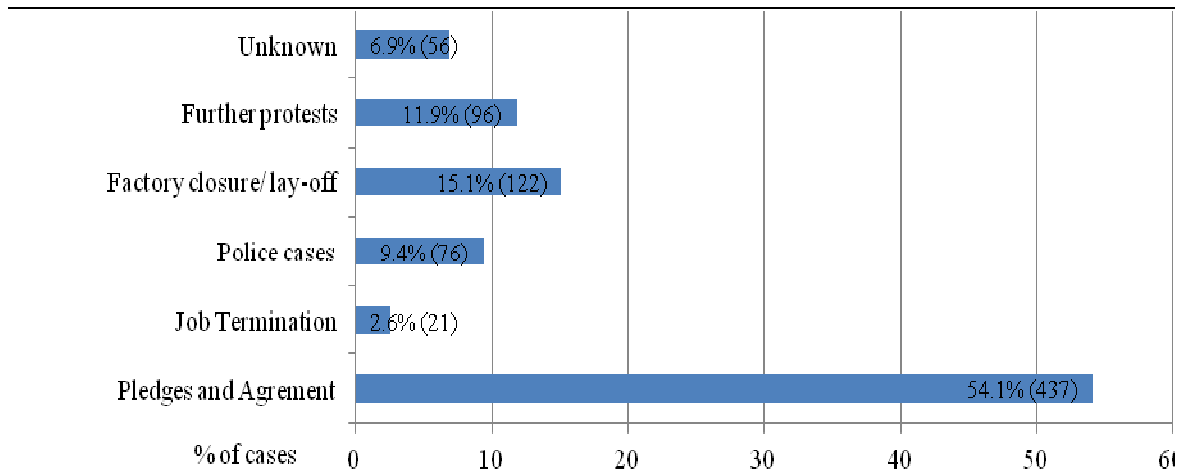


Chart 9.10 Outcomes of Garment Workers' Interest Aggregation and Articulation

The shift of blames is one aspect to defaming the representative interests. Employers and their association leaders argue that workers' agitation is not really workers' grievance centric rather a product of outsiders. An employer's representative says, "Compared to wages and benefits in any other sector, the earning is reasonable enough for workers not to go on agitating for pay-hike" (KII WR 1). Despite that, a sort of induced acceptance of workers involvement in protests is there. An agreement amongst the employers that prevails is that "against the backdrop of spiraling prices of essentials, workers may not find the pay and benefit structure reasonable anymore." The employers' public statements during the period, however, are in the line of "workers hardly can torch the factory on which their livelihoods depend." Undeniably, the issue of ownership of work and workplace quite often had been overemphasized. This is particularly so, since workers had over the years been known that there are hardly any institutional mechanisms to express their grievances and settle disputes. More importantly, the sector's workers retention rate is quite low (see Chapter 8, Table 8.1). A period of permanent employment in

a particular factory sufficient to instill a sense of ownership is hardly employment contract for most of the workers.

Drawing attention to the enviable growth in garment exports, employers and their associations' leaders are always quick to find foreign conspiracy of the rival countries—who they believe—are out to push Bangladesh out of global garment trade by tarnishing the image of this sector through some local help.¹⁶⁵ The denial of workers' interests has indeed worked to successfully playing down the workers' genuine interests and mode of interest articulation, and as such earned the workers, their representatives and supporters the bad name of rowdy troublemakers. The employers' associations on several occasions named numerous national and sectoral level trade union leaders, and NGOs as local collaborators in making the all-out efforts to drive-away the buyers from Bangladesh's lucrative market. The shift of blames, when the employers felt appropriate, also did not exclude the government. The government too was blamed for its inaction in containing the agitation and violent protests. It is obviously accompanied by warning to the public and the government that the export industry is in jeopardy should the disruptions to production continue.

The politics of representation that contributed to the employers' success in playing down workers' interests are due to—what Keck and Sikkink (1998: 16) call—tactics of information, symbols, leverage, and accountability. The employers were able to quickly generate politically useable information and move it to policy makers and public.

¹⁶⁵ The denial and shift of blames are such that the employers claimed to have been convinced that garment workers have had no involvement in the agitation for wages and other benefits. "The factories which came under attack are those where wages and benefits for the workers are always up-to-date and monitored by the buyers. These factories are in compliance with labor laws, thus, there is little scope for workers' commotion," says an employer's representative. "Instead of putting blame for protests on the grievance, the government should try to probe the source of instigation and conspiracy," he adds (KII ER 1).

Highlighting the enviable growth in exports as well as its role in Bangladesh economy, employers and their associational leaders were able to question the legitimacy of workers' demands and of the channels of interest articulation. The way the issues are regularly framed and presented to the policy-makers and public and the meanings and sentiments that are attached to the issues of competition and country's survival in globalized market really make things moving to the employers' desired direction.

The symbolic politics adds momentum to the direction. Business leaders and policy makers joined hands in expressing their grave concern over deteriorating law and order situation, and the need for immediate and stern action to contain the protests.¹⁶⁶ The conspiracy argument are often put forward to vindicate the good intentions of the labor sector institutional groups, human rights and labor rights NGOs, and academics in promoting peace in the sector as well as wining positive outcome for workers. The employers' strategy is also to win public opinion; thereby they even on occasion resorted to public demonstration against 'unruly' workers. The highlights of employers' good intentions for the country and for the workers, in contrast to stories of workers' violent agitation in regular corporate media outlets—both print and electronic—played-down not only the mode of workers' interest articulation but also the demands themselves.

Employers' leverage over workers and trade unions is explicit in two forms, both material and moral. They effectively used material leverage by focusing on the sector's vulnerability to global competition. They were successfully able to instill the sense in the

¹⁶⁶ For example, in the backdrop of the workers' unrest in 2010, joint statement signed and issued by top leaders of nine trade bodies said: "The business community is deeply shocked and extremely concerned over the deteriorating law and order situation in the industrial sector" and urged government's sincere and proactive initiatives to contain unrest (The Financial Express, August 2, 2010). Government too was moved in that direction. The ministers of two successive regimes during 2006 to 2010 warned the agitating workers of severe punishment for disruption to industrial peace. They too smelled outsiders' involvement in instigating unrest, and publicly stated "Some external forces were involved in the violence." On numerous occasions they held trade unions and NGOs responsible for instigating agitation programs.

public and policy makers that Bangladesh faces significant competition both from countries higher up the value chain with higher productivity and quality, and better links with buyers, as well as from the countries with lower wages that are aggressively seeking to enter the same markets as Bangladesh. As, obvious, lamenting that foreign buyers are wary of the industry's reliability due to continual labor unrest, it was always accompanied by warning to the public and the government that the foreign currency earning and future inward investment in the country were in deep trouble. Moral leverage involved mobilization of shame—where the act of vandalism of workers is held up to the light of public scrutiny. Most importantly, they were able to hold government to their stated policies and principles conforming to establish industrial peace and competitive advantage through its industrial and labor relations.

In the backdrop of the politics of representation of the conflicting interests, the solution to the unrest in the sector has been propagated to install industrial peace by any means. As such, the series of escalating violence induced the employers to come to accepting or pledging to accept some of the workers' demands immediately after workers' protests only to restrict escalating the violence. During the 2006 to 2010, at least over half of the agitation cases (54 percent) were settled either fully or partly through pledges of settlement or actual agreements between the workers and employers. In such agreements, in most of the cases, government agencies were part to it. Either the issues raised were settled through the mediation of labor inspectors or law enforcing agencies like police and RAB. During this period, two of the tripartite agreements on review of wage along with other issues were made. Trade unions leaders—who hardly have had any part in the agitation itself and also have any command over agitating workers—were co-opted too in

the process of negotiation or in a later stage in the signing of the memorandum of understanding (MoU) between employers and workers.

Neither the employers nor the government try to understand the true nature and causes of the labor disputes and protests that have erupted across the country in recent years. Both the actors see labor disputes as conflicts that had to be managed and controlled. The rushed bipartite negotiations between employers and workers representatives after every severe instance of worker's agitation, and subsequently coming up with some form of MoU between the two parties which hardly get to implemented is evidenced to the fact that the employers as well as the government by somehow want to keep the production process in order. The series of agitation and demonstration in same factories even after the agreement is proof to that. The agreements often have elements that are priory known that it would not be implemented fully. Indeed, the evidences to sticking to the agreed MoU terms by the employers are not that widespread. This is true too in case of the tripartite agreements. The review of 2006-2010 agitation cases show either an abundance of cases full of broken promises or at best dilly-dallying implementation of the terms—making workers only disillusioned and almost certainly forcing them to revert to the tried and tested pattern of wild-cat strikes and demonstrations in a bid to get what workers want.

The reason for the un-kept promises or dilly-dallying implementation is not that only the employers are unwilling to abide by, but also for the terms which is set out to fall below workers' expectations. Workers' interests do not move up the ladder in the negotiations and ultimately in outcome for a good number of reasons.

First, after series of agitation and protests, workers are forced by their fellow colleagues to settle the difference quickly enough so that industry operates and the personal income for living, albeit meager and irregular, continues.

Second, workers are kept under pressure to agree to whatever terms negotiated by trade union leaders with the filling of police cases against large number of unnamed workers so that they are not harassed on top of loss of income.

Third, as in most of the cases the agitations were spontaneous in which both sectoral and national level trade union leaders have hardly any part come or brought into the scene as the showcase of agreement. Following most of the agitations, employers found it difficult to negotiate since hardly these protests had any leaders. The spontaneous agitations often allure the union leaders to get involved and win outcome for workers in a bid to establish their stronghold in the competitive trade union positions. Thus, in effect, it acts to harm the representative character of interests promoted, and the outcome itself.

In view of the employers' and also of the government's intention for a quick fix, the obvious actors to be negotiated are those trade union leaders whom they believe would be negotiation-worthy—ideally nearest political allies and with whom garment owners' associations have close working relations. This leads to exclusion of latent groups completely and part of associational groups partially. The cases reviewed during 2006 to 2010 show that in most of cases the bilateral agreement were represented officially either by trade unions which are affiliated or closely related to party in power, or members of the employer's associations crisis management committee.¹⁶⁷ None of the worker activists and

¹⁶⁷ The bilateral conciliation cum arbitration committees both in BGMEA and BKMEA are represented by number of trade unions whose strength, coverage along with sustainability are allegedly depended on the employers' associations. "Numerous proxy unions are in operation to malign workers genuine demand," says a trade union leader (KII WR 7). "The employers' associations regularly promote those name based

labor leaders who suffered from threats, intimidation and attacks by employers, and the law enforcing agencies was ever made party to any negotiation and agreement.

The tripartite agreements are also no exception to that. Workers misrepresentation to two minimum wage-boards established by the government and subsequent negotiation resulted in poor pay package for workers. The minimum wage of BDT 1662.50 (USD 24)¹⁶⁸ per month in 2006 not only fell below the workers' and their representatives' expected minimum requirements, but also was a step backward if yearly rate of inflation is added to its previous low level of BDT 930 which remained unchanged for over twelve years since 1994. Garment workers during the run up to new wage structure both in 2006 and 2010 had to go through unusual price hike of food-grains and essential commodities— affecting garment workers along with other working poor disproportionately since a very high percentage of their income is spent on food items and basic necessities for their survival (Hossain and Asaduzzan 2006, Hossain 2010). The demand from all the interest groups of workers was BDT 5000 (USD 71) per month as the minimum wage.¹⁶⁹ The 2010 wage board set minimum wage at BDT 3000—having no way close to workers' demand of

organizations. These organizations seek government invitation to different forums, and survive through regular pay and gifts particularly before festivals and May Day from industry associations and its leaders,” he added.

¹⁶⁸ The minimum wage board on June 9, 2006 announced the final structure fixing BDT 1662.50 as the minimum monthly wage including basic salary, house rent and other allowances for the entry level (grade seven) workers. Minimum wage including basic salary, house rent and allowance for grade one worker was fixed a total of BDT 5140, BDT 3840 for grade two, BDT 2449 for grade three and BDT 2250 for grade four, BDT 2046 for grade five and BDT 1851 for grade six. Total monthly wage for apprentice was decided to be BDT 1200.

¹⁶⁹ The demand was even below the minimum amount, calculated by Hossain (2010) to be BDT 5378 for a worker to live on or is sufficient to allow workers to support their families and maintain a safe, healthy standard of living in their communities.

the minimum requirement for a worker's subsistence living.¹⁷⁰ It too falls below the level promised by the government.¹⁷¹

The nominal minimum wage increase from 1,662.50 to 3,000 taka is 1,337.5 taka or 80 percent. But in real terms, the increase is much less. In view of the around 70 percent increase in cost of living since 2006, garment workers would need BDT 2,826.50 in 2010 wages in order to maintain the purchasing power that BDT 1,662.50 had in 2006 (CPD 2010). The real pay increase for workers is, thus, around 174 taka (10 percent). The new minimum wage is still a malnutrition wage. The amount set as minimum wage in subsequent boards has indeed been a poor way to help the workers. The amount even does not allow workers to live in a situation where they will be able to access food intake for her/ him along with family members similar to that of a person who is a prisoner¹⁷² or hospitalized¹⁷³ (Hossain 2010).

¹⁷⁰ The government on July 29, 2010 formally announced the new structure with effect from November 1, 2010. The minimum salary at the entry level was fixed at BDT 3000, a total of BDT 2000 as basic salary, BDT 800 in house-rent and BDT 200 in medical allowance. The apprentice level wage was fixed at BDT 2500.

