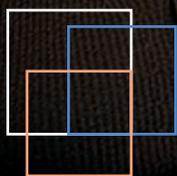




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# Freedom of Association for Women Workers in EPZs

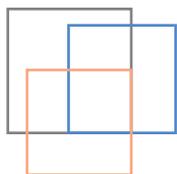
A Manual

**DECLARATION**

Bureau  
for Gender  
Equality







# Freedom of Association for Women Workers in EPZs

A Manual

By Ashwini Sukthankar and Ramapriya Gopalakrishnan

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*ILO Cataloguing in Publication Data*

Sukthankar, Ashwini; Gopalakrishnan, Ramapriya

Freedom of association for women workers in EPZs : a manual / by Ashwini Sukthankar and Ramapriya Gopalakrishnan; International Labour Office. - Geneva: ILO, 2012  
1 v.

ISBN: 978-92-2-125675-5 (print);  
ISBN: 978-92-2-125676-2 (web pdf)

International Labour Office

freedom of association / gender equality / women workers / womens rights / workers rights / violation / labour inspection / trade union role / collective bargaining / role of ILO / supervisory machinery / export processing zone / training programme

04.02.2

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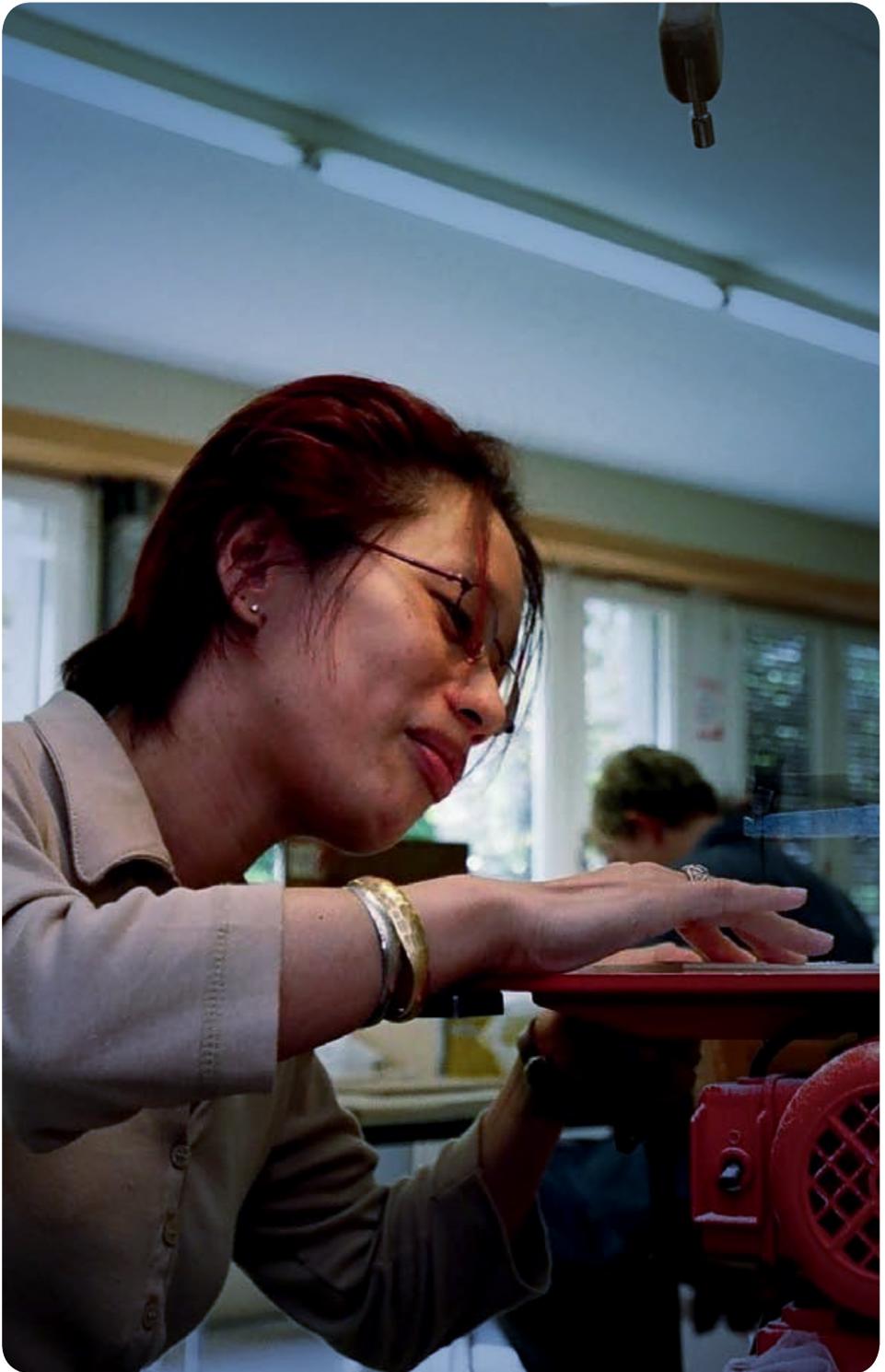
## FOREWORD

Freedom of association is a core right for all workers and a prerequisite for social dialogue and collective bargaining. However, most workers employed in Export Processing Zones across the globe do not fully enjoy this right. And the large majority of the workers in EPZs are women. In 2009 the International Labour Conference concluded its discussion on “Gender equality at the heart of decent work” by specifically mentioning that “freedom of association and the right to collective bargaining and core labour standards should apply to all EPZs, and should be used to ensure respect for workers’ rights, including gender equality. Further, it addressed the need to “focus on providing work for women in EPZs, in particular promoting and monitoring freedom of association [...]”.

This manual is an easy-to-use, practical tool for trade unions to reach out to women workers in Export Processing Zones to inform them of their rights and engage them in activities that promote freedom of association and organizing as a key means to improve their working conditions. It goes through the various steps on how to get in contact with the workers, how to prepare for and conduct the training, and what activities to suggest for the women workers. The manual is a complementary tool to ILO’s “Trade Union Policy Guide on Export Processing Zones” (Forthcoming) and “Gender Equality: A Guide to Collective Bargaining” (1998). A similar manual has also been made for women rural workers, called “Freedom of Association for Women Rural Workers” (2011).

The manual is the result of collaboration between the Programme for the Promotion of the ILO Declaration on Fundamental Principles and Rights at Work, Bureau for Workers’ Activities, ILO Country Office in Manila, ILO Decent Work Team/Country Office in Pretoria, and the Bureau for Gender Equality. Ms Ashwini Sukthankar and Ms Ramapriya Gopalakrishnan wrote the manual. Ms Line Begby coordinated the project and piloting workshops. Particular thanks for comments and assistance are expressed to Mr Edward Lawton, Ms Lisa Tortell, Ms Vanessa de la Blétière, Ms Githa Roelans, Mr Claude Akpokavie, Ms Nelien Haspels, Ms Hilda Tidalgo and Ms Inviolata Chinyangarara.