¹⁷¹ The Bangladesh Parliamentary Standing Committee on Labor and Employment urged the government to declare "a time befitting minimum wage structure." On July 21, the Prime Minister weighed in on the wage debate with a speech in Parliament, terming garment workers' wages "not only insufficient but also inhuman" and observing that "workers cannot even stay in Dhaka with the peanuts they get in wages." Raising the hopes of garment workers, the prime minister argued that owners should also give a portion of their profits to the workers for their survival (The New Age, July 22, 2010).

¹⁷² The prisoners are, naturally as an instance of subsistence livelihood, provided with the minimum level food required for a person to survive. According to The Jail Code of 1920, livelihood requirements have been decided for the prisoners confined in different jails of Bangladesh. The food items are supplied in the jails by local suppliers where price varies from place to place. According to the TCB price index for Dhaka city, the minimum cost of food items prescribed for a prisoner is BDT 52.39 per day. The market price for the allocated amount of food for the prisoner is BDT 1571.70. If the daily allotment of food amount is calculated for an average family in Bangladesh, it means the family would require BDT 7544.16 to have access to same level of food items that are allotted to be consumed by the every under trial prisoner (Hossain 2010).

¹⁷³ The current minimum wage is far below than a person who is hospitalized. Of course, a hospitalized person requires more nutritious food. Keeping that aside, if the daily allocation per hospitalized person for food in government managed hospitals are considered, it makes it clear that the garment workers are hardly in a position to avail similar food items of same nutritional value. In government hospitals, the allocated amount for food for a patient is BDT 75. The allocation imply that for 30 days the allocation for a person would be BDT 2250, and for a family of 4.8 members similar level of food intake would cost BDT 10.800 (Hossain 2010).

There is no denying the fact that the employers had always been inflexible in listening to demands of the workers as well to calls from a broad range of civil society members and even from the buyers to enhance wage to a decent level.¹⁷⁴ Government calls too for a decent living wage hardly were listened to.¹⁷⁵ Nevertheless, the reasons for this inequitable outcome for garment workers go beyond the employers' unwillingness to acts of misrepresentation. The sector's wage is decided through the tripartite negotiations of government, employers, and workers. The unwillingness of the employers could have hardly deterred had the members in board acted in a representative manner. Indeed, the politics of representation determined the outcome from both the boards. Undeniably, the misrepresentation was not only related to participation in the wage board negotiations but also in the process of giving legitimacy to the inequitable outcome in the events that followed the declaration of new wage scale for the sector.

The garment sector's minimum wage board consists of six members including two representatives each from employers and workers—one permanent and one representing the sector—along with a government nominated chairman and an independent member. The selection of workers representatives in wage board is *de jure* a prerogative of the government; as such the party in power selects the member.¹⁷⁶ The permanent member

¹⁷⁴ Some of the garment industry's customers - who include leading retailers in Europe and North America - have also told the Bangladesh government that they were keen to see a fair and reasonable wage hike. At least one major retailer has stated publicly that it will absorb the higher cost of garments from Bangladesh. "H&M will accept the price increase that might arise as a consequence of the salary revision," said CEO Karl-Johan Persson in a letter to the Prime Minister Sheikh Hasina (DSI Media Report database, August 18, 2010).

¹⁷⁵ Fairness from industrialists for workers has often been stressed. Prime Minister Sheikh Hasina, speaking in parliament on June 2, 2010, even urged industrialists to be more sympathetic towards workers in paying their wages. "I will urge owners to show more sympathy to the workers while paying their wages and to consider inflation and other such factors in calculating wages," she said, responding to a supplementary question during the PM's question and answer session (UNB, June 3, 2010).

¹⁷⁶ The member to represent the employers and the workers are appointed after considering nominations, if any, of such organizations as the government considers representative of such employers and workers respectively.

selected to the 2006 Board—Jarful Hasan, a reputed career trade unionist, has/had been involved with the then party in power (currently in opposition)— Bangladesh Nationalist Party (BNP)—as General Secretary of its workers’ wing Bangladesh Jatiyotabadi Sramik Dal (BJSJ). The permanent member of the 2010 board (Habibur Rahman Shiraj) had direct connection with the party in power since he held (currently too) the position of Secretary of Labor Affairs of the party in power—Bangladesh Awami League.

The workers’ representative for the sector selected in the 2010 board (Shamsunnahar Bhuiyan) has trade union background but hardly had any relation to organizing workers’ in the garment sector. The representative to the same board in 2006 (Nazma Akther) who herself was a garment worker earlier had close link with garment workers organizing. Akter represent an independent trade union—Bangladesh Independent Garment Workers Union Federation (BIGUF) having officially only just over three thousand workers as members and partner to the American Center for International labor Solidarity (ACILS) locally known as Solidarity Center, Bangladesh. She gained foothold on the career ladder with her involvement in one of the NGOs working for workers’ rights—Awaz Foundation. Her selection to the board was vehemently opposed by the national and sectoral levels trade union leaders on the ground of true representativeness of the garment workers (KIIs WR 3, 5, 9). The government even asked the trade union leaders to elect someone instead; however, national level trade union leaders in view of inability of electing a single person sent names of three persons as one of the possible alternative (KII WR 12). In both the cases, the selection of the minimum wage board members did not follow the standards set in Bangladesh labor law. Government unilaterally decided the members, and it is obvious that the members close to party in power were

incorporated. Bhuiyan is more directly linked to party in power as she at the time of being member of the board was general secretary of the women's committee of the JSL—the workers' wing of the party in power. Her nomination to the board was contested too. Mushrefa Mishu, president of Garment Sramik Oikya Forum, along with other 11 organizations of the Garment Sramik Sangram Parishad demanded reconstitution of the wage board, as the workers' representative in the board was not appointed from the sector.

The process of providing legitimacy to the negotiations leading to declaration, and subsequent acceptance of the deal as representative workers' interests is more profound in terms of misrepresentation. Both the workers' representatives of the 2006 Board accepted the deal. Hasan said after accepting, "The final recommendation did not protect the interest of the workers. But as there would be uncertainty about the wages for the workers, I accepted the final draft after a hard negotiation. The owners are relatively in an advantageous position. If the board failed to make a final recommendation, the workers' interest would have been seriously affected in the long run" (The Daily Star, June 3, 2006). Akter who had earlier during the negotiation declined to sign the proposal put forward by the board accepted, although, in public media shown to have given appearance of the fact that she was unduly forced to sign the agreement. Reason she cited as agreeing to amount knowing perfectly that it was much below the workers demand and hardly will be of value to workers is that "how can I not sign the agreement, while around 40 of the trade unions including several big ones supported the amount standing around BDT 1650 - 1800 as the minimum wage" (KII MWBM 4).

Indeed, most of the trade unions that during the run up to the 2006 wage board were to a large extent united in demanding BDT 3000 as minimum wage, gave their consent to

the amount proposed by the Board in individually written letter to the chairman of the Board before the final declaration.¹⁷⁷ An act of deception to the workers' public demands indeed. More so, it was misrepresentation to the extent that their acceptance to the deal secretly led to die down of the popular demand (of BDT 3000) much before the declaration of the final wage structure.¹⁷⁸ It is true that not all associational and non-associational groups were party to that. In fact, Garment Sramik Sangram Parishad opposed the final recommendation immediately after its announcement. Terming the final recommendation as 'unrealistic' and 'a betrayal' with the garment workers, Roy Ramesh Chandra, general secretary of JSL—workers' wing of the then party in opposition, said it is a farce as the minimum wage of the state-owned enterprises is BDT 2450 but export oriented garment industry will give a basic salary of BDT 1100 only (The Daily Star, June 3, 2006).

The deal struck in the 2010 board was too accepted by both the workers' representatives. Bhuiyan, the workers' representative in the board, said the raise has been recommended considering all issues. "Almost all the proposals recommended an average increase of 70 percent. But we decided to raise the wage by 80 percent. I think it is not enough for a worker to maintain a family. But we had to consider the business situation," she said. The board recommended retaining all existing facilities such as attendance bonus to give a worker the chance to earn a reasonable amount at the end of the month, she added. Permanent member Shiraj reiterated that the decision was underpinned by consensus.

¹⁷⁷ Those letters showcase an interesting feature of bending from their earlier stated demands. The analysis of 16 of those letters clearly shows two formats of agreement—the content and the language of those letters were of two types. These organizations seem to have just copied the text of one type or the other in their respective trade union letterhead and sent to the chairman of the board.

¹⁷⁸ A number of trade union leaders who sent those letters were even captured in public media both electronic and print continuing their demand of BDT 3000 on the eve of declaration of new wage structure back in 2006. Media coverage of protests organized by numerous of those trade unions and participation in talk shows in the electronic media are testament to that.

The deal of 2010 of BDT 3000 against workers' demand of BDT 5000 as minimum wage was given the appearance of legitimacy by the trade unions publicly by stating their acceptance to the declaration. While a majority of unions reportedly agreed to the new minimum wage rates after a meeting with ministers, lawmakers, chamber leaders, and garment factory owners, they only urged higher wages for some of the grades but not for the entry-level workers. Rather the date of implementation was the key point of contention. The wage board had set the date for November 1, 2010, but the unions wanted immediate implementation, in part, because the Eid festival bonus, which was to be paid in September, is based on the minimum wage. Unions have also requested that government ministries to act on an earlier promise to review the existing rationing system and improve housing, childcare and healthcare facilities for garment workers (The Daily Star, August 2, 2010). "We did not differ with the new wage structure," said Amirul Haque Amin—a leader of a non-associational group Sramik Odhikar Rokkha Mancha present in the follow-up meeting organized by the government. He even added, "The workers are not involved in the on-going violence in the garment industry" and called for identifying and punishing those involved in the recent incidences of violence. In reaction to the proposed pay structure before the final declaration, Towhidur Rahman, a coordinator of the Garment Sramik Oikya Parishad, said, "BDT 3,000 is not enough. I urge the government to reconsider the proposed pay structure." However, he along with others in total 48 trade union leaders accepted and provided the legitimacy to the deal in a public meeting with the presence of Labor and Employment Minister.

In contrast, the employers glued together in their claims that the substantial increase of wage would jeopardize competitiveness, and the survival of the industries should be the

prominent agenda. The doubling of wages in one will prove a burden for us," said Fazlul Hoque, the then president of BKMEA. The employers, during the negotiation struck to their position for long. The 2010 board met for the first time on January 24, 2010, but without a representative of the factory owners. When the owners finally joined the board on April 28, their opening offer was BDT 1,875, an increase of only BDT 213 (USD 3) per month. In the month of May, they increased their offer to BDT 2,000. In June, they insisted that depressed prices caused by global recession, and production losses caused by a gas and electricity supply crisis, made it impossible for them to make any substantial increase in workers' wages, and they could go no higher than BDT 2,500 (US\$36) per month and still maintain competitiveness.¹⁷⁹ Abdus Salam Murshedy, the then president of the BGMEA said that the signing of the deal by the employers' representative is even subject to number of conditions. The first of which was a four-month timeframe for implementation of the proposed wage structure. Other conditions included government measures of security for factory owners and incentives to their trade including the release of stimulus funds, zero tax at source, reduction of vessels' turnaround time at port, and suspension of minimum charge for the use of power and gas (The Daily Star July 29, 2010).

Nonetheless, in both the cases, the announcement of the wage hike was not able to stop the agitation completely. The garment workers' leaders those were not party to the post-declaration legitimacy expressed resentment over the pay scale. Thirteen garment worker rights organizations announced that they rejected the outcome. The agitations were too fuelled by the employers' unwillingness to implement the revised wages immediately.

¹⁷⁹ Contrary to the objections of the employer's association leaders, the new minimum wage will not make Bangladeshi garment factories any less competitive. In fact, it would barely affect the factories' profit margins even if buyers refused to increase their price offers to factories. Labor cost "typically constitutes 1-3% for a garment produced, so doubling of wages would at the most prompt only one to three percent increase in the garment products on the global retail market.

“Given the present state of business, the amount of wage increase is justified,’ the then BGMEA president, Murshedy admitted. “We also feel that even the revised wages are not enough for workers given the increased cost of living; but we would request them [workers] to give us some time. If we try to force all factory owners to implement the increased wages from next month, I am sure many of them [employers] will fail to do so and that will lead to chaos,” he said. Indeed, spontaneous latent grievances erupted, and workers agitation spread over different parts of industrial belt.

The responses to the post wage declaration agitation by the employers and the government were usual as in other cases. After the declaration of 2010 wage structure, Abdus Salam Murshedy, said, “It is quite surprising that the workers vandalized the factories and other offices even after the announcement of salary hike,” and called for strict action against the unruly workers and instigators (The New Age, July 31, 2010). In an effort to establish industrial peace, government intervention was strict. The Minister for Home Affairs, Sahara Khatun urged both workers and owners not to create any chaotic situation. “Don't take law in your own hand... None will be spared,” she warned (The Independent, August 5, 2010). Downplaying workers interests and intimidation of workers immediately followed in the workers’ agitation cases. Two influential ministers blamed international conspiracy for vandalism causing a loss of billions of dollars. "A vested quarter is engaged to de-stabilize the most important industry," Labour and Employment Minister Khandker Mosharraf Hossain told. State Minister for Home, Advocate Shamsul Haque Tuku warned of stern action against vandalism and assured the garment exporters to provide further security and safety for their infrastructures. Filing of police cases

against workers, mass arrests and intimidation of workers' leaders too followed consequently. The violent protests too led to factory closure leading to further resentment.

In sum, while, for the employers the immediate concern is to restore production process, for government, the workers' agitation and protests had been seen as a public order issue. Whenever workers stage strikes or engage in public protest, the primary concern of the authorities is not the cause of the dispute but maintaining social stability and political order. Therefore, when government officials intervene in labor disputes, they meet both sides and try to persuade or cajole them into resolving their differences for the common good. Very often the law enforcing agencies will be called in to uphold order at the scene, or even forcibly disperse the workers. Given the hard-line stance, it is not surprising that conflicts arise when the law enforcing agencies are called in to deal with worker protests. The use of forces to break-up strikes, demonstrations and sit-ins in essence criminalizes the protests. This has increasingly encouraged workers to escalate shop-floor disputes into conflicts spilling into streets and to other factories around for want of alternative means of settlement.

The available evidence of the nature of employers' and government's intervention in the workers' agitation makes it clear that the policy is clearly focused on establishing peace—by tackling the phenomena of civil disobedience and disturbance not by getting deep into what bring workers in the street protests/blockades in the first instance. But rather than helping to resolve disputes, it actually creates the conditions for other disputes to emerge and escalate into severe forms. Indeed, this is a *vicious circle*. The lack of effective workers' representation at the plant level leaves workers powerless to protect their own interests. The employers seek maintenance of stability, and accordingly intervene in a way

only to establish industrial peace and to continue production. The means used subsequently to resolve disputes are pressure and persuasion to suppress workers' demands and interests only to be forced to vent out in some other forms at a different time. The form of outburst of the resentment is predominantly through the interest intimidation route involving the indirect means of addressing the employer, government, and public. Obviously, the circle leading no closer to the roots of the workers' grievances and interests leads to consequences and outcome inequitable not only to workers but also to establish industrial peace. The outcome of such a vicious circle leading through the interest intimidation channel only produces either denial of genuine interests or a coercive agreement only to be maneuvered through the politics of representation in producing inequitable outcome for workers.

CONCLUSION: THE POLITICS OF MISREPRESENTATION OF GARMENT WORKERS

The work and workplace governance in Bangladesh's garment sector is devoid of true representative participation mechanisms. Work and workplace decisions are left to employers and managers. Workers with least or no degree of autonomy and authority only carry out organizational decisions. The current industrial and labor relations hardly hold the employers responsible for the work and workplace they control be it directly or indirectly. It lacks the vision and logic of action to uphold the responsibility for violations of labor standards and rights, and accordingly devising strategies for evading legal obligations are quite often ignored. In contrast, often the onus is thrown onto the workers to abide rules and laws so that the production processes are not hampered by any means.

The presence of hierarchical power in a working relationship, established through legal provisions and lack of enforcement has been the key to workers' grievance and

industrial disputes. The failing regulatory framework to induce cooperation and collaboration is one of the reasons for the continuance as well as aggravating such conflicting nature of the relations. Both the regulatory framework and labor administration provide weak machineries in balancing the conflicting interests of workers and employers in work and workplace. Both the acts of omission and commission by the government work for the formal bipartite and tripartite mechanisms of dispute resolution to suffer in representing workers' interests. A serious gap in representation in work and workplace negotiations and decision-making exists.

A unique informal system of interest representation to constitute, aggregate, resolve and mediate diverse interests of individuals and groups is the outcome of the weak as well as heavily employers' leaning formal system. The unfair balance of power in the worker-employer relationship is liable to be degenerated into disputes and unrest. The lack of formal avenues such as representative trade unions at the plant level to express workers' grievances or aspirations led to grievances to pile up, and causing disputes to escalate. When conditions become too oppressive, workers either simply leave the job in a silent protest, or channel the demands through formal or informal interest groups with the hope of forcing employers to take heed to demands, and government to intervene on their behalf.

Workers' interest groups' bid to influence the policy making process is done both through the advocacy and intimidation channels. The consequence of workers' resorting to both channels is negotiations of interests in some forms. However, the form of outburst of the dissatisfaction and resentment is predominantly through the interest intimidation route involving the indirect means of addressing the employer, government and public in the form of wild-cat strikes, demonstrations, sit in protests and protest marches, blockades,

confinement of authority, and damage to factory and other property. The consequences range from the promise of consideration of demands by employers, job termination threats, and intimidation through law enforcing agencies. The means used subsequently to resolve disputes are pressure and persuasion to suppress workers' demands and interests. The authorities' keen interest based on the vision and logic of action of the current industrial and labor relation to press for punishment of protest leaders and participants, including penalties for breach of public order rather than helping to resolve disputes, creates the conditions for other disputes to emerge and escalate into severe forms of protests and agitations. Workers' interests hardly gets reflected in the negotiations since their interests are either not adequately represented or misrepresented by various interests' groups, and accordingly the outcome of the interest representation is inequitable for the workers. The failure to attain the desired outcome from the negotiations disempowers workers, and produces further coercive and induced participation in the interest articulations channels, notably through interest intimidation as against advocacy.

The access to labor standards and workers' rights to transform into economic security is not based on sheer availability of the standards and rights, rather how such standards and rights are carried forward by their interests groups. The institutional mechanisms in place to balance the conflicting interests of workers and employers fail to provide workers with access to rights due to acts of omission or acts of commission which are shaped by the representation of workers in the institutional mechanisms for decision making, monitoring and enforcement of such rights. The trade-off from interest participation or balance between equity and efficiency in the process of representation reflects the vision and logic of action of Bangladesh's industrial and labor relations. The

prominence of the need to establish and monitor civil order come more in policy discussion than the issue of implementation of labor standards and workers' rights provisions. The regular layoffs and shutdowns of garment factories in and around the major industrial belt following the agitation programs by the workers are showcases of the vision and logic of action of country's industrial and labor relations that prioritize measures to stop industrial action and sources of disruption to production more than fulfilling the minimum needs of the workers for their well-living. Indeed, the absence of direct institutional channels e.g., trade union activism at the plant level and continued policy advocacy led to the capture of the vision and logic of action of Bangladesh's industrial and labor relations to the direction of logic of industrial peace and competitiveness not towards workers' protection.

CONCLUSION

Having examined the nexus between the trade-linked labor standards and workers' rights and economic security, this chapter brings together the findings of the labor standards installation in Bangladesh and attendant transmission mechanisms of labor standards and workers' rights for the garment workers' economic security, and aims to draw from them broader implications and areas for future research. This chapter has four core sections. The first two sections summarize the study's central questions along with the key findings. The

third section fleshes out broader implications of the findings. The final section elaborates the scope of future research.

THE CENTRAL QUESTIONS

Both developed and developing countries in general have a range of instruments to promote and protect workers' rights including national laws, trade agreements and treaties, contractual obligations, collective agreements, and codes of conduct. They accept the labor standard provisions as rights that need to be uphold and enforced (e.g., enactment of national labor standards for citizens). Nearly every developing country has ratified some of the Conventions of the ILO. Countries also accept some of the labor standards provisions as requirements to penetrate into the markets of developed countries and/or to avail preferences in the trading arrangements with its bilateral and multilateral partners, and from various non-governmental groups. Both the state and non-state actors, including national governments, global corporations, and local employers, are under tremendous pressure from different interest groups of workers and consumers themselves or from their representatives to initiate and comply with labor standards provisions in government regulations, trade agreements, and voluntary codes.

Labor standards are seen as an essential way of ensuring workers' access to the basic needs as well as work and workplace security. The importance has been heightened further with the advent of international restructuring of production. The competitive pressures originating from economic globalization in general and the shift from exporting primary goods and raw materials to exporting manufactured finished goods and intermediate inputs in particular, have challenged the capabilities of these countries to ensure workers' economic security. The inabilities of the countries to withstand challenges

and to gain benefits from international economic integration have been linked to incomplete and inappropriate rules.

The debate on the scope and impact of labor standards, however, continues to be long on ideology and rhetoric. Efforts to implement labor standards in national laws have been seen as institutional intervention that impairs market efficiency and increase costs of labor. The advocates of labor standards argue that globally enforceable standards are in the interests of all workers, particularly for those working poor who are unable to attain such standards themselves. Yet, most of the developing countries including Bangladesh have installed a range of rights legislations (e.g., national law), standards conditionality (e.g., trade treaties), and voluntary corporate codes of conduct with the presumption that there exists a synergy in the relationship of labor standards and workers' rights; labor standards provisions translate into rights for the workers, and enhance their economic security—access to the basic needs as well as to work and workplace related security.

The underlying linkages among labor standards - workers' rights - economic security can make a difference in workers' wellbeing: labor standards translate into rights and, in effect, influence economic security. However, developing countries in general and Bangladesh in particular are plagued with widespread violations of workers' rights vindicating differential outcomes from the nexus. Installation of workers' rights provisions, and compliance mechanisms of these rights hardly allow judgment on whether or not such translation from the standards into rights and into economic security takes place. Neither the appropriate means to identify, address, and incorporate the conflicting interests of diverse stakeholders into labor governance frameworks are discerned, nor do we know to what extent can labor standards facilitate access to opportunities, and provide necessary

correctives to challenges originating from the country's economic integration into the world economy. The central questions examined in this dissertation is whether trade-linked labor standards in Bangladesh—for whom international restructuring of industries producing labor-intensive consumer goods like garment has opened up new opportunities, and at the same time given rise to a myriad of new challenges—translate into economic security for the country's export oriented garment sector's working poor in the era of globalization, and if not, why not. The objectives of the dissertation had been twofold. The first was to explore whether the interplay between trade-linked labor standards, workers' rights, and economic security make the transformation towards workers' economic security possible. The second was to examine why the relationship between standards, rights, and economic security transform or fail to translate the trade-linked labor standards into workers rights and into workers' economic security for the working poor in Bangladesh's garment sector.

SUMMARY OF FINDINGS

To explore whether the interplay between trade-linked labor standards, workers' rights, and economic security is plagued with synergy or conflict in the context of Bangladesh, I examined the linkages and drivers of economic integration, labor standards, and economic security, and identified the reasons of differential outcomes of economic integration in general and labor standards in particular. I also investigated into the factors that shape the relationship among standards, rights, and economic security for transforming trade-linked labor standards into workers' rights as well as into economic security for the working poor in Bangladesh's garment sector.

As in many developed and developing countries, the garment industries have spearheaded the initial stage of the industrialization process, and increasingly linked

Bangladesh with the international trade of garment products. From modest start in the late 1970s, the garment sector has surpassed the traditional export items like jute and tea as the major export product. The country not only has experienced a quantitative leap in the volume and value of international trade in garment products, but also a qualitative transformation in the way of its interaction and outcome within the globalizing market as well as in its industrial and labor relations. Fundamental changes in the labor market are not only in terms of its implications on the labor force in view of the decline in some economic sectors and growth in others, but also in terms of flexibilization of employment to confront with the increasingly competitive markets. The increased competition has weakened the bargaining position of the state in the global market, as well as made weaker the grounds on which workers could bargain with their employers. The weakening of the regulatory capacity of government in the face of heightened international competition is another source through which pressures to lower wages and other labor standards operate. The spheres of influence arising out of Bangladesh's integration into the world economy, I argued, have shaped different dimensions of Bangladesh's industrial and labor relations determining workers' economic (in)securities.

True, excessive dependence of the workers on the sector has created areas of uncertainty and vulnerability in different areas of economic security for them. The flexibilization and defeminization of the workforce from the previous feminization of workforce on which the sector's success was built has produced disproportionate vulnerability to the workers in comparison with the employers. The informalization of the work and work standards have also led to implications on different aspects of workers' economic security ranging from difficulties in accessing employment opportunities which

are fair and equal without discrimination (right to work) and provide just and favorable conditions of work (right at work), and adequate standard of living (right through work).

The provisions of labor standards applicable to Bangladesh's export-oriented garment sector are promoted through three routes—rights legislation, rights conditionality, and corporate codes. The standard provisions relating to basic, civic, survival, and security rights in varied forms have been introduced with the presumption that the standard provisions would translate into provisions of rights for the workers. I argued in chapter eight that standards promoted at local level hardly reflect the availability of standards provisions, rather is determined by interest groups. The translation of standards to rights is not decided by a straight forward linkage between the two forms, it instead is the outcome of how the trade-off between the conflicting interests of workers and employers are played and balanced.

The standard provisions in relation to the right at work (employment contract, elimination of child labor and protection of adolescent, protection against forced and compulsory labor, and protection against discrimination at workplace) have been translated partly in terms of both availability and effectiveness. The key standards provisions relating to the rights at work (working hour, rest and leave, OHS, and welfare facility) have mostly translated into rights provisions in terms of the same availability and effectiveness criteria. The transformative action for the key provisions of rights through work analyzed in relation to wage and benefits, social security instruments, and labor relations and social dialogue, contrasts much with the expected reflection of the standards provisions delineated in three forms of labor standards for garment workers. The availability criteria while shows standards to be almost fully translated into rights provisions, the effectiveness lens indicates

that standards have hardly transformed into rights. The differential outcome in terms of availability and effectiveness is most wide for labor standards those are related to rights through work. It implies that the trade-off between the conflicting interests of workers and employers are poorly balanced in cases of standards of the rights through work.