Warm thanks are also extended to the Filipino trade union federations, namely Trade Union Congress of the Philippines, Alliance of Progressive Labor, Federation of Free Workers’ Women’s Network and TSPICEU, Kilusang Mayo Uno and Partido ng Manggagawa for their participation in the piloting workshop, and their valuable comments and inputs to the manual. This manual was developed with support from the Government of Sweden.



# TABLE OF CONTENTS

FOREWORD	iii
TABLE OF CONTENTS	v
ABBREVIATIONS	vi
<b>CHAPTER 1</b> Introduction	1
<b>CHAPTER 2</b> Note to the Facilitator	5
<b>PART I PREPARING INFORMATION FOR THE TRAINING</b>	11
<b>CHAPTER 3</b> Understanding the International Framework for Women Workers' Rights in EPZs	13
<b>CHAPTER 4</b> Obstacles to Organizing	19
<b>PART II CONDUCTING THE TRAINING</b>	27
<b>CHAPTER 5</b> Discussing the Rights and the Violations	29
<b>CHAPTER 6</b> Overcoming the Obstacles	39
<b>CHAPTER 7</b> Long term follow-up	45
<b>APPENDIX A</b> Information about the ILO's supervisory and special supervisory/complaints mechanisms	46
<b>APPENDIX B</b> Case studies	48

# ABBREVIATIONS

<b>CEACR</b>	<b>Committee of Experts on the Application of Conventions and Recommendations</b>
<b>CFA</b>	<b>Committee on Freedom of Association</b>
<b>EPS</b>	<b>Export Processing Sector</b>
<b>EPZ</b>	<b>Export Processing Zone</b>
<b>ILO</b>	<b>International Labour Organization</b>
<b>IMF</b>	<b>International Monetary Fund</b>
<b>ITUC</b>	<b>International Trade Union Confederation</b>
<b>SSDP</b>	<b>Sound, Sight, Discussion and Practice</b>
<b>UN</b>	<b>United Nations</b>

# CHAPTER 1 Introduction

## 1.1. Export Processing Zones

Export processing zones (EPZs), according to the International Labour Organization (ILO), are “industrial zones with special incentives set up to attract foreign investors, in which imported materials undergo some degree of processing before being exported again.”<sup>1</sup> Common traits of EPZs are:

- ⊙ they are industrial zones with special incentives;
- ⊙ they are relatively small geographically separated areas within a country usually near an international port or airport,
- ⊙ their purpose is to attract export-oriented industries offering free trade conditions and a liberal regulatory environment; and
- ⊙ the entire production of such zones is generally exported.<sup>2</sup>

Governments in developing countries have established EPZs as part of export-oriented growth strategies promoted by the IMF and the World Bank. In times when economic crises threaten to bankrupt weaker states, EPZs offer a direct link to foreign markets and global production networks. Moreover, countries argue that they offer an immediate way to soak up surplus labour. Corporations see the benefits of EPZs as well, and actively promote their expansion. They gain from limited tax and tariff restrictions, and reduced labour regulations that help to extend management control in the workplace.<sup>3</sup>

According to ILO estimates there are currently around 3,500 EPZs throughout the world operating in around 130 countries and territories and employing over 66 million people. The number of countries using EPZs increased to 130 in 2006, up from 116 in 2002 and 25 in 1975. However, these numbers should be taken and considered with caution rather than with an absolute certainty given that there is a lack of reliable and comprehensive data on employment trends regarding EPZs. More than 85% of all EPZ workers work on the Asian continent.<sup>4</sup>

The workforce of the export processing sector (EPS) as a whole is even larger, since it includes those employed by enterprises that may be outside EPZs, but are still involved in export-oriented production. While this manual is designed to address EPZs, trade unions may find many of the strategies applicable to the broader EPS, especially since many of the problems associated with EPZs (such as exemptions from labour laws) are increasingly applicable to export-oriented industries outside EPZs.

<sup>1</sup> Aurret Van Heerden, *Labour and Social Issues relating to export processing zones*. (Report for discussion at the Tripartite Meeting of Export Processing Zones-Operating Countries, ILO, Geneva, 1998) p.11

<sup>2</sup> ILO (Forthcoming): *Trade Union Policy Guides on Export Processing Zones*

<sup>3</sup> Jamie K. McCallum, *Export Processing Zones: Comparative Data from China, Honduras, Nicaragua and South Africa*, ILO, Geneva, 2011, p. 3. [http://www.ilo.org/wcmsp5/groups/public/---ed\\_dialogue/---dialogue/documents/publication/wcms\\_158364.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---dialogue/documents/publication/wcms_158364.pdf)

<sup>4</sup> ILO (Forthcoming) *Trade Union Policy Guides on Export Processing Zones*

The ILO, Global Unions and national-level trade unions have all recognized that there is an urgent need to promote Decent Work<sup>5</sup> in EPZs. However, it is extremely hard to come up with a uniform set of strategies to improve conditions in EPZs, since there are so many differences among zones. There is so much variety in the nature of EPZ enterprises and their employment practices, as we look from Asia to Africa, from manufacturing to services, from small urban high-tech zones to large rural agribusinesses that, as the ILO noted in 2008, “there is no one-size-fits-all solution to ensure decent work.”<sup>6</sup>

Nevertheless, there are two things that are constant, as many organizations and individual scholars have pointed out.

- ◎ **FIRST**, while EPZs have transformed and diversified over the last 50 years, “a conspicuously common feature across time and space is that women have constituted the core of the labour force.”<sup>7</sup> Women are typically the majority of workers in the enterprises in EPZs, and in some regions and types of work, may be close to 100% of the workforce. As an ILO publication on women workers’ rights explains, “international capital tends to be invested in more labour-intensive production which tends to be female-dominated owing to the lower wages women workers earn in these sectors.”<sup>8</sup> In that context, the basic problems that those women workers face are common across regions, and have remained unchanged over the years. These include workplace discrimination, sexual harassment, and concerns related to maternity leave and child care. It is true that the problems vary in degree, with less flagrant violations at EPZ operations employing higher-skilled and better-compensated workers – and more men – such as call centres and financial services operations. However, women workers at these operations tend to describe the same types of violations. Additional issues, such as excessive working hours and unpaid overtime, may be common to men and women, but often have an even greater impact on some women workers, since in many places women also bear most of the responsibilities of household chores as well.
- ◎ **SECOND**, there is strong resistance to trade unions in EPZs, across all regions.<sup>9</sup> This remains the case despite international pressure from the ILO’s two supervisory bodies (which are described at greater length below), and from national unions and advocacy groups has resulted in lifting most of the legal restrictions on trade union activity in EPZs. The ILO noted in 2003 that “the most frequent observations made by workers’ organizations in relation to EPZs have related to the principle of freedom of association and effective recognition of the right to collective bargaining,”<sup>10</sup> and this remains the case at the time of writing. Around the world, EPZ enterprises tend to have lower trade union density, a greater incidence of trade union representatives being denied access to workers, and higher levels of anti-union practice.<sup>11</sup>

<sup>5</sup> The ILO’s Decent Work Agenda stresses the promotion of four objectives: creating jobs, guaranteeing rights at work, extending social protection, and promoting social dialogue. For more information, see <http://www.ilo.org/global/about-the-ilo/decent-work-agenda/lang--en/index.htm>

<sup>6</sup> ILO, *Report of the InFocus Initiative*, March 2008. GB.301/ESP/5, p.10. While the reference is only to EPZs, it should be noted that it is just as applicable to the broader EPS.