Installation of labor standards and workers' rights provisions, applicable to Bangladesh's export-oriented garment workers, presumes that those would be translated into workers' economic security. Juxtaposing expected transformative action of standards and rights provisions for garment workers, I explored numerous indicators of seven forms of economic security—income, job, labor market, work, employment, skill reproduction, and representation, and found that impact of labor standards and workers' rights on Bangladesh's garment workers are not uniform. This is in relation to both in terms of different forms of economic security as well as within different indicators of each of these forms. The state of translation of standards and rights provisions to the seven forms of security shows that such provisions have been either partly or hardly translated. The two specific criteria—availability and effectiveness—for judging whether the transformative action is in place conveyed no straightforward linkages between the two variables of standards and rights on one end and the different aspects of economic security on the other. In all the seven aspects of economic security, the standards/rights provisions are available to varied levels but the effectiveness criteria showed that many of the provisions are made ineffective to translate into positive outcome as provisions of workers' economic security.

The three forms of economic security—labor market, job, and skill reproduction—which are overall judged to be in slightly better shapes in terms of translation in comparison with the other four forms, however, exhibit wide contrast in terms of

availability of the provisions and its effectiveness. Garment workers have little control over the content of the job, and hardly have the opportunity to pursue work in line with their interests and accumulated experience. Employers' discretion dominates the decisions of pay rise and promotion. Garment work provides scopes for workers with no prior skills and training to build-up a career in the sector. 'Learning by doing' is the dominant form of acquiring skills for the workers. The job in itself provides skills and training to develop capacities to continue the profession in the garment sector, but those are hardly adequate for alternative employment opportunities or to attain qualifications needed for socially and economically valuable occupations. In contrast, due not only for the inadequacy and ineffectiveness of the provisions but also for widespread restrictions and violations, cases of low translation are the other four forms of economic security— employment, income, work, and representation.

With widespread violations of many long established standards and rights provisions, the garment sector is indeed faced with an enforcement crisis, which involves standards and rights provisions related not only to protection against unfair or arbitrary dismissal and sudden loss of earning, but also to protection against and safeguard of risky and hazardous working condition. Provisions to provide workers with adequate income and other benefits for them along with their families to participate with dignity in their communities are either inadequate or enforced. Also violated frequently are the long established standards/rights provisions to provide a voice of the workers both at workplace and at labor market.

The employment related standards and rights provisions e.g., appointment letter, identity card, and service book as well as social security—pension, gratuity, and provident

fund—are either largely unavailable or ineffective. Applicability of the provisions particularly on the duration of leave, and due payment with leave is discriminately used. Firing a worker is cost saving compared to make the maternity leave with pay available for workers. The legal provision of allowing employers to terminate workers without explaining any reason is widely abused.

Garment workers are deprived of due wages and benefits. Wage and overtime payments hardly follow the rights provisions regarding the rates of pay and the corresponding working hours. Government mandated minimum wages for the sector has been set below the poverty threshold. Wage fixation is irregular, and does not corroborate to the minimum requirements for workers along with their families to make a decent living. The wage structure along with poor implementation of available standards/rights provisions, and the non-existence of social supports both within and beyond workplaces relegate garment workers to working poor.

Evidently, the rights provisions as protection and safeguard against unsafe and hazardous working conditions are in a state of disarray. Accidents at the workplaces have become a regular phenomenon. Workers are neither insured against accidents and deaths, nor maintained the issues such as the limits on working hours, timely working break, and night duty restriction for women.

The near non-availability of plant level workers' organizations (both trade unions and welfare associations) and low level of membership of workers in associations those exist both within and beyond workplaces vivify the informal representation of the workers. Workers' unawareness on the existence and roles of trade unions outside workplaces though has been one of the reasons of low membership and participation in trade union

activities, the prime cause for not joining a trade union or any such activities is nothing but the ‘fear of losing job.’ The predominant modes of bargaining with the employers are through mediators and on an individual basis. The workplaces lack formal procedures of grievance handling.

The labor governance for Bangladesh’s garment sector is devoid of the true representative participation mechanisms. Not only the state that violates the workers’ rights through its acts of omission and/or commission, employers have in many ways exert more direct power over workers’ lives. Worse yet, much of this employer power is aided and abetted by the government. Indeed, work and workplace decisions are left to employers and managers. Workers with least or no degree of autonomy and authority only carry out organizational decisions. Garment sector is ridden with the hierarchical power of employers over workers. Employers possess the ‘directive power’ to assign tasks and to give orders and directions. They have the ‘controlling power’ to monitor both the performance and compliance with orders and directions. They also have the ‘disciplinary power’ to sanction both improper and negligent performance of tasks, orders and directives. The current industrial and labor relations hardly hold the employers responsible for the work and workplace they control. It lacks the vision and logic of action to uphold the responsibility for violations of labor standards and rights. The penalties for the non-compliance to Bangladesh’s labor laws are set in ways that hardly deter violation. Employers’ strategies for evading legal obligations are quite often ignored. In contrast, the obligations to workers are disproportionate only to ensure that the garment production processes are not hampered by any means. A key reason for such differential treatment is that the garment workers’ skills are abundant and not so valued in the labor surplus country

like Bangladesh. By virtue of workers' non-existent market power and their inability to threaten exit, they have little individual voice.

The presence of hierarchical power in the industrial and labor relations, established through legal provisions and their lack of enforcement, has been the key to workers' grievance and industrial disputes. The failing regulatory framework to induce cooperation and collaboration is one of the reasons for the continuance as well as aggravating conflicting relations. The weak enforcement mechanisms of labor law fail to handle grievances and resolve disputes. Both the regulatory framework and labor administration provide weak machineries in balancing the conflicting interests of workers and employers. Both the acts of omission and commission by the government work for the formal bipartite and tripartite mechanisms of dispute resolution to suffer in representing workers' interests. The lack of formal avenues such as genuinely representative trade unions at the plant level that allow workers to express their grievances or aspirations led to grievances to pile up, causing disputes to escalate. When conditions become too oppressive, a worker either simply leaves the job in a silent protest, or channels the demands through formal or informal interest groups with the hope of forcing employers to take into cognizance her/his demands, and government to intervene in her/his behalf. A serious gap in workers' representation at work and workplace negotiations and decision-making exists.

Garment workers' interest groups influence the policy making process both by advocacy and intimidation channels. The outburst of the dissatisfaction and resentment of the workers predominantly takes the interest intimidation route that involves the indirect means such as addressing the employer, government, and general public in the form of wild-cat strikes, demonstrations, sit-in protests and processions, blockades, confinement of

authority, and damaging factory and other property. Consequence of this sort of outburst usually ranges from the promise of consideration of demands by employers to abuse, termination, and intimidation by the law enforcing agencies. The chief means of resolving disputes are pressure and persuasion. The authorities' keen interests to press for punishment of workers' leaders along with their followers including penalties for breach of public order rather than helping to resolve disputes create the conditions for other disputes to emerge and escalate.

The institutional mechanisms in place to balance the conflicting interests of workers and employers fail to provide workers with access to rights due to the acts of omission or acts of commission which are shaped by the representation of workers in the institutional mechanisms of decision-making, monitoring, and enforcing of such rights. The trade-off from interest participation or balance between equity and efficiency in the process of representation reflects the vision and logic of action of Bangladesh's industrial and labor relations. The prominence of the need to establish and monitor civil order come more in policy discussion than the issue of materialization of labor standards and workers' rights provisions. Indeed, the absence of direct institutional channels e.g., trade union activism at the plant level and continued policy advocacy led to the capture of the vision and logic of action of Bangladesh's industrial and labor relations to the direction of logic of industrial peace and competitiveness, not towards workers' protection.

The current logic of industrial and labor relations is based on efforts to establish industrial peace by way of avoiding industrial action and other sources of disruption. The labor policy explicitly sets the goal to foster relations to deter any hindrance to production by setting harmonious labor relations. The regulatory framework too is not only designed

to promote peaceful collective bargaining procedures but also shape individual rights in a way in part to weaken the incentives for collective action. The state-provided mechanisms for dispute settlement which start with conciliation end up in the provision for the adjudication by court, lead to efforts to establish industrial peace. Alongside, much voiced concern of business to tackle the macro-economic problem of inefficiency and the desired need to accumulate capital by continuing to be competitive in the global market and retaining a larger share out of production processes got remarkable prominence. The harmonious labor-management relations that do not perturb efficient use of capital investment became dominant over the workers' interests. In this competitive age, workers are said to be doing rational, if they adhere to and satisfy themselves of the outcome of market principles.

Within these dominant vision and logic of action, the interests of the workers and employers remained highly conflicting. Concerned parties of the industrial and labor relationship even approach participation differently. Bangladesh's garment sector employers hardly consider participation as a means of overcoming the employer-worker conflict and as a step towards cooperation and collaboration. Industry managers frequently deny participation on the grounds that shared decision-making might lead to lack of control, and it is time consuming process leading to, as a result, managerial efficiency. In contrast, opinion of most of the unions is that participation apart from through trade union constitutes nothing more than a management ploy to co-opt workers, to detract from the challenge of the union, and to encourage workers towards greater productivity. Trade unions are particularly suspicious of direct workers involvement in decision making which is not balanced by any form of indirect or representational participation. To them, the direct

participation of workers acts to dilute the combined power of the workers' representatives since workers are treated as individuals and interests are treated to be common amongst all the workers. Such forms of participation may encourage commitment and higher productivity, but certainly do not greatly increase the amount of influence workers are able to wield in the undertaking.

Like other economic and welfare systems in the developed and developing countries today, Bangladesh has some corporatist factors in its institutional structures. The degree of cooperation among the tripartite partnerships is a question of size, not of existence. Both interest participation routes are active among Bangladesh's garment workers. However, I argued that workers—particularly the more vulnerable ones, i.e., the working poor in the garment sector—are not adequately represented in the prevailing institutional structures/mechanisms due to the country's dominant logic of action in industrial and labor relations. Since garment workers' interests channel mostly through the interest intimidation route, the workers' interests are misrepresented and in turn the outcomes from the negotiations is inequitable. How institutional mechanisms for addressing the needs of workers fail to provide access to rights, are shaped by the representation of workers in decision-making, monitoring, and enforcement of such rights.

IMPLICATIONS

The linkage between the economic integration and workers' economic security is in contested terrain. This is particularly true in the context of a growing concern in developing countries that in its current form economic globalization did not work as was expected to enhance equity as much as efficiency. Working poor faces unacceptable and inhumane work environment, longer work hours, low wages, discrimination, and

suppression of the association rights. These are also outcomes of the transformations that have made possible higher quality and cheaper products for the global market. Optimists of globalization believe that the international economic integration enhances efficiency. The critics, on the other end, argue that in order to pursue equity goal, many of the principles of efficiency have to be sacrificed. While economic security of the working poor in a given society is an equity goal, the existence of large number of working poor in a society itself has efficiency consequences. I showed that the arguments for and against labor standards as a tool for workers' economic security by both groups have diverged due to the perceived trade-offs between equity and efficiency in the trade-linked labor standard, workers' rights, and economic security nexus.

In addition I showed that there is room for progress in the conventional wisdom of trade-linked labor standard chains—i.e., labor standards lead to an increase in production costs, then to increased prices for consumers, then to lower sales of the goods, and ultimately to fewer jobs producing these goods. The inefficiency claim against labor standards is attributed against any interference with market forces, including child labor laws, minimum wages legislation, health and safety standards, and other regulations that are standard features of developed economies, features that developed countries have decided as essential to advancing important social values. Thus, the stricter standards need not promote inefficiency (and therefore higher prices), particularly when the values in question have the status of universal rights. Also, not all labor standards promote inefficiency. A non-discrimination standard increases the efficiency of resource allocation; health and safety provisions may also increase the productivity of workers through higher motivation, decreased absenteeism, and improved worker-management relations. In

addition, there are other ways to keep at bay higher production costs from resulting to higher prices. The higher costs may be covered from corporate profits, especially in situations where the relatively low percentage of the retail price of goods is attributable to factory labor. Also, higher prices do not always lead to lower sales: if consumers prefer to purchase goods that are produced under decent conditions and are willing to pay a premium for the product, then production of goods under a strong code of standards might lead to an increase in demand sufficient to offset the effects on demand of a higher price. The relationship is not linear in cases of inelastic demand of goods for which a strong brand loyalty exists.

True, attempts to raise labor standards such as minimum wage above market-determined levels generate inefficiencies. But this principle of automatic determination of wage occurs only in an ideal situation where the factors of production and market work freely. In a country with abundant labor like Bangladesh, the weaker group of the workers is compelled to work for lower wages. Moreover, they lack sufficient skills to earn higher wages and also lack the information, knowledge, and techniques to bargain with the highly qualified and educated employers. Thus, labor standards need not to be viewed as either of the two between market intervening facilitating forces or hindering tools for market functioning. Welfare enhancing provisions for workers may simultaneously improve the performance of a firm as well as workers' economic security. This holds particularly true since empirical findings by numerous authors on the outcome of trade-linked labor standard chains, presented in Chapter Three challenge the validity of the theoretical arguments put forward either in favor or against the labor standards, and indicate to the fact that the distributional outcome is dependent on the choice of the standards that are

promoted. Fundamentally, workers' rights are concerned with the just and equitable distribution of economic goods and services. It is both process and outcome oriented. One set of rights is not more important than any others and all rights—whether basic, civil, survival and security—must be equally respected. While the well-being of all people is important, rights-based labor market intervention means that priority must be given to the most disadvantaged sections such as the working poor.

The argument that labor standards are best achieved by the market forces alone, and accordingly workers' economic security should be left to the functioning of the market forces is, I argue, unconvincing. Companies do not always respond to incentives to increase productivity and higher output does not automatically lead to improved living standards. Competitive pressures do not always entail low labor standards. At the same time, the low standards are not always looked as the optimum alternative for firms. Balancing flexibility of employment and workers' economic security delivers better economic performance and employment growth than maximum flexibility in the production and employment chains. Labor standards do not always necessarily produce trade-offs between efficiency and equity, rather market forces can be put at work for workers' economic security. The balancing of the equity-efficiency trade-offs is possible within the outcomes of market forces.