<sup>7</sup> Mayumi Muruyama and Nobuko Yokota, *Revisiting Labour and Gender Issues in Export Processing Zones: The Cases of South Korea, Bangladesh and India*, IDE Discussion Paper no. 174, 2008, p.29

<sup>8</sup> ILO, *ABC of Women Workers’ Rights and Gender Equality*, 2nd edition, 2007, p.95 [http://www.ilo.org/wcmsp5/groups/public/---dgreports/---gender/documents/publication/wcms\\_087314.pdf](http://www.ilo.org/wcmsp5/groups/public/---dgreports/---gender/documents/publication/wcms_087314.pdf)

<sup>9</sup> Muruyama, see footnote 7 above, pp.7-8

<sup>10</sup> ILO, *Employment and Social Policy in respect of export processing zones (EPZs)*, March 2003, GB.286/ESP/3, p.8

<sup>11</sup> Ramapriya Gopalakrishnan, *Freedom of association and collective bargaining in export processing zones: Role of the ILO supervisory mechanisms*. ILO International Labour Standards Department, Working Paper 1, 2007, p.8



Given the scale of enterprises in EPZs, the central role of women workers within them, the importance of freedom of association as a workplace right; and the central role of unions to promoting better working conditions through collective bargaining, it is clearly a priority to focus on organizing women workers in EPZs.

## 1.2. Decent Work

As noted above, the ILO and global and national-level unions have addressed the importance of promoting decent work in EPZs. Decent Work, as defined by the ILO, captures the idea that work should contribute to the well-being of individuals, households, local communities and countries at many levels, from basic human dignity to sustainable national development. The Decent Work agenda of the ILO stresses job creation, rights at work, social protection and social dialogue. There is often a lack of Decent Work for workers in EPZs as employers lack will and resources to follow labour laws on workers' rights, and governments do not have the resources to enforce the laws and hold employers accountable. In addition to the gender discrimination and restrictions on freedom of association rights mentioned above, excessive and compulsory overtime is widespread at EPZ workplaces, and health and safety regulations are often violated.<sup>12</sup>

Freedom of association for women workers in EPZs is not only a core workplace right in itself, but is a key factor in promoting the realization of other critical rights, and improve conditions at work. Ensuring that workers have freedom of association and that strong trade unions exist and engage with employers on collective bargaining reduces employment discrimination, improves occupational safety and health, and leads to more humane working environments.

<sup>12</sup> Jamie K. McCallum, *Export Processing Zones: Comparative Data from China, Honduras, Nicaragua and South Africa*, ILO, Geneva, 2011, pp. 3-4 [http://www.ilo.org/wcmsp5/groups/public/---ed\\_dialogue/---dialogue/documents/publication/wcms\\_158364.pdf](http://www.ilo.org/wcmsp5/groups/public/---ed_dialogue/---dialogue/documents/publication/wcms_158364.pdf)

### 1.3. Purpose of the Manual

This manual is designed as a practical guide for trade unions who are planning programmes with women workers in EPZs to train them on freedom of association. It is addressed to trainers who will have been identified and selected by the union to undertake these programs. The trainers may be trade union staff, or outside facilitators. The manual will address the following areas:

- ⊙ Help the trainers conduct outreach to women workers in EPZs.
- ⊙ Provide an overview of typical obstacles to organizing in EPZs, for trainers to reflect upon and discuss in meetings with workers.
- ⊙ Suggest methods to help women workers identify particular barriers in their own situation, as well as opportunities for organizing.
- ⊙ Offer ideas that may be useful to women worker, in developing strategies to overcome these obstacles, or take advantage of the opportunities.

The approach is intended to inform the women workers on how they can organize themselves and develop leadership skills. It is also geared towards equipping them to better advance the following goals:

- ⊙ Identifying allies to support them in organizing, obtaining legal advice, or securing critical services.
- ⊙ Shaping campaigns for legal reform, in partnership with allies, to promote and respect the right to organize in EPZs.
- ⊙ Forming new unions, or working within existing ones, to shape organizational structures that are welcoming to the new types of workers entering the workforce through EPZs: women in general, of course, but also migrants and younger workers.

The manual is designed as a global tool and so cannot address the many details that will be extremely particular to one country, or one industry. As a result, facilitators will have to work with it and adapt it. Nevertheless, the global scope will allow facilitators to draw on a wide range of experiences and examples to illustrate possible approaches to organizing women working in EPZs.

The manual does not cover all aspects of women workers and trade unions in EPZs. It focuses, rather, on the narrower issue of organizing rights and organizing strategy. Where appropriate, it directs facilitators to resources, within the ILO system and beyond, that address some of the critical roles that trade unions must play to advance workers' rights, such as collective bargaining. Also, while this manual does identify and address a substantial number of other factors which typically challenge the traditional union strategies when organizing women EPZ workers – such as the substantial presence of migrant workers, or the use of irregular employment contracts – these issues have been addressed in much greater detail in other documents, produced by the ILO, global unions, or others. The manual also provides references to these.

This manual aims to build the women EPZ workers' understanding of their rights and engagement in exercising the right to freedom of association, as it is a prerequisite for establishing social dialogue and participation in collective bargaining. For more information on topics relevant to women workers see ILO's publications "Gender Equality: A Guide to Collective Bargaining"<sup>13</sup> and "Trade Union Policy Guides on Export Processing Zones".<sup>14</sup>

<sup>13</sup> ILO, 2002 [http://www.ilo.org/actrav/what/pubs/lang--en/docName--WCMS\\_113700/index.htm](http://www.ilo.org/actrav/what/pubs/lang--en/docName--WCMS_113700/index.htm)

<sup>14</sup> ILO, forthcoming.

## CHAPTER 2 Note to the Facilitator

### 2.1. Preparation

The trainer will have to be prepared to convey information about domestic labour law, with respect to how it allows for unions to form, register, negotiate, and otherwise act on behalf of their members as well as specific laws guiding EPZs in the country.

Since this manual is global in scope, it cannot provide an overview of domestic laws. However, the trainer should review the following topics, referencing the national Labour Code, the Constitution, local ordinances, and EPZ laws as necessary:

- ⊙ General protections for the freedom of association, in the Constitution or national Charter;
- ⊙ The legal framework for trade unions, as set forth in labour laws, including all the steps necessary for union registration and collective bargaining;
- ⊙ Laws specific to EPZs, if any, addressing trade union rights and employment protections;
- ⊙ Provisions with respect to gender-based discrimination and maternity protection at the workplace, which may be in the Constitution, labour laws or laws specific to gender equality;
- ⊙ Provisions covering daycare or other child-care, whether provided by the state or the employer.

To find more information about specific countries and ILO's recommendation and notes on issues such as freedom of association, the trainer can consult the database ILOLEX for comments and ratification lists.<sup>15</sup>

Practical suggestions for how to frame a discussion around these points during the training are contained in chapter 5.

### 2.2. Analyzing the Context

While ILO Conventions Nos. 87 and 98 protect the right to organize (see chapter 3), workers in EPZs generally do not enjoy these rights, or the benefits of memberships of trade unions as a result of one or more of the following:

- ⊙ Gaps in domestic law, often as a result of EPZs being excluded from full coverage of labour laws;
- ⊙ Failure by the state to protect trade union rights;
- ⊙ Employer practices in EPZs in a country; and
- ⊙ Gender stereotypes and negative cultural attitudes towards women, serving as barriers to women's participation in unions.

<sup>15</sup><http://www.ilo.org/ilolex/english/>

When conducting the training, as outlined in chapter 5, it will be important to lead the group through exercises to help them identify how these factors play out in the particular contexts where they work. Then, it will be possible to discuss as a group how to develop strategies to address and overcome the obstacles. To prepare, the trainer should develop a familiarity with the international law as outlined in chapter 3, and with challenging state practices as outlined in chapter 6. Sharing this basic information will lay the foundations for women workers to have a meaningful discussion about their situation, and to consider the options for challenging it. In terms of employer practices, women workers will be the best equipped to describe this in their own context. Similarly, they should be able to share their own analysis of how gender stereotypes play out in their daily lives.

### 2.3. Outreach to the Women Workers

The trade union will have to conduct an assessment of where the women workers live, what kinds of social groups they belong to, what issues are important to them, and their degree of literacy and awareness of their rights. It will also have to take into account factors related to the workplace: are all of the workers in question from the same enterprise? Are they in the same EPZ? On the basis of these factors, the trade union may want to choose some or all of the following strategies:

**a) Building trust and contacts with women workers by offering them services that they may need.**

Such services could include literacy classes, health camps, savings and credit groups, and legal aid. These activities will develop relationships among women workers, and bring them into regular contact with the union. In addition, group activities such as savings and credit, or self-help, will lead to women workers learning skills related to working collectively, electing representatives, and conducting meetings. These skills will be critical to their future role as empowered members of unions. Such groups and networks will also lead to workers developing a greater understanding of solidarity, and a greater ability to identify issues and concerns that are common to them all. This is also an important step towards unionization.



- b) Seeking the assistance of women's organizations that may already be serving women EPZ workers.** Such organizations may have an existing agenda to advance women's rights in the workplace, or may be providing community-level services women workers in EPZs use, such as crèches. In either case, the trade union may be able to rely on trust relationships and networks that have already been established between the workers and such organizations, especially where the organizations recognize, as they must, that they are not a substitute for trade unions.
- c) Promoting the visibility of the union in the EPZ.** If the union conducting this training is already organizing in the EPZ, it may wish to publicize any campaigns it may be conducting on particular workplace issues or broader rights sought from the state. If workers are made aware that the union is involved in challenging unfair laws or employment policies – including, potentially, those that discriminate against workers and/or women workers in EPZs – it will help reassure them about the union's good faith and willingness to stand up for issues important to them. In addition, organizing protests where workers are able to join (but not forced to join) may be a possible preliminary to bringing them together for training. However, depending on the degree of intimidation and surveillance in the EPZ, the union may wish to be careful about engaging in actions which may be more confrontational or more risky than workers are prepared for.
- d) Advertising the meeting, through posters and leaflets.** It is important that these materials are comprehensible to women EPZ workers. Where workers have low levels of literacy, this may mean that posters and leaflets include drawings, photographs or other images. Where the materials are attempting to convey a sense of some of the issues that workers may wish to come together to discuss – extreme working hours or harassment, for example – it is important that they represent actual experiences at the workplace, rather than abstract ideas or exaggerations. This will maximize the potential for women to identify themselves with the issues depicted, and seek out a collective space. Again, as with protests, it would be useful to consider conditions of surveillance and/or intimidation in the EPZ very carefully before engaging in such a public form of outreach.
- e) Organizing initial gatherings at the community level.** Given the high levels of surveillance and intimidation that characterize many EPZ operations, it is generally unrealistic to seek out women at the workplace, and if they believe that a training or an organizing activity is putting their jobs at risk, it may even alienate them from further involvement. It may be preferable to avoid holding the meeting in a union hall, if there is any reason to be concerned that there is social stigma related to women's involvement in trade unions, or if travel to the union's office involves a long journey. For these, and perhaps other reasons, meetings held in the community may be more accessible and less threatening, and women who are initially reluctant to participate may be more willing to attend when they see neighbors and friends on their way to the gathering. It is even possible for workers who are already involved in the training process, and/or the trainers themselves, to go door-to-door to encourage other women to attend.
- f) Recruiting women trainers and facilitators.** It is critical that the meetings be led primarily (or even solely, depending on the socio-cultural environment) by women, since women workers in some regions may be initially hesitant to engage with men. In addition, if the meeting space constantly reinforces traditional power relations between men and women, with men in positions of authority and leadership, it is unlikely that the training will lead to capacity building of the women workers, or lead to their more active participation in the union.

## 2.4. Managing Group Dynamics

The trainer should be aware of some potential ways in which the social and cultural environment for women's work in the EPZ could add to the challenges of organizing. The barriers operate at different levels, including the following:

- ⊙ Society's possible resistance to women's empowerment in the workplace, and cultural norms with respect to appropriate gender roles;
- ⊙ Women workers' own background and perception of themselves;
- ⊙ Tensions related to differences among women workers including political affiliation, religious practice, tribal identity, caste background; and
- ⊙ Practical obstacles, such as language differences.

While these issues may never be openly discussed during the training, they will certainly operate in the background of the conversation, and the trainer may want to reference some of them discreetly, as workers begin to talk about how to develop an appropriate organizing strategy:

- **WHO ARE THE WORKERS?** Very often, women workers in EPZs are young and, depending on the type of work they perform, they may not be fully literate. As the ILO has described, they are "often native-migrants from rural areas to urban areas and cities for the very first time in their lives where they take up their first experience in the labour market and without any previous trade union experience. EPZ female workers are generally found at the lowest end of the global value chain and face numerous problems, including insecure jobs, access to maternity protection, sexual harassment or lack of a voice in trade union structures."<sup>16</sup> This should play into any calculation of how much preparation may have to be done, perhaps in partnership with other civil society groups, before the women are ready to identify themselves as workers, and participate in workplace mobilization.
- **HOW MUCH DO THEY HAVE IN COMMON WITH EACH OTHER?** In some EPZs, there may be workers coming from many different backgrounds, with different languages, different skill levels, different cultures, different religions, and different traditions of unionism. None of these, either in isolation or in combination, are an absolute bar to organizing, and unions active in EPZs in several countries have even been able to bring together workers on either side of violent ethnic and religious conflict. However, the differences should not by any means be taken lightly.
- **WHERE DO THE WORKERS COME FROM?** Women workers in EPZs are frequently migrants, either migrating from rural areas within the same country, or even from other countries, and often from situations of poverty. This may mean that they are often primarily working to send money to their families back home, and may even be the sole source of support for the family back home. Migrant workers, who are not offered formal contracts and not covered by any existing labour law, often face harsher penalties for unionization activities and earn less money than native workers. Many women enter work in EPZs with the assumption that they may only be working for a few years, before returning to their family homes. These are factors that will have to be taken into account when shaping the training, in order to assess how the workers may react to the perceived risks of job loss that are frequently associated with forming or joining a union.