Accordingly, the current debate is not whether to observe workers' rights, but instead on how this observance should be put in place, strengthened, enforced, and monitored effectively so as to balance between efficiency and equity. Economic security as an equity goal is justified on three grounds. First, on utilitarian terms on the basis of real and potential losses arising from market failures and the ability of public action to prevent

or compensate for losses posed by risks of various sorts e.g., returns to labor and production, the system of social transfer, income opportunities, job satisfaction, occupational health and safety, skill reproduction, as well as individual and collective representation. Second, both on moral and practical grounds: satisfaction of the basic needs of workers is a good thing not only intrinsically, but also instrumentally since expenditure on the basic needs of workers (e.g., education and training, health and hygiene, housing and sanitation) is considered as investment, not merely as consumption. Third, on grounds of fulfilling rights: workers' as human beings have legally enforceable social, economic, political, and civic claims.

The employment relations in developing countries particularly in the areas of actual returns to labor *vis-à-vis* capital, system of social transfer, job protection and satisfaction, skill enhancement opportunities, occupational health and safety stands, and individual and collective representation provisions are influenced by the country's level of integration in and interaction with the global market. The economic integration related channels of influence create drivers of (in)security for the workers. The working poor are faced with range of opportunities to secure their livelihood (by reducing risks, and fulfilling needs and rights) and at the same time are vulnerable to economic insecurities (higher risk, unfulfilled needs and interests, and lack of rights) in different forms—income, job, labor market, work, employment, skill reproduction, and representation.

The transformative action amply shows that between two of the three forms of rights—rights to work and rights at work—translated more than the rights through work. This implies that not all forms of rights are prioritized in the same way in national settings. While some forms and some of its specific contents of standards get promoted more than

the others, certainly there are forms of standards which even promoted to a higher level but are rendered ineffective due to its inherent shortcomings including the provisions' exclusionary and exploitative nature, limited mandatory mechanisms, existing cost burden to workers, lengthy procedures, and lack of remedial instruments.

All these are either due to acts of omission or commission by the state and non-state actors, but certainly prove the fact that these are the areas where the conflicting interests of workers and employers are poorly balanced. This contrasts with the expected transformative action: the prioritization of certain forms of standards do not get translated in the same fashion. What standards would be promoted and what would not at the national level is hardly a function of what is promoted through the three routes of standards transmission. It instead depends upon how the trade-off between the conflicting interests of workers and employers are played at the national level, and balance in between are achieved. To this end, I argued that the forms of economic security though reflects the overall existence of labor standards and workers' rights, the extent to which economic security achieved is hardly a function of how specific and detailed the standards and rights provisions are. Rather, to what extent the standards and rights provisions are made effective determines the outcome for workers. Four aspects of workers' economic security—income, job, work, and representation—are cases in point. These are the areas in which the rights provisions elaborated in the Bangladesh's legal frameworks and the standards provisions originating from the three transmitting routes have fully or mostly converged in terms of availability but diverged widely in terms of effectiveness.

The diverse interests of employers and workers result in conflicts. Employers' and government's obsession with order and stability underpinned by the vision and logic of

action of the industrial and labor relation means that the speed and effectiveness of intervention in labor conflict is in direct proportion to the scale of that conflict and its socio-economic and political impacts. Conflicts involving large numbers of people that have a potentially damaging social impact are dealt with quickly and relatively efficiently, with employers and government giving protesters a prompt hearing and promise to settle some of their grievances through negotiations. However, the outcome of those negotiations is neither proportionate to the scale of the conflict nor reflects workers' interest fully. Workers' interests hardly gets reflected in the negotiations since their interests are either not adequately represented or even misrepresented by various interest groups, and accordingly, the outcome of the interest representation is inequitable for the workers. The failure to attain the desired outcome from the negotiations disempowers workers, and produces further coercive and induced participation in the interest articulation channels, notably through interest intimidation as against advocacy. This in effect makes workers vulnerable to further misrepresentation of their interests only to produce inequitable terms. The standards-rights-security nexus can only work for an equitable outcome for workers if there are adequate and effective forms of workers' representation in the institutional mechanisms. The politics of representation of the interests define the outcome for workers.

AREAS OF FURTHER RESEARCH

Through addressing the array of the labor standards, workers' rights and economic security linkages, and the institutional mechanisms of participative representation, I hope to have improved the industrial and labor relations scholarship in understanding the distributional outcome of labor markets in the context of economic globalization and, in doing so, contribute to shifting policy debate away from a 'deregulate or not' discussion to one that

promotes enacting labor regulatory policies and institutions that respond to upholding the pursuit of workers' economic security. This study raises several questions for further research. The first is related to cross-national differences in economic integration and interaction, the second to differential outcomes of three routes to standards transformation, and the third to the gender perspective of the outcomes of standards-rights-economic security linkages.

How prevalent are the research findings in the non-Bangladesh context? These findings from Bangladesh should be compared in a cross-national perspective to other formal workers' across the world. Indeed the cross-national differences in country's integration into and continued interaction in globalized market will change the findings of the study. However, a similar level of interaction as with other LDCs is expected to produce similar findings. Most LDCs have a range of instruments to promote and protect workers' rights including national laws, trade agreements and treaties, contractual obligations, collective agreements, and codes of conduct. They enact national labor standards as rights that need to be uphold and enforced. They accept some of the labor standards provisions as requirements to access markets in the developed countries and/or to access preferences in the bilateral and multilateral trading arrangements, and also from various non-governmental groups in terms of voluntary codes. Both the state and non-state actors including national governments, corporations, and local employers in these countries are under pressure from different interest groups to initiate and comply with labor standards provisions.

The three routes of standards transmission into rights and economic security is a matter of degree for all LDCs, not of existence. I did not set for showing that a particular

route of transformation has a certain outcome rather the intention was to extrapolate the reflection of the three routes of standards in provisions of national legal instruments and into economic security for the workers. Indeed, one further areas of research could be to differentiate between the three routes of standards transmission and find out whether the rights legislation, or rights conditionality, or the voluntary codes of conduct, has better outcomes in terms of translating to workers rights and in effect influencing workers' economic security.

While the study set out to see whether or not labor standards translate into workers' economic security in the era of globalization, it, however, provided insufficient attention to gender. As such, outcome in the country can hardly be differentiated in terms of women and men. Further study may, thus, be conducted from a gendered perspective looking at the differential outcomes in relation to attaining economic security. Factors exploring the underlying reasons of under-representation and marginalization of women in terms of representation need to be examined. To what extent the lower rate of trade union participation and representation of women can be explained by the fact of women being less inclined to join trade union or by the other reasons of legal, social, and economic manifestations that keep women at the margin? Can the under-representation and marginalization of women be explained by the hurdles of the labor markets that extend its grip towards enhancing women's participation in trade unions as well as lack of enabling environment for women in the country? Thus, a further study is called for on the barriers e.g., legal provisions, structure and policies of the trade unions, hostility of societal actors, and lack of women's capacity and awareness on underlying value of representative mechanisms and the differential outcomes in terms of gender.

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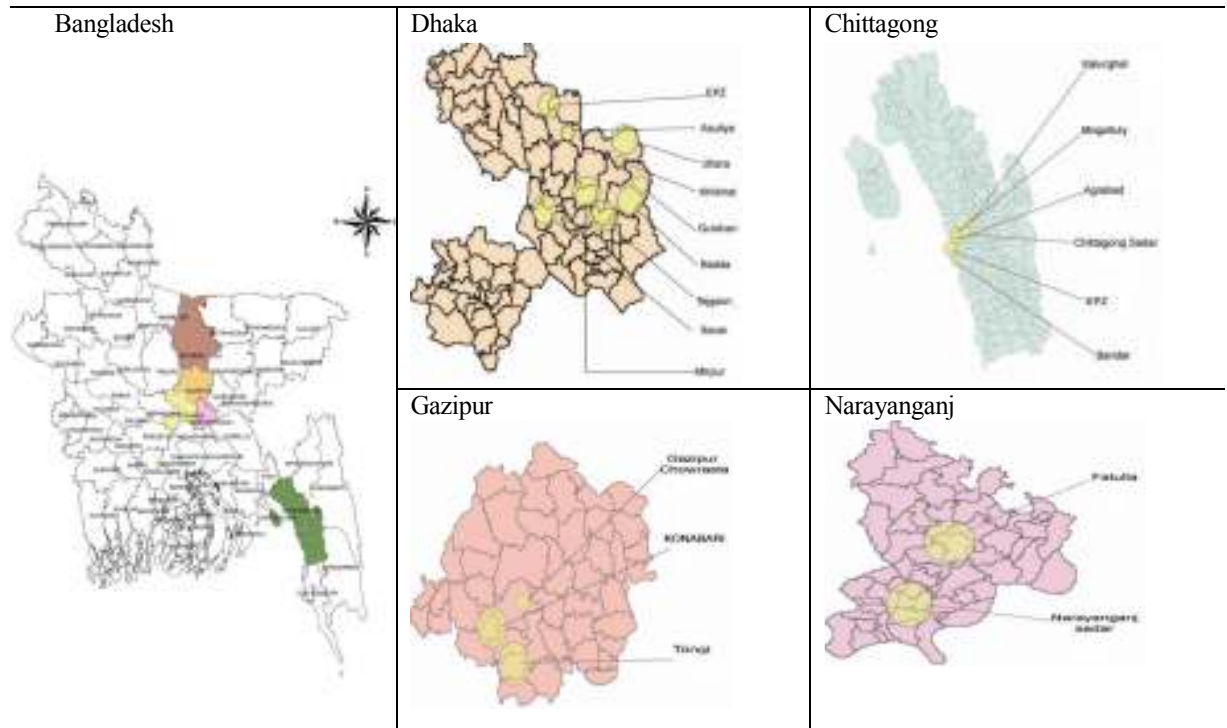
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ANNEXES

Annex Map 1.1 Study Area



Annex Table 2.1: Representative Respondents

Study Areas	Number of Factories			Area Distribution Percent	Representative Respondents (At variable confidence interval)						
	Oven	Knit	Total		10%	9%	8%	7.5%	7%	6%	5%
Dhaka	2869	350	3219	51.2	49	61	77	87	100	136	197
Chittagong	762	100	862	13.7	14	17	21	24	27	37	53
Gazipur	684	250	934	14.8	15	18	23	26	29	40	57
Narayanganj	360	800	1260	20.0	19	24	30	34	39	53	78
Mymensingh	18	-	18	0.2	0	0	0	0	0	0	0
Total	4693	1500	6293	100	97	119	151	171	196	267	385

Annex Table 2.2 Study Area and Distribution of Respondents

Study Area	Number of Respondents		Percentage Distribution
	First Field Survey	Second Field Survey	
Dhaka	197	87	51
Chittagong	54	24	14
Narayanganj	79	26	20
Gazipur	58	34	15
Total	388	171	100

Annex Table 2.3 Detailed Study Area and Distribution of Respondents

Study Area	First Field Survey		Second Field Survey	
	N	%	N	%
Dhaka	197	100.0	87	100.0
Malibag-Badda-Rampura-Gulshan	36	18.3	16	18.3
Uttara-Azampur-Khilkhet	36	18.3	16	18.3
Mirpur – Pallabi	36	18.3	16	18.3
Tejgaon – Mohakhali	36	18.3	16	18.3
Savar –Asuliaya	36	18.3	16	18.3
Dhaka EPZ	17	8.6	7	8.6
Chittagong	54	100.0	24	100.0
Bandar – Kalurghat	8	14.7	4	14.7
Chittagong Sadar	14	26.0	6	26.0
Mogoltuli – Agrabad	14	26.0	6	26.0
Chittagong EPZ	18	33.3	8	33.3
Narayanganj	79	100.0	34	100.0
Fatulla	41	51.9	18	51.9
Narayanganj Sadar	38	48.1	16	48.1
Gazipur	58	100.0	26	100.0
Konabari	29	50.0	13	50.0
Tongi	29	50.0	13	50.0

Annex Table 2.4 Detailed Study Areas and Gender Distribution of Respondents

Study Area	First Field Survey						Second Field Survey					
	Male		Female		Total		Male		Female		Total	
	N	%	N	%	N	%	N	%	N	%	N	%
Dhaka Study Areas	24	12.1	173	87.7	197	100	24	100	63	100	87	100
Malibag-Badda-Rampura-Gulshan	4	2.0	32	16.2	36	18.3	4	16.7	12	19.1	16	18.3
Uttara-Azampur-Khilkhet	3	1.5	33	16.7	36	18.3	5	20.8	11	17.5	16	18.3
Mirpur – Pallabi	2	1.0	34	17.3	36	18.3	3	12.5	13	20.6	16	18.3
Tejgaon – Mohakhali	5	2.5	31	15.7	36	18.3	6	25.0	10	15.9	16	18.3
Savar –Asuliaya	6	3.0	30	15.2	36	18.3	4	16.7	12	19.1	16	18.3
Dhaka EPZ	4	2.0	13	6.6	17	8.6	2	8.3	5	7.9	7	8.6
Chittagong Study Areas	4	7.2	50	92.3	54	100	4	100	20	100	24	100
Bandar – Kalurghat	1	1.8	7	12.9	8	14.7	1	25.0	3	15.0	4	14.7
Chittagong Sadar	1	1.8	13	24.0	14	26.0	0	0.0	6	30.0	6	26.0
Mogoltuly – Agrabad	1	1.8	13	24.0	14	26.0	0	0.0	6	30.0	6	26.0
Chittagong EPZ	1	1.8	17	31.4	18	33.3	3	75.0	5	25.0	8	33.3
Narayanganj Study Areas	23	29.1	56	70.9	79	100	9	100	25	100	34	100
Fatulla	9	11.4	32	40.5	41	51.9	3	33.3	15	60.0	18	51.9
Narayanganj Sadar	14	17.7	24	30.4	38	48.1	6	66.7	10	40.0	16	48.1
Gazipur Study Areas	15	25.9	43	74.1	58	100	3	100	23	100	26	100
Konabari	9	15.5	20	34.5	29	50.0	1	33.3	12	52.2	13	50.0
Tongi	6	10.3	23	39.7	29	50.0	2	66.7	11	47.8	13	50.0