<sup>16</sup> ILO (Forthcoming): *Trade Union Policy Guides on Export Processing Zones*

- **WHERE DO THEY LIVE?** Given the high levels of migrant workers in EPZs, in many regions, it is common for women workers to live together in large groups, either in small rented accommodations, or dormitories owned and controlled by the employer, close to the work place. This can be both a challenge and an opportunity, since it is possible to spread information quickly through worker communities. At the same time, securing access to workers in the first place, especially if they live in dormitories, can be extremely difficult.
- **WHAT ARE RELEVANT DETAILS ABOUT THE EPZ IN QUESTION?** In general enterprises in EPZs have an extremely high turnover of workers, and work in these enterprises often involves high levels of workplace stress. Typical jobs in these enterprises require relatively low levels of education or on-the-job training, meaning that the workers are often seen as easily replaceable by the employer. In addition, women workers are often in precarious work situations— as casual, part-time or subcontracted labour – and thus, are even easier to dismiss. These are significant obstacles to contend with, since, under the circumstances, workers are often reluctant to invest the time and effort necessary to organize for long-term change at the workplace, and hesitant to risk being identified as union sympathizers and losing their job.
- **WHAT ARE SOME OF THE SOCIAL STEREOTYPES ABOUT WOMEN AND WOMEN WORKERS THAT MUST BE ADDRESSED?** In addition to the obstacles presented by the reality of women workers' lives in EPZs, there are additional obstacles tied to social prejudices. If there are rigid class and gender hierarchies in the society, there may be multiple levels of resistance to the idea of women organizing themselves to try to improve their working conditions. Where women are young and unmarried, there may be social stigma associated with them working at all; the stigma will often be even greater if they attend night-time union meetings, or are seen in the company of male unionists. The trainer will have to observe a delicate balance, finding ways to counter and challenge negative stereotypes, without alienating women workers (who may not want to be subjected to social rejection), as well as community leaders (who may eventually be valuable allies to the women in an organizing campaign).

## 2.5. Training Methods

- Rather than merely informing the women workers about their rights, the obstacles to the exercise of their rights, and possible strategies for overcoming them, a participant-centred approach using **participatory methods** should be adopted. Active learning methods drawing on the experience, skills and knowledge of the women workers should also be applied.
- A combination of **Sound, Sight, Discussion and Practice (SSDP) methods** is effective to make sure that the participants remember the information they received during training sessions. The trainer/facilitator should therefore aim at using a combination of sight, sound, discussion and practice methods in every session. For instance, a session in which there is a brief oral presentation (sound) with the aid of a blackboard (sight), followed by an opportunity for the participants to ask questions and discuss the subject (discussion) and to engage in role plays based on the subject taught (practice) would include all the four elements of the SSDP formula.

- The trainer should **use examples and case studies** to illustrate the points made in the oral presentation.
- Keeping in mind the need for adoption of SSDP methods during training sessions, the trainer/facilitator could use the following **aids**: a blackboard/chalkboard; flipcharts; pictures and posters, information leaflets/ booklets, textbooks; tape recorders/CD players; slide projector; videos etc.
- Training sessions should be as **interactive** as possible. To facilitate discussion, the trainer must ensure that the women workers have ample opportunity to state their thoughts on the subject and ask questions and seek clarification on any aspect. When the women workers are reticent, the trainer could **promote discussion** by asking them questions.
- The women workers who have personal experiences to narrate that are of relevance to the subject taught should be encouraged to tell their stories.
- As **role plays, games and other such practical exercises** would facilitate easy assimilation of the points made in the training session, the trainer should devise appropriate practical exercises for each session.
- Role plays could either be performed by a few participants or by the entire class by dividing them into groups. The participants in the role play should be clearly informed about what they are expected to do. Each role play session should be followed by a discussion of the lessons learnt from the session.
- **Theatre, music and other innovative methods** could also be used during the training sessions.

## 2.6. Evaluation

At the end of the training, there should be an evaluation session whereby the trainer can get feedback from the women workers about their satisfaction with the programme. The trainer should also assess the effectiveness of the techniques adopted in the training sessions and make recommendations for the future.

## 2.7. Follow-up

With a view to encourage women workers to apply what they have learnt at the end of the training, the trainer could also ask the participants to draw up action plans and motivate them to take action accordingly. While the trainer ought to motivate the participants to take action, s/he should also serve as the devil's advocate by challenging participants on their plans. In particular s/he should ensure the plans are specific, achievable, relevant and time-bound.



## **PART I**

Preparing Information  
for the Training

This section of the manual focuses on two different types of information that the trainer ought to cover. The first concerns internationally-recognized rights, namely ILO Conventions and Recommendations that are relevant to organizing and to women workers. The second type of information deals with the range of obstacles to these rights including laws, employer practices, and social norms, which the trainer may have to research based on the guidelines offered.

## CHECKLIST

The trainer ought to be familiar with, and review and prepare materials around each of the following:

### The ILO Framework on Freedom and Association and Gender Equality

- ✓ Freedom of Association and Protection of the Right to Organize Convention, 1948 (Convention No. 87)
- ✓ Right to Organize and Collective Bargaining Convention, 1949 (Convention No. 98)
- ✓ Equal Remuneration Convention, 1951 (Convention No. 100)
- ✓ Recommendation concerning Equal Remuneration for Men and Women Workers for Work of Equal Value, 1951 (Recommendation No. 90)
- ✓ Discrimination (Employment and Occupation) Convention, 1958 (Convention No.111)
- ✓ Discrimination (Employment and Occupation) Recommendation, 1958, (Recommendation No. 111)
- ✓ Workers with Family Responsibilities Convention, 1981 (Convention No. 156)
- ✓ Workers with Family Responsibilities Recommendation, 1981 (Recommendation No. 165)
- ✓ Maternity Protection Convention, 2000 (Convention No. 183)
- ✓ The ILO's supervisory bodies: the Committee on Freedom of Association and the Committee of Experts on the Application of Conventions and Recommendations

### National legal and practical obstacles to organizing in the area where the trade union programme is taking place:

- ✓ Laws specific to EPZs, or more broadly, which violate the international guarantees above
- ✓ Employers' anti-union practices, whether illegal or legal
- ✓ Weaknesses in state enforcement of its laws. These may be at the level of labour inspection, adjudication of complaints, or implementation of court decisions.
- ✓ Particular challenges for women

## CHAPTER 3 Understanding the International Framework for Women Workers' Rights in EPZs

Union staff, or those engaged by the union to conduct the training, should be ready to share information on Freedom of Association and Collective Bargaining, as fundamental human rights in international law, in simple ways. This information should help women workers understand unions and their role in a general context, before discussing their particular situation.

Much of what will need to be conveyed may already be very familiar. However, trainers nonetheless ought to prepare simple materials, to enable straightforward discussion on these concepts.

The standards outlined below have been developed and promoted by the ILO, the United Nations organization with the authority and expertise relevant to an understanding of workers' rights. ILO **Conventions** and **Recommendations**<sup>17</sup> that have a bearing on the issue of freedom of association and collective bargaining for women workers in EPZs are briefly summarized below. The trainer should highlight that domestic law is not always in conformity with international labour standards as countries may not have ratified the convention, or due to inconsistencies between national law and their obligations under the convention.

### 3.1 Freedom of Association

The right to freedom of association enables workers to form and join trade unions, groups and associations, to protect and further their interests. It has been proclaimed as a basic human right of every person under the Universal Declaration of Human Rights, 1948.<sup>18</sup>

The Preamble to the Constitution of the International Labour Organization (ILO) states that recognition of the principles of freedom of association is vital for the improvement of the conditions of labour and the achievement of universal and lasting peace. The Declaration concerning the aims and principles of the ILO called the 'Declaration of Philadelphia' affirms that freedom of association is essential to sustained progress. This means that all workers should have the right to, and be entitled to enjoy, freedom of association as long as the country they work in is an ILO member state.

The right to freedom of association is also guaranteed under the international labour standards developed by the International Labour Organization (ILO). The international labour standards of the ILO are formulated on a tripartite basis, that is, by representatives of governments, employers and workers and are adopted in the international labour conference of the ILO.

<sup>17</sup>ILO Conventions are international treaties, adopted by the ILO's Governing Body and submitted to member states for ratification. As such, they are binding on the states that have ratified them. Recommendations are also adopted by the General Body, and are addressed to ILO member states, but are not considered binding. Together, ILO Conventions and Recommendations constitute the framework of "international labour standards."

<sup>18</sup>Article 23 (4)

While the ILO's Conventions are binding, its Recommendations are non-binding guidelines. A country ratifying a Convention is required to take measures under the law as well as in practice to apply its provisions. In some countries, when a Convention is ratified, it automatically becomes a chapter of the national law without any need for any further specific legislation to give effect to its provisions. On the other hand, in some countries, laws have to be enacted to give effect to the provisions of the Convention.

The two main Conventions of the ILO that protect freedom of association are the Freedom of Association and Protection of the Right to Organize Convention, 1948 (Convention No. 87) and the Right to Organize and Collective Bargaining Convention, 1949 (Convention No. 98). They are two among the eight Conventions identified by the Governing Body of the ILO as fundamental Conventions requiring universal observance.



### **Freedom of Association and Protection of the Right to Organize Convention, 1948 (Convention No. 87)**

The Convention guarantees the following rights:

- a) **The right of all workers and employers, without any distinction, to form and join organizations of their own choosing, without prior authorization.**

Thus, all categories of workers including temporary workers, seasonal workers, contract workers, part time workers, migrant workers, self employed workers and home workers would have the right to form and join organizations of their own choosing.

- b) **The right of workers' and employers' organizations**

- ⊙ to draw up their constitutions and rules;
- ⊙ to elect their representatives in full freedom;
- ⊙ to organize their administration and activities; and
- ⊙ to formulate their programmes.

The right of workers' organizations to organize their activities in full freedom and formulate their programmes also includes the right to organize peaceful demonstrations and protest marches to defend their occupational interests. The ILO supervisory bodies have emphasized that freedom of assembly and demonstration constitutes a fundamental aspect of trade union rights.

- c) **The right of workers' and employers' organizations against dissolution or suspension by administrative authority.**
- d) **The right of workers' and employers' organizations to establish and join federations and confederations and to affiliate with international organizations.**
- e) **The right to strike.**

The right to strike is not been explicitly referred to in the Convention. However, the ILO supervisory bodies have considered the right to strike to be an intrinsic element of the right to organize guaranteed under the Convention.



Convention  
No. 98

## Right to Organize and Collective Bargaining Convention, 1949 (Convention No. 98)

The Convention:

**a) affords protection to workers against acts of anti-union discrimination,**

The right of workers to form and join organizations of their choice and engage in trade union activities is severely curtailed when employers resort to acts of anti-union discrimination. Unjust dismissals, suspension, transfer and demotion of workers are examples of such acts.

The Convention protects workers against acts of anti-union discrimination. Such discrimination could include, for example, telling workers that they will only be employed if they agree not to join a union, or dismissing workers who participate in trade union activity.

The ILO supervisory bodies (see section 3.3.) have considered that such protection is particularly desirable in the case of trade union officials in order for them to be able to perform their trade union duties in full independence.

The ILO supervisory bodies have emphasized that legislation should explicitly and through adequate sanctions protect all workers against all acts of anti-union discrimination at the time of recruitment and during the employment relationship. They have also stressed the need for rapid and effective legal procedures to ensure such protection in practice.

**b) affords protection to workers' and employers' organizations from acts of interference against each other,**

The Convention provides that workers' and employers' organizations shall enjoy adequate protection against any acts of interference by each other or each other's agents in their establishment, functioning or administration. It specifies that acts which are designed to promote the establishment of workers' organizations under the domination of employers' organizations or to support workers' organizations by financial or other means, with the object of placing such organizations under the control of employers or employers' organizations, shall be considered as acts of interference.

Offering bribes to union members to encourage their withdrawal from union membership, or the creation of "company unions" that support management decisions rather than representing workers, are examples of such acts of interference.

**c) recognizes the collective bargaining rights of workers.**

The Convention requires member states to take appropriate measures to encourage and promote collective bargaining between workers' organizations and employers or employers' organizations in order to regulate the terms and conditions of employment by means of collective agreements.



### 3.2 Gender Equality

Gender equality refers to the enjoyment of equal rights, opportunities and treatment by men and women in all spheres of life. In the context of decent work, gender equality refers to the equality of opportunity and treatment, equality of remuneration and access to safe and healthy working environments, equality in association and collective bargaining, equality in obtaining meaningful career development, maternity protection, and a balance between work and home life that is fair to both men and women. Gender equality is a matter of human rights and social justice.<sup>19</sup>

The key international labour standards concerning gender equality are contained in ILO Conventions Nos. 100, 111, 156 and 183 that are briefly discussed below.

ILO Convention No. 100 on Equal Remuneration (1951) requires ratifying states to promote the principle of equal pay for men and women workers for work of equal value. It applies to basic wages and all other payments, both direct and indirect. Recommendation No. 90 concerning Equal Remuneration for Men and Women Workers for Work of Equal Value (1951) requires appropriate action to be taken in consultation with workers' and employers' organizations to ensure rapid application of the principle for equal pay for work of equal value in all occupations.

ILO Convention No.111 on Discrimination (Employment and Occupation) (1958) requires ratifying states to adopt national policies to eliminate discrimination in access to employment, training and working conditions, on grounds of race, colour, sex, religion, political opinion, national extraction, social origin or any other ground which the tripartite constituents agree

<sup>19</sup> ILO, *ABC of Women Workers' Rights and Gender Equality*, 2nd edition, 2007, pp.91 - 92 [http://www.ilo.org/wcmsp5/groups/public/---dgreports/---gender/documents/publication/wcms\\_087314.pdf](http://www.ilo.org/wcmsp5/groups/public/---dgreports/---gender/documents/publication/wcms_087314.pdf)

on, and to promote equality of opportunity and treatment in employment or occupation. Recommendation No. 111 concerning Discrimination in Respect of Employment and Occupation (1958) requires such national policies to be applied by means of laws and collective agreements between representative workers' and employers' organizations, among other measures.