Annex Table 2.5 Age of Respondents according to Study Area Distribution

Age of Respondents	Dhaka						Chittagong						Narayanganj						Gazipur					
	First Survey		Second Survey		First Survey		Second Survey		First Survey		Second Survey		First Survey		Second Survey		First Survey		Second Survey					
	N	%	N	%	N	%	N	%	N	%	N	%	N	%	N	%	N	%	N	%				
Below 14 Years	0	0.0	1	1.1	0	0.0	0	0.0	5	6.3	1	2.9	0	0.0	0	0.0	0	0.0	0	0.0				
Above 14 to 15 Years	7	3.6	0	0.0	2	3.7	0	0.0	9	11.4	2	5.9	5	8.6	0	0.0	5	8.6	0	0.0				
16 to 20 Years	97	49.2	39	44.8	34	63.0	9	37.5	40	50.6	11	32.4	27	46.6	8	30.8	20	34.5	11	42.3				
21 to 25 Years	57	28.9	33	37.9	15	27.8	13	54.2	16	20.3	12	35.3	20	34.5	11	42.3	3	5.2	7	26.9				
26 to 30 Years	23	11.7	9	10.3	3	5.6	2	8.3	4	5.1	7	20.6	3	5.2	0	0.0	3	5.2	0	0.0				
31 to 35 Years	11	5.6	2	2.3	0	0.0	0	0.0	4	5.1	1	2.9	0	0.0	0	0.0	3	5.2	0	0.0				
36 to 40 Years	0	0.0	2	2.3	0	0.0	0	0.0	1	1.3	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0				
41 to 45 Years	1	0.5	1	1.1	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0				
Above 45 Years	1	0.5	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0	0	0.0				
Total	197	100	87	100	54	100	24	100	79	100	34	100	58	100	26	100	58	100	26	100				

Annex Table 2.6 Age Distribution of Respondents according to Factory Type and Gender

Age	Knit						Woven						Sweater						Both Knit & Woven					
	First Survey		Second Survey		Total		First Survey		Second Survey		Total		First Survey		Second Survey		Total		First Survey		Second Survey		Total	
	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	Female
Below 14	2	3	5	1	0	1	0	0	0	0	1	0	0	0	0	0	0	0	0	0	0	0	0	0
>14 to 15	1	15	16	0	0	0	7	7	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
16 to 20	14	67	81	6	15	21	9	86	95	6	31	37	1	6	7	3	5	8	1	14	15	0	3	3
21 to 25	10	24	34	3	15	18	9	47	56	9	25	34	7	4	11	4	6	10	1	6	7	2	5	7
26 to 30	2	3	5	2	9	11	7	16	23	1	6	7	1	2	3	2	3	5	1	1	2	0	2	2
31 to 35	0	7	7	0	0	0	0	10	10	1	1	2	0	1	1	0	0	0	0	0	0	0	1	1
36 to 40	0	1	1	0	0	0	0	0	0	0	2	2	0	0	0	0	0	0	0	0	0	0	0	0
41 to 45	0	0	0	0	0	0	0	0	0	0	1	1	0	0	0	0	0	0	0	0	0	0	0	0
Above 45	0	1	1	0	0	0	0	1	1	0	0	0	0	0	0	0	0	0	0	0	0	0	0	0
Total	29	121	150	12	39	51	25	167	192	17	67	84	9	13	22	9	14	23	3	21	24	2	11	13
Percent	19.3	80.7	100	23.5	76.5	100	13.0	87.0	100	20.2	79.8	100	40.9	59.1	100	39.1	60.9	100	12.5	87.5	100	15.4	84.6	100

Annex Table 2.7 FGD Places and Number of Participants

AREAS	PLACES	Number of Participants
Dhaka		
Dhaka 1	Malibag	12
Dhaka 2	Khilkhet	13
Dhaka 3	Pallabi	9
Dhaka 4	Mahakhali	11
Dhaka 5	Savar	8
Gazipur		
Gazipur 1	Tongi	12
Gazipur 2	Konabari	13
Narayanganj		
Narayanganj 1	Fatulla	11
Narayanganj 2	Sadar	10
Chittagong		
Chittagong 1	Bandar	10
Chittagong 2	Sadar	10

Annex Table 2.8 Key Informants

WR	Workers' Representative
WR 1	Moyen Uddin Mondol, Bangladesh Sanjukta Garments Sramik Federation
WR 2	Mir Abul Kalam Azad, Shadhin Bangla Garments Sramik Karmachari Federation
WR 3	Master Mokhlesur Rahman, Bangladesh Sramik Federation
WR 4	Amirul Haque Amin, National Garments workers Federation
WR 5	Abul Hossain, Bangladesh Garment Sramik Karmachari Federation
WR 6	Alamgir Rony, Ganotantrik Garments Sramik Karmochari Federation
WR 7	Shamima Nasrin, Shadhin Bangla Garments Sramik-Karmachari Federation
WR 8	Wazedul Islam Khan, Bangladesh Trade Union Centre
WR 9	Tahmina Rahman, Bangladesh Apparels Workers Federation
WR10	Bahrane Sultan Bahar, Jago Bangladesh Garments Sramik Federation
WR 11	Chaina Rahman, Federation of Garments Workers
WR 12	Roy Ramesh Chandra, Jatio Sramik League
WR 13	Mosrefa Mishu, Garments Workers Unity Forum
WR 14	Towhidur Rahman, Bangladesh Apparels Workers Federation
WR 15	Alamgir Roni, Ganotantrik Jatiyo Sramik Federation

ER	Employers' Representative
ER 1	Shahidul Islam, BGMEA
ER 2	M.A. Baset, BKMEA
ER 3	Abdullah Al Mamun, Zahimtex Ltd
ER 4	Md. Faizul Haque, Radial International Ltd.
ER 5	Rezaul Karim Noman, Radial International Ltd
ER 6	Md. Nurul Kabir Irfan, HopLun (BD) Limited
ER 7	Ahmed Reza Chief of Operation, Mee Tick Ltd

GR	Government Representative
GR 1	Mostafa Abid Khan, Tariff Commission, GoB
GR 2	Shuhel Ahmed Chowdhury Former Secretary, Ministry of Commerce, GoB
GR 3	Abul Kalam Azad, Former Secretary, Ministry of Industry, GoB
GR 4	Md. Ataharul Islam, Former Secretary, Ministry of Labour and Employment, GoB
GR 5	Mahfuzur Rahman Bhuiyan Department of Inspection for Factories and Establishment,
GR 6	Kabir Ahmed Chowdhury Former Joint Director of Labour, Department of Labour, GoB

MWBM	Minimum Wage Board Members
MWBM 1	Professor Iqbal Ahmed, Independent Member
MWBM 2	Kazi Saifuddin Ahmed, Employer's representative (permanent)
MWBM 3	Md. Zafrul Hasan, Workers' Representative (permanent)
MWBM 4	Nazma Akhter, Garment Sector Workers' Representative

CS	Civil Society
CS 1	Jafrul Hasan Sharif, Manusher Jonno Foundation
CS 2	Masuda Khatun Shefali, Nari Uddog Kendra
CS 3	Syed Sultan Ahmed, Bangladesh Institute of Labour Studies
CS 4	Nasimul Hasan Dipu, INCIDIN Bangladesh
CS 5	Shireen Akther, Karmajibi Nari
CS 6	Aamanur Rahman, ActionAid Bangladesh
CS 7	Ziaul Hasan Mukta, Oxfam UK
CS 8	Babul Akter, Bangladesh Center for Worker Solidarity
CS 9	Tanim Ahmed, The Daily New Age
CS 10	Professor Atiqur Rahaman, University of Dhaka
CS 11	Monower Mostafa, Development Synergy Institute
CS 12	Altaf Parvez, Journalist
CS 13	Adv. A.K.M Nasim, Solidarity Centre

Annex Table 9.1 Status of Disputes Taken Up for Conciliation

Year	Number of Disputes Taken up for Conciliation	Settled				Not Proceeded		Failed		Pending	
		Fully		Partially		N	%	N	%	N	%
		N	%	N	%						
1990	564	83	14.7	5	1	116	20.6	347	61.5	13	2.3
1991	1293	67	5.2		0	85	6.6	636	49.2	505	39.1
1992	1204	92	7.6	2	0	120	10.0	986	81.9	4	0.3
1993	272	173	63.6			54	19.9	31	11.4	14	5.1
1994	218	138	63.3			31	14.2	40	18.3	9	4.1
1995	135	69	51.1			32	23.7	17	12.6	17	12.6
1996	206	128	62.1	3	1	35	17.0	30	14.6	9	4.4
1997	175	94	53.7	2	1	52	29.7	23	13.1	4	2.3
1998	122	33	27.0	21	17	34	27.9	29	23.8	5	4.1
1999	148	46	31.1	41	28	32	21.6	21	14.2	8	5.4
2000	99	26	26.3	21	21	28	28.3	21	21.2	3	3.0
Average (1990-2000)	403	86	36.9	9	6.3	56	19.9	198	29.3	54	7.5
2001	68	28	41.2	6	9	14	20.6	16	23.5	4	5.9
2002	59	26	44.1	7	12	10	16.9	14	23.7	2	3.4
2003	43	18	41.9	2	5	6	14.0	13	30.2	4	9.3
2004	55	22	40.0	3	5	8	14.5	15	27.3	7	12.7
2005	63	53	84.1	4	6	2	3.2	1	1.59	3	4.8
2006	58	30	51.7	10	17	10	17.2	7	12.1	1	1.7
2007	37	21	56.8	11	30	1	2.7	1	2.7	3	8.1
2008	40	38	95.0	0	0	0	0.0	0	0	2	5.0
2009	204	199	97.5	0	0	0	0.0	1	0.49	4	2.0
2010	108	99	91.7	2	2	4	3.7	1	0.93	1	0.9
Average (2001-2010)	74	53	64.4	5	8.6	6	9.3	7	12.3	3	5.4
Average (1990- 2010)	246.2	70.6	50.0	6.7	7.4	32.1	14.9	107.1	21.2	29.6	6.5

Annex Table 9.2 Functioning of Dispute Settlement Machinery

Year	Total cases for conciliation and judiciary	Conciliation		Labor courts		Labor Appellate Tribunal	
		Number	Index	Number	Index	Number	Index
		1990	6087	564	100	5499	100
1991	6588	1293	229	5264	95.7	31	129
1992	5628	1204	213	4374	83.1	50	161
1993	4932	272	48	4622	105.7	38	76
1994	4763	218	39	4482	97.0	63	166
1995	5692	135	24	5365	119.7	192	305
1996	6293	205	36	5972	111.3	116	60
1997	7708	175	31	7434	124.5	99	85
1998	8153	122	22	7853	105.6	178	180
1999	8360	148	26	7789	99.2	423	238
2000	7540	99	18	6879	88.3	562	133
2001	5319	68	12	4769	69.3	482	86
2002	4939	59	10	4328	90.8	552	115
2003	4879	43	8	4263	98.5	573	104
2004	5746	55	10	5106	119.8	585	102
2005	6406	63	11	5923	116.0	420	72
2006	1904	58	10	1846	31.2		
2007	2467	37	7	2430	131.6		
2008	3006	40	7	2966	122.1		
2009	4094	204	36	3890	131.2		
2010	3945	108	19	3837	98.6		
Average (1990-2010)	5450	246	44	4995	102	274	132

Annex Table 9.3 Industrial Disputes Handled by Labor Courts

Year	Pending Cases at the beginning of the year	Cases filed for disposal during the year	Total cases for disposal during the year	Disposed during the year		Pending at the end of year	
				N	%	N	%
1990	3350	2149	5499	1758	32.0	3741	68.0
1991	3741	1523	5264	2364	44.9	2900	55.1
1992	2900	1474	4374	1751	40.0	2623	60.0
1993	2623	1999	4622	1729	37.4	2893	62.6
1994	2893	1589	4482	1282	28.6	3200	71.4
1995	3200	2765	5965	1778	29.8	4187	70.2
1996	4187	1785	5972	1153	19.3	4819	80.7
1997	4819	2615	7434	1388	18.7	6046	81.3
1998	6046	1807	7853	2242	28.5	5611	71.5
1999	5611	2178	7789	3007	38.6	4782	61.4
2000	4782	2097	6879	3729	54.2	3150	45.8
2001	3158	1611	4769	2038	42.7	2731	57.3
2002	2731	1597	4328	1883	43.5	2445	56.5
2003	2445	1818	4263	1720	40.3	2543	59.7
2004	2543	1563	5106	1960	38.4	3146	61.6
2005	3146	2777	5923	2462	41.6	3461	58.4
2006	3461	2385	5846	1846	31.6	4000	68.4
2007	4000	3350	7350	2430	33.1	4920	66.9
2008	4920	4805	9725	2966	30.5	6759	69.5
2009	6759	4802	11561	3890	33.6	7671	66.4
2010	7671	6068	13739	3837	27.9	9902	72.1
Average 1990 till 2000	4014	1998	6012	2016		3996	
Average 2001 till 2010	4083	3078	7261	2503		4758	
Average 1990 till 2010	4047	2512	6607	2248		4359	

Annex Table 9.4 Labor Law Violations Penalty Structure

Penalty	Type of Violence
Simple imprisonment up to three months, or fine up to five thousand taka, or both.	<ul style="list-style-type: none"> • Non-compliance of Labor Court's order (Section 283)
Up to five thousand taka	<ul style="list-style-type: none"> • Employment of child and adolescent (Sec 284) • Contravention of any provisions by the employer regarding maternity benefits included in chapter IV (Section 286).
Up to one thousand taka	<ul style="list-style-type: none"> • Making agreement in respect of a child in contravention of section-35 (Section 285). According to section 35, the parent or guardian of a child are not permitted to make any agreement, to allow the service of the child. • Working of women for payment during permitted period of maternity leave (Section 387). • Failure to give notice of any accidental occurrence, and if the occurrence results in serious bodily injury (Section 290).
Imprisonment up to three months or fine up to one thousand taka or both	<ul style="list-style-type: none"> • Whoever sells or lets on hire any machinery driven by power in contravention of section- 67 (Section288). Section 67 states that screw, belt or key or any revolting shaft, spindle of any machinery driven by power should be covered. • Using false certificate of fitness (Section 302) • Refusing or failure to present any register or other documents on the demand of any officer or preventing from appearing before, or being examined, by such person acting in exercise his power (Section 306). • Contravention of any provisions of this Act, if no other penalty is provided by the Act for this contravention (Section 307).
Imprisonment up to one year or fine up to five thousand taka or both	<ul style="list-style-type: none"> • Payment of wages at a rate below the minimum rate of wages (Section 289). • Contravention of any provision of section -196 by worker (Section 291). Section 196 provides unfair labor practices on the part of workers. • Illegal strike or lock-out by workers or employers(Section 294) • Instigating illegal strike or lock-out (Section 295) • Taking part in or instigating go-slow (Section 296) • Contravention of section 228 (2) (Section 297). According to section- 228 (2), an officer of a trade union shall not be discharged, dismissed or otherwise punished for misconduct , during the pendency of any proceedings in respect of any industrial dispute, except with the previous permission of labor Court.
Imprisonment up to six months or fine up to three thousand taka or both	<ul style="list-style-type: none"> • Failure to give notice of any accidental occurrence, and if the occurrence results in loss of life(Section 290).
Imprisonment up to one year or fine up to ten thousand taka or both	<ul style="list-style-type: none"> • Committing any breach of settlement, award or decision (Section 292).

Penalty	Type of Violence
Imprisonment up to two years or fine up to ten thousand taka or both	<ul style="list-style-type: none"> • Contravention of any provisions of section-195 by any person and section-196 by any trade union which, or any person, other than a worker, (Section 291). Section 195 provides unfair labor practices on the part of employers and section 196 provides unfair labor practices on the part of workers. • Failing to implement any settlement award or decision by any person willfully (Section 293). • Contravention resulting in serious bodily injury [Section 309 (a)].
Imprisonment up to one year and fine	<ul style="list-style-type: none"> • Misappropriation of money of the trade union fund [Section 298 (2)].
Imprisonment up to three years and fine	<ul style="list-style-type: none"> • Misappropriation of money of the workers' provident fund [Section 298 (1)]
Imprisonment up to six months or fine up to two thousand taka or both	<ul style="list-style-type: none"> • Taking part or instigating others in the activities of unregistered trade union except registration (Section 299). • Having dual membership of trade union (Section 300) • Non-compliance with the provisions of section 210 (7) (Sec 302). Section-210(7) declares that for settlement of industrial dispute the parties to the dispute shall appear before the conciliator in person or shall be represented before him by person nominated by them and authorized to negotiate and enter into an agreement binding on the parties. • Wrongful disclosure of information relating to any manufacturing or commercial secret or result of an analysis (Section 304). • Obstruction made by any person to any officer performing his duties (Section 306) • Contravention otherwise causes injury or danger to worker or other person in an establishment [Section 309 (c)]. • Contravention of order of the Court to remedy the matters in respect of which the offence was committed [Section 310 (c)].
Imprisonment up to six months, or fine up to five thousand taka, or both.	<ul style="list-style-type: none"> • Providing false statement, or omitting any statement (Section 303)
Fine up to five hundred taka	<ul style="list-style-type: none"> • General offences (like, contravention of any provisions of this act or any rules, regulations or schemes or imposing any duty on workers) by workers (Section 305).
Imprisonment up to four years, or fine up to five lac (hundred thousand) taka, or both.	<ul style="list-style-type: none"> • Contravention results in loss of life [Section 309 (a)]

Annex Table 9.5 Place of Occurrence of Workers' Agitation and Protests

Place		Agitation Cases			
		N	%	Total	% of Total
Dhaka	Malibag-Badda-Rampura-Gulshan	14	7.2	194	43.3
	Uttara-Azampur-Khilkhet	11	5.7		
	Mirpur - Pallabi	28	14.4		
	Ramna-Tejgaon-Mahakhali	20	10.3		
	Savar-Ashulia	85	43.8		
	Savar EPZ	35	18.0		
	Keraniganj	1	0.5		
Gazipur	Tongi	20	12.9	155	34.6
	Konabari	10	6.5		
	Sadar	60	38.7		
	Others	51	32.9		
	Shreepur	14	9.0		
Narayanganj	Fatulla	12	18.5	65	14.5
	Sadar	18	27.7		
	Others	35	53.8		
Chittagong	Bandar - Kalurghat	1	8.3	12	2.7
	Sadar	6	50.0		
	CTG EPZ	4	33.3		
	Others	1	8.3		
Other Districts			14	3.1	
Multiple Districts			8	1.8	
Total			448	100	

Annex Table 9.6 Membership and Gender Distribution of Members in Trade Unions

Name of National Centers	Official Records		Claims of Centers		
	N. of Affiliated Unions	Total Members	Total Members	Female Members	% of Female in Total
Bangladesh Mukto Sramik Federation – BMSF	33	132301	205007	65000	31.7
Bangladesh Jatiyatabadi Sramik Dal – BJSJ	279	247454	220000	32000	14.5
Bangladesh Free Trade Union Congress - BFTUC	35	97540	106150	22650	21.3
Jatiya Sramik Party – JSP	2	6400	110000	25000	22.7
Jatiya Sramik League –JSL	226	227800	215000	10000	4.7
Bangladesh Trade Union Kendra - BTUC	60	50180	80970	9000	11.1
Bangladesh Sanjukta Sramik Federation - BSSF	220	119096	249616	4999	2
Jatiya Sramik Federation – JSF	19	19101	38000	12500	32.9
Jatiya Sramik Federation, Bangladesh - JSF,B	11	15881	20000	1000	5
Bangladesh Sramik federation - BSF	5	3639	5989	593	9.9
Bangladesh Jatiya Sramik Federation - BJSF	18	23055	10050	1250	12.4
Jatiya Sramik Jote – JSJ	12	2260	45000	2000	4.4
Bangladesh Jatiya Sramik Jote - BJSJ	5	2421	82000	35000	42.7
Bangladesh Labour Federation - BLF	122	100844	102000	20000	19.6
Jatiya Sramik Jote Bangladesh – JSJB	20	7130	65000	6500	10

Data Source: a. Official Records: Department of Labor, Government of Bangladesh
b. Claims of Centers: Interviews of Respective Federation’s Senior Leaders and Bangladesh Institute of Labor Studies Database

APPENDIX 2.1 QUESTIONNAIRE OF SAMPLE SURVEY

[Translated from Bengali]

1. PERSONAL INFORMATION

1.1 Name (Optional):

1.2 Age: > 12 > 15 15-20 21-25 26-30 31-35 35-40 40-45 <45

1.3 Education: Illiterate Primary Secondary Higher secondary Graduate and above

1.4 Total members in the family -----

1.5 Number of dependent family members -----

2. WORK & WORKPLACE RELATED INFORMATION

2.1 How long have you been working in the garment sector? ----- Years ----- Months

2.2 How long are you working in the present factory? <1 year -----Months <2 years <3 years
 <4 years <5 years <5 years ----- Months

2.3 Current position in the factory? Trainee Helper Junior operator Other

2.4 What's the name of the factory you are working in? _____

2.5 What type of factory is it? Knit Oven Sweater Both knit & oven

3. ECONOMIC SECURITY RELATED INFORMATION

3.1 Income security

3.1.1 Wage and Wage Structure

3.1.1.1 Do you know about the 7 grade wage structure that has been declared for the garment workers?

1 <input type="checkbox"/> Never heard	2 <input type="checkbox"/> Heard but do not know	3 <input type="checkbox"/> Know a bit	4 <input type="checkbox"/> Know quite well	5 <input type="checkbox"/> Know fully
Do you know in what grade you get your salary ?	<input type="checkbox"/> Do not know	<input type="checkbox"/> If you know, in what grade? -----	What is the declared minimum wage?	----- Taka

3.1.1.2 Do you get your salary according to declared grade? Don't Know

Yes. For how many working hours? -----hour No. How the salary is provided? -----

3.1.1.3 Do you know the counting method of overtime?

1 <input type="checkbox"/> Never heard	2 <input type="checkbox"/> Heard but do not know	3 <input type="checkbox"/> Know a bit	4 <input type="checkbox"/> Know quite well	5 <input type="checkbox"/> Know fully
What do you know about the counting method of overtime?			How many times the overtime rate is against per hour salary?	--- times

3.1.1.4 How many hours of overtime you perform per day? 2 hrs / < 2 hrs > 2 hrs

If it is over 2 hours, how many hours? 3 hrs 4 hrs 5 hrs 6 hrs >6 hrs

3.1.1.5 Are your overtime provided in a fixed rate? Yes. On what rate? ---- Taka ;

For how many hours? ---- hrs

No. In what ways provided? -----

3.1.1.6 Do you receive salary & overtime on same date? Yes. On what date you usually get? ---- date

No. If no, how many days of difference in between? ---- days

3.1.1.7 Whether your salary and overtime are kept due?

1 always | 2 often | 3 sometimes | 4 hardly | 5 never | How many days of salary & overtime kept due? | --- day |

3.1.1.8 Were you provided with pay-slip with last month's payment of salary and overtime? Yes No

3.1.1.9 What was your average expenditure in the last month?

Food	Cloth	Housing	Education	Medicare	Recreation	Conveyance	Others	Total

3.1.1.10 What was your earning last month?

Basic	Overtime	Attendance bonus	Others	Total

3.1.1.11 In what ways you filled the gap (if any) between income & expenditure?

- Income of other family members government assistance and donation
 Non-government assistance and donation [BGMEA BKMEA Others]
 Loan [Local shopkeeper Relatives Colleague NGO Others] Other means.....

3.1.1.12 In what purposes you usually use your positive balance from income-expenditure (if any) ?

- Savings [Where? _____]
 Investment [How? _____] Loan to others [whom? _____]

3.1.2 Initiatives of government and factory owners to fulfill workers' basic human needs

Assistance		Don't know	Never	Seldom	At times	Often	Always	What type of assistance?	Source?
Within factory	Food	<input type="checkbox"/>	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>		
	Cloths	<input type="checkbox"/>	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>		
	Housing	<input type="checkbox"/>	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>		
	Education	<input type="checkbox"/>	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>		
	Medicare	<input type="checkbox"/>	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>		
	Recreation	<input type="checkbox"/>	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>		
Outside the factory	Food	<input type="checkbox"/>	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>		
	Cloths	<input type="checkbox"/>	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>		
	Housing	<input type="checkbox"/>	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>		
	Education	<input type="checkbox"/>	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>		
	Medicare	<input type="checkbox"/>	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>		
	Recreation	<input type="checkbox"/>	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>		

3.2 EMPLOYMENT SECURITY

3.2.1 Are you provided with following employment related entitlements and whether those are effective?

Employment related entitlements	Whether you receive?		Effectiveness of provisions in factory						What are the conditions to be entitled for such provisions?
			Don't know	Never	Seldom	At times	Often	Always	
1 Appointment letter	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/>	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	
2 Identity card	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/>	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	
3 Pay slip	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/>	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	
4 Service book	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/>	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	
5 Attendance card	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/>	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	

3.2.2 Are the following provisions effective in your factory?

Employment related provisions	Effectiveness of provisions in factory					Conditions to be effective in factory?	
1 Pension	<input type="radio"/>	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	
2 Gratuity	<input type="radio"/>	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	
3 Provident fund	<input type="radio"/>	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	
4 Leave with pay	<input type="radio"/>	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	
5 Maternity leave with pay	<input type="radio"/>	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	
6 Against arbitrary/ unfair dismissal	<input type="radio"/>	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	
7 To offset sudden loss of earning	<input type="radio"/>	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	

3.3 JOB SECURITY

Provisions of job security in current job	Availability of provisions	Effectiveness of provisions in factory					Conditions to be effective in factory? [minimum year, others]	
3.3.1 Freedom of choice in work	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> 0	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	
3.3.2 Scope of salary increase	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> 0	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	
3.3.3 Scope of promotion	<input type="checkbox"/> Yes <input type="checkbox"/> No	<input type="checkbox"/> 0	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	

3.4 WORK SECURITY

3.4.1 Are the following day-to-day work security related facilities available and effective in factory?

Work security related issues	Availability in the factory <i>0</i> <input type="checkbox"/> Don't know			Effectiveness of provisions in factory					Conditions to be effective in factory?
				Never	Seldom	At times	Often	Always	
1 Fire extinguisher	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	
2 Accessible entrance	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	
3 Emergency stairs	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	
4 First Aid kit	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	
5 Emergency /Primary Medicare	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	
6 Resting hours/ Working break	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	
7 Protective kit (Gloves/musk)	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	
8 Safe drinking water	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	
9 Day care provision	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	
10 Gender segregated hygienic toilets	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	
11 Night duty of Female workers	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	
12 Designated canteen area	<input type="checkbox"/>	<input type="checkbox"/> Yes	<input type="checkbox"/> No	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	

3.4.2 Whether the following future work security related facilities available and effective in factory?

Issues related to future work security	Availability in the factory		Effectiveness of provisions in factory						Conditions to avail such facilities?
			Don't know	Never	Seldom	At times	Often	Always	
1 Health & Life insurance	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/>	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	
2 Insurance against accidents	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/>	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	
3 Limits on working hours	<input type="checkbox"/> Yes	<input type="checkbox"/> No	<input type="checkbox"/>	1 <input type="checkbox"/>	2 <input type="checkbox"/>	3 <input type="checkbox"/>	4 <input type="checkbox"/>	5 <input type="checkbox"/>	Number of hours as limit?