ILO Convention No. 156 on Workers with Family Responsibilities (1981) recognizes the need for workers to balance employment related and family responsibilities with the objective of promoting equal treatment and opportunity for men and women in employment. Recommendation No. 165 concerning Equal Opportunities and Equal Treatment for Men and Women: Workers with Family Responsibilities (1981), requires appropriate measures to be taken to ensure that the terms and conditions of employment are such as to enable workers to reconcile their employment and family responsibilities.

Non-discrimination against women cannot be guaranteed unless their right to combine motherhood with employment is ensured. ILO Convention No. 183 on Maternity Protection (2000) entitles pregnant workers to maternity leave of a minimum of 14 weeks of which at least six weeks shall be after child birth. Convention No. 183 prohibits dismissal of workers on maternity leave. It entitles women workers to medical benefits and cash payments during maternity leave and nursing breaks during work. As per Recommendation No. 191 concerning Maternity Protection (2000), member states should endeavour to extend the period of maternity leave to at least 18 weeks.

### 3.3. ILO's Supervisory Mechanisms

The content of these rights is further detailed through the opinions of the ILO's supervisory bodies: the Committee on Freedom of Association (CFA) and the Committee of Experts on the Application of Conventions and Recommendations (CEACR). For example, the CFA makes it clear that the Conventions:

- ⊙ protect a union's right to take **industrial action**, such as strikes, go-slows, and work-to-rule<sup>20</sup>
- ⊙ require that the employer **bargain in good faith** during negotiations with unions<sup>21</sup>

Article 2 of Convention 87 states explicitly that all workers, “without distinction whatsoever,” have the right to form and join unions. This provision has been cited by the supervisory bodies in determining that laws restricting the freedom of association in EPZs violate the guarantees of the Convention.<sup>22</sup> Not only are workers in EPZs as a category guaranteed the right to organize, but women and migrant workers, who constitute the majority of workers in EPZs, are also covered by the Convention.

More information about the supervisory mechanisms can be found in Annex A. Reports from CFA and CEACR on various countries can be found in ILOLEX.<sup>23</sup>

<sup>20</sup> ILO Digest of Decisions, para 521: “The Committee has always recognized the right to strike by workers and their organizations as a legitimate means of defending their economic and social interests.”

<sup>21</sup> ILO Digest of Decisions, para 934: “The Committee recalls the importance which it attaches to the obligation to negotiate in good faith for the maintenance of the harmonious development of labour relations.”

<sup>22</sup> See e.g. CFA, 337th Report, 2005, Case No. 2327 (Bangladesh), paras 194–5

<sup>23</sup> <http://www.ilo.org/ilolex/english/>



## CHAPTER 4 Obstacles to Organizing

To get a general overview of the existing national laws and regulations regarding employment, ILO's Employment protection legislation database (EPLex) can be useful.<sup>24</sup>

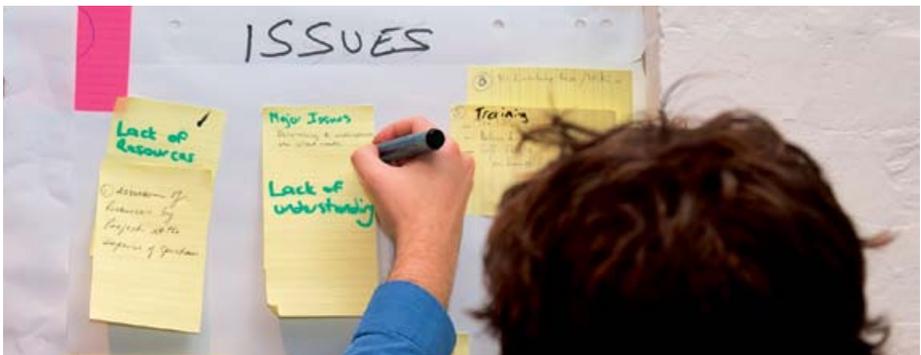
There are several legal impediments as well as practical challenges hindering the free exercise by workers, male and female, of their right to freedom of association in EPZs. In addition, there are some impediments specific to women workers. The major impediments are briefly discussed below.

### 4. 1. Legal Obstacles

In order to assess whether freedom of association is adequately protected by the legal framework, the trainer should check:

- a) **Whether the national legislation is fully consistent with the guarantees of the Conventions Nos. 87 and 98, noted above;**
- b) **Whether there is a state machinery in place for;**
  - ⊙ Labour inspection and investigation;
  - ⊙ The resolution of disputes and complaints of violations, through courts, arbitration bodies or other independent fora;
  - ⊙ The recognition of workers' organizations; and
  - ⊙ Fast and effective means of investigating and addressing allegations of anti-union discrimination, with appropriate sanctions and remedies.

In addition, the trainer should assess whether the legal framework is attentive to the concerns of women workers. In particular, are there provisions in the law to address discrimination in the workplace, sexual harassment, and parental leave, as framed by the relevant ILO Conventions? (These are described later in chapter 4.4.) While these issues are not directly related to freedom of association, it is clear that the denial of formal equality under law is a barrier to freedom of association, as it serves as an obstacle to solidarity between men and women workers.



<sup>24</sup> [http://www.ilo.org/dyn/eplcx/termmain.showCountry?p\\_lang=en&p\\_country\\_id=143](http://www.ilo.org/dyn/eplcx/termmain.showCountry?p_lang=en&p_country_id=143)

The trainer should look at national legislation, state/provincial laws and local ordinances, and the regulations of the specific EPZ, if applicable, to check for violations such as those listed below. Materials could then be prepared to present these laws in a way that the group of women workers in EPZs will be able to understand, such as illustrated booklets, comics, or a series of posters. There are three types of restrictions to look for:



The trainer should begin by looking at national law specific to EPZs, as well as the regulations of the particular EPZ or EPZs, when undertaking the analysis. Attempts to limit trade union rights in EPZs have been common, given the common belief that the presence of unions discourages investment. Some types of legal gaps to look for include:

- a) **Total bars on unionization:** In some countries, the EPZ may be exempted from some or all labour laws, including those allowing for the formation of unions.
- b) **Provisions that try to replace unions with other types of “worker organizations”:** The law might provide for the recognition of workers’ associations, employee councils, joint labour-management committees, or other organizations that serve to undermine freely established unions as stipulated in Convention No. 87.
- c) **Failure to ensure that trade unions can have access to EPZ workers:** Through restrictions on “non-employee” access to employer property, and/or the EPZ as a whole, the law may make it unreasonably difficult for union officials to meet with workers.
- d) **Limitations on collective bargaining:** Several countries have passed EPZ legislation limiting collective bargaining, or what may be covered by collective bargaining agreements.
- e) **Limitations on strikes:** EPZ regulations may prohibit strikes, place burdensome requirements for a legal strike, provide for extreme penalties in the event of illegal strikes, and/or require excessive conciliation and arbitration before a strike can take place.
- f) **Inadequate protections against anti-union discrimination:** the law may not address reinstatement, compensation for workers, or appropriate punishment for employers who refuse to hire, or who unlawfully fire, workers exercising their associational rights.