3.5 SKILL REPRODUCTION SECURITY

3.5.1 Are you and/or other workers provided with scope to enhance work-skills in the factory?

<input type="checkbox"/> Don't know	<input type="checkbox"/> Never	<input type="checkbox"/> Seldom	<input type="checkbox"/> At times	<input type="checkbox"/> Often	<input type="checkbox"/> Always
What facilities are available?		<input type="checkbox"/>			
Conditions to avail such facilities?		<input type="checkbox"/>			
Did you ever yourself avail such facilities in your service life?		<input type="checkbox"/> No			
		<input type="checkbox"/> Yes <input type="checkbox"/> What type?			

3.6 LABOR MARKET SECURITY

3.6.1 Do you and/or other workers have scope to change job type within the factory?

<input type="checkbox"/> Don't know	<input type="checkbox"/> Never	<input type="checkbox"/> Seldom	<input type="checkbox"/> At times	<input type="checkbox"/> Often	<input type="checkbox"/> Always
What types of scope?		<input type="checkbox"/>			
Conditions to avail such scope?		<input type="checkbox"/>			
Did you yourself ever avail such facilities in your service life?		<input type="checkbox"/> Yes <input type="checkbox"/> What facilities?			
		<input type="checkbox"/> No			

3.6.2 What are your and other workers scopes of switching job?

In the garments sector

<input type="checkbox"/> Don't know	<input type="checkbox"/> Never	<input type="checkbox"/> Seldom	<input type="checkbox"/> At times	<input type="checkbox"/> Often	<input type="checkbox"/> Always
On what basis you think either the scopes are available or not?		<input type="checkbox"/>			
Did you yourself ever avail such facilities in your work life?		<input type="checkbox"/> Yes <input type="checkbox"/> No			

In the other profession

<input type="checkbox"/> Don't know	<input type="checkbox"/> Never	<input type="checkbox"/> Seldom	<input type="checkbox"/> At times	<input type="checkbox"/> Often	<input type="checkbox"/> Always
On what basis you think either the scopes are available or not?		<input type="checkbox"/>			
Did you yourself ever avail such facilities in your work life?		<input type="checkbox"/> Yes <input type="checkbox"/> No			

3.7 REPRESENTATION SECURITY

3.7.1 Roles & functions of labor organizations in and outside the factory

3.7.1.1 Whether any labor organizations functioning in your factory?

<input type="checkbox"/> Don't know	<input type="checkbox"/> Never	<input type="checkbox"/> Seldom	<input type="checkbox"/> At times	<input type="checkbox"/> Often	<input type="checkbox"/> Always
If not functioning, why?	<input type="checkbox"/> Employers' Prohibition		<input type="checkbox"/> Fear of losing job		<input type="checkbox"/> Lacking scope
	<input type="checkbox"/> Not necessary, why?.....				<input type="checkbox"/> Other Reasons
If functioning, are you member of that organization?	<input type="checkbox"/> No		Why didn't you become member?		
	<input type="checkbox"/> Yes		Reasons for being a member?		

3.7.1.2 Functions of labor organization outside the factory

Are you involved with any labor organization outside the factory?	<input type="checkbox"/> No	<input type="checkbox"/> Yes
If yes, why do you think it is necessary to participate in this organization?	<input type="checkbox"/>	<input type="checkbox"/>
If not, why you think it is unnecessary?	<input type="checkbox"/>	<input type="checkbox"/>

3.7.1.3 Initiatives of labor organizations

Do you know whether the in the labor organizations take strong initiatives in the context of legitimate demands?

<input type="checkbox"/> Don't know	<input type="checkbox"/> Never	<input type="checkbox"/> Seldom	<input type="checkbox"/> At times	<input type="checkbox"/> Often	<input type="checkbox"/> Always
<input type="checkbox"/> What are the causes behind lack of initiatives?	<input type="checkbox"/>				
<input type="checkbox"/> What drives the organizations to take initiatives?	<input type="checkbox"/>				
	<input type="checkbox"/>				

3.7.1.4 Capability of labor organizations

Do you consider labor organizations capable to bargain for worker's legitimate demands and achieving results?

<input type="checkbox"/> Don't know	<input type="checkbox"/> Never	<input type="checkbox"/> Seldom	<input type="checkbox"/> At times	<input type="checkbox"/> Often	<input type="checkbox"/> Always
<input type="checkbox"/> What are the causes behind incapacibilities	<input type="checkbox"/>				
<input type="checkbox"/> What forces make the organizations capable?	<input type="checkbox"/>				
	<input type="checkbox"/>				

3.7.2 Collective bargaining in fulfilling legitimate demand

Have you ever participated in any collective efforts for fulfilling legitimate demands of yourself or other workers of your factory?	<input type="checkbox"/> No	<input type="checkbox"/> Yes
If yes	When?	What was the demand?
	What was the outcome?	
If the demand was not met, what were the reasons behind it?	<input type="checkbox"/>	<input type="checkbox"/>

3.7.3 Workers participation in labor movement

3.7.3.1 Participation in the workers' movement for fulfilling the demand in or outside factory

Have you ever joined any workers' factory or outside?	movement to fulfill demands either in your	<input type="checkbox"/> No
	<input type="checkbox"/> Yes	When?
If yes	What was the demand?	
	What was the outcome?	
If the demand was not met, what were the reasons behind it?	<input type="checkbox"/>	<input type="checkbox"/>

3.7.3.2 Do you know about the Post May 2006 labour movement on minimum wage?

1 <input type="checkbox"/> Never heard	2 <input type="checkbox"/> Heard but do not know	3 <input type="checkbox"/> Know a bit	4 <input type="checkbox"/> Know quite well	5 <input type="checkbox"/> Know fully
Do you know whether the demand was met?	<input type="checkbox"/> Yes	Why do you think such?		
	<input type="checkbox"/> No	Why do you think such?		
What was the workers' demand of Minimum wage? taka			What was the amount agreed?taka	

3.7.3.3 Role of workers organization/labour leaders in Post May 2006 Minimum Wage Movement

Do you consider that the labor organizations/ leaders acted in full force fully in line with the workers' demand during the Movement?

<input type="checkbox"/> Don't know	<input type="checkbox"/> Never	<input type="checkbox"/> Seldom	<input type="checkbox"/> At times	<input type="checkbox"/> Often	<input type="checkbox"/> Always
<input type="checkbox"/> What are the causes behind lack of initiatives and forces of organizations/leaders in line with demands?			<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		
<input type="checkbox"/> What forces made the organizations capable to work in full force in line with the demands?			<input type="checkbox"/> <input type="checkbox"/>		

3.7.3.4 Role of government in Post May 2006 Minimum Wage Movement

Do you consider that the government responded in line with the workers' demand in response to the Movement?

<input type="checkbox"/> Don't know	<input type="checkbox"/> Never	<input type="checkbox"/> Seldom	<input type="checkbox"/> At times	<input type="checkbox"/> Often	<input type="checkbox"/> Always
<input type="checkbox"/> What are the causes behind non-response of government in view of workers' demands?			<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		
<input type="checkbox"/> What forces made the government respond in line with the demands?			<input type="checkbox"/> <input type="checkbox"/>		

3.7.3.5 Role of Employers' association in Post May 2006 Minimum Wage Movement

Do you consider that the factory owners were accommodative of the workers' demands during the Movement?

<input type="checkbox"/> Don't know	<input type="checkbox"/> Never	<input type="checkbox"/> Seldom	<input type="checkbox"/> At times	<input type="checkbox"/> Often	<input type="checkbox"/> Always
<input type="checkbox"/> What are the causes behind factory owners non-accomodative responses to workers' demands?			<input type="checkbox"/> <input type="checkbox"/> <input type="checkbox"/>		
<input type="checkbox"/> What forces made the owners accommodative to worker' demands?			<input type="checkbox"/> <input type="checkbox"/>		

3.7.4 In your opinion, what initiatives can be taken for the fulfillment of workers' legitimate demands?

- Increasing the government initiatives
- Increasing the cordial attitude of owners
- Proper implementation of factory and labor laws
- Workers should be organized more
- Others

4. What are your recommendations for ensuring the labor standards, labor rights and workers' security of the workers?

Thank you.

APPENDIX 2.2

FGD AND KII CHECKLIST

1. Income security

1.1 How would you evaluate RMG workers' current wage and wage structure and factory compliance on those issues (current grade, disbursement of salary according to grade, overtime rate, hours of overtime, date of receiving salary and overtime, and due payment)?

1.2 Please provide an assessment whether or not the present wage structure sufficiently enable workers to meet their basic needs.

1.3 Whether workers get any assistance by factory owners and government to meet basic needs? What kinds of assistance are provided and from whom?

2. Employment security

2.1 Please provide an assessment whether the employment related entitlements (e.g., appointment letter, identity card, pay slip, service book, and attendance card) are provided in the factories effectively, and what are the conditions for workers to be entitled for such provisions?

2.2 Whether the employment related provisions (e.g., pension skim, gratuity provident fund, leave with pay, maternity leave, rules against unlawful/arbitrary/ unfair dismissal, policies to offset sudden loss of earning) are effective in the factories, and what are the conditions to be effective for workers?

3. Job security

3.1 Whether the job security related provisions (e.g., opportunities of freedom of choice in work, scope of salary increase, scope of promotion) are effective in the factory, and what are the conditions provided by the employers to make these provisions effective?

4. Work security

4.1 Whether work security related issues (e.g., fire extinguisher, accessible entrance, emergency stairs, first aid kit, emergency /primary medicare, resting hours/ working break, protective kit - gloves/musk, safe drinking water, day care provision, gender segregated hygienic toilets, night duty of female workers, designated canteen area) are effective, and what are the conditions provided by the employers to make these provisions effective?

4.2 Whether the provisions related to future work security (e.g., health & life insurance, insurance against accidents, limits on working hours) are effective in factories, and what are the conditions provided by the employers to make these provisions effective?

5. Skill Reproduction Security

5.1 Are the workers provided with scope to enhance work-skills in the factories? If yes, what are those and what are the conditions provided by the employers to make these provisions effective?

6. Labor Market Security

6.1 Do you think that garment workers have the scope to do other works beside present garment job (in garment sector/ other sectors)? If Yes, what are the prevailing conditions to avail of such scope? If no, please describe why not?

7. Representation Security

7.1 Roles & functions of labor organizations in and outside the factory

7.1.1 Evaluate roles and functions of labor organizations in and outside the factory. To what extent, the labor organizations are active in the factories? Please describe on the scope and nature of the activities initiated by it as well as highlight the role of the organization led by you.

Target group, Current membership Coverage Activities

7.1.2 How would you evaluate whether the labor organizations (including yours) take strong initiatives in the context of legitimate demands of the workers?

What drives the organizations to take initiatives? What are the causes behind lack of initiatives?

7.1.3 How would you evaluate whether labor organizations (including yours) are capable to bargain for worker's legitimate demands and achieving results?

What forces make the organizations capable? What are the causes behind lacking capabilities?

7.2 Collective bargaining in fulfilling legitimate demand

7.2.1 What is your evaluation about collective bargaining in fulfilling legitimate demands of the workers and workers' participation within the process?

Opportunities and limitations of the workers to participate?

7.2.2 Evaluate the role of your as well as other labor organizations in fulfilling workers legitimate demand through Post May 2006 minimum wage movement (MWM).

Specific demands of MWM Organizational activities in fulfilling demand
Types of assistance received and hindrance faced, and from whom?

7.2.3 What is your evaluation about success and/or failure in fulfilling demands of Post May 2006 minimum wage movement?

7.2.4 What is your evaluation about workers' representatives to the wage board and their role in fulfilling workers' minimum wage demand?

Rationality of representatives Role of labor leaders
 Role of other representatives (permanent, neutral, government)

8. What are your recommendations for ensuring that the labor standards translate into labor rights and into economic security for garment workers?

THANK YOU.