Currently, the most substantial and common barriers to the freedom of association in EPZ laws are provisions that reduce job security, limit protests or gatherings inside the zone, or permit far longer working hours than are permitted in the labour law in the country. These types of restrictions make it harder for workers to organize, by reducing their incentive or capacity to do so. Trainers should examine the EPZ regulations in their jurisdiction to see if any of these are applicable:

- ⊙ Short-term contracts, extended “traineeships,” or other arrangements may serve as a legal barrier to workers joining a union, or may simply reduce their incentive to do so.
- ⊙ Restrictions on protest and assembly that limit the opportunities available to bring workers together to challenge unfair working conditions.
- ⊙ Longer working hours mean that there is less time available for union activities.



There are other laws, applying beyond the EPZ, which can constrain workers' attempts to organize. In addition to the types of restrictions noted above, the trainer should look for the types of laws which curb trade union organizing or activity in ways that are noted below. Even though these laws may apply to workers outside EPZs, they should be addressed in this training since they have often been developed as chapter of a country's efforts to make itself attractive to export-oriented investors, and should be understood in that light. They can take the form of laws of general application, or they may apply only to a particular industry:

- a) **Interference with trade unions' right to set their own rules and ways of functioning:** For example, the labour law may attempt to assign regions or economic sectors to particular unions, dictate the age or level of education that union leaders must have, or require unions to provide the government with names and addresses of union members.
- b) **Banning strikes by categorizing an industry as “essential services”:** The CFA does allow countries to ban strikes in essential services. However, these are very carefully defined, as services where any interruption could endanger “the life, personal safety or health” of the public.<sup>25</sup> However, sometimes countries (or cities or states within them that have the power to pass laws) have illegitimately classified export-oriented industries as “essential services,” and have imposed a total ban on strikes.
- c) **Restrictions on migrant workers' rights:** It is commonly the case that workers migrate within a country, or from one country to another for work. Women migrate in numbers equivalent to men,<sup>26</sup> so laws such as those listed below are relevant:
  - ⊙ Prohibiting migrant workers, especially those who migrate from other countries, from joining unions.
  - ⊙ Prohibiting migrant workers, especially those who migrate from other countries, from taking leadership positions in trade unions.
  - ⊙ Deporting migrant workers who are no longer employed. This is particularly problematic in situations where the workers may have been terminated for exercising their right to join a union.

## 4.2. Employer Policies and Practices

The trainer must be prepared to lead a discussion on employers' attitudes to workers organizing, whether positive or negative. While the section below deals with practices that serve as obstacles, the union may be able to draw on particular experiences with employers who respect worker rights to discuss workplace practices that offer opportunities for organizing and collective bargaining (See Annex B for examples).

There are two types of employer practices that constitute obstacles to organizing women workers in EPZs. There are practices that are illegal, in almost all national laws, and there are others that are legal in the country, though frequently noted as problematic by labour rights and human rights activists.

<sup>25</sup> CFA, Digest of Decisions 581

<sup>26</sup> UNDP, *Women Migrants: Equal numbers, disproportionate challenges* (Press release on 2009 Human Development Report), 5 October 2009

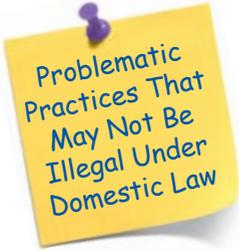
The main reason to target them separately is that strategies for challenging an unlawful practice will be very different from their strategies for challenging practices that are permitted by national law. In both cases, some practices target all workers, while others have a stronger direct impact on women workers.



### Illegal Practices

The trainer should be prepared to facilitate a discussion around very specific employer practices, in the particular enterprises in the EPZ where the women work. But as a general matter, it would be useful to know whether the typical employer practices in the EPZ may include the following:

- ⊙ **Anti-union discrimination**, such as firing or harassing union members.
- ⊙ **Interference in the activities of trade unions**, through actions such as bribing union officials, or spying on union meetings.
- ⊙ **Violations of women's rights**, including gender-based discrimination in pay or promotions, denials of maternity leave, or breastfeeding breaks.



### Problematic Practices That May Not Be Illegal Under Domestic Law

Many governments have tried to create greater “flexibility” in employment relationships by modifying their labour laws, often in attempts to attract greater investment to their EPZs. These new laws have created new types of employment relationships that make organizing substantially more difficult. As noted above, employer practices that take advantage of these loopholes are not necessarily illegal as they are not infringing national law. However, they have been the focus of strong criticism by global and national trade unions, many of whom have challenged the practices in collective bargaining, by industrial action, or through public protest. The trainer should check to see which of these may apply to the jurisdiction in question.

- ⊙ **Outsourcing**: this refers to the process of companies contracting out some of their business. This may include contracting out manufacturing to factories in other countries, or contracting with “business process outsourcing” facilities to handle customer services. These are extremely common in EPZs, and the amount of uncertainty that is created about which employer is actually responsible for working conditions, makes organizing very difficult.
- ⊙ **Subcontracting**: given the unpredictability of dealing with clients overseas, many EPZ based companies may send some production orders to other facilities when trying to meet short lead-times, or cope with labour shortages. Often, the first company may exercise a great deal of control over working hours, pay, and conditions, but will not actually be considered the employer, making union struggles very difficult, especially when the company has multiple relationships with multiple subcontractors.

- © **Use of labour brokers:** This practice ranges from legal “temping agencies” which send temporary workers to a firm to address an unexpected labour shortage, to illegal operations which are set up purely to ensure that the actual employer will not have any obligations to the workers. Since most national laws treat the “broker” as the employer, and operations in EPZs in many countries may use a dozen or more “brokers,” trade unions will often have a hard time organizing workers and being recognized.

In addition to these “flexible” employment relationships, trade unions have also noted the practice of encouraging workers in EPZs to join cooperatives. While these cooperatives may offer important benefits, including savings-and-credit schemes, or health insurance, a hidden condition of membership is often that workers are no longer eligible to join a union.



### 4.3. State Enforcement Tools

It is not enough to know whether the laws adequately protect women workers' rights, when determining whether states have met their obligations with respect to the freedom of association. It is also important to see whether the state has the capacity and the will to enforce these laws.

There are several different elements to enforcing laws designed to protect workers' rights, and each must be looked at carefully: inspection, complaint resolution, and implementation. There are general concerns related to state enforcement of labour laws – which may include weak inspectorates or a corrupt judiciary – as well as issues more specific to workers in the EPZ. This manual touches on the general issues, but focuses in greater detail on the concerns that are more specific to women workers in EPZs.

As with the previous section, the trainer will have to develop an understanding of the mechanisms: how they work, how to contact them, and what the main problems with them appear to be. However, the trainer can also prompt the women workers to share their experiences during the training sessions – of visits by labour inspectors to their workplaces, and how frequent and thorough those appear to be, or of accounts of their own attempts to secure unpaid wages or compensation from the labour court. This kind of sharing will bring greater detail and meaning to a discussion of these issues. The discussion should be geared towards the question of how women workers could assert themselves to make better use of the available mechanisms, and seek to improve them, with the help of allies.



The role of a government's labour inspectorate, according to ILO Convention 81, is “the protection of workers while engaged in their work.”<sup>27</sup> As further noted by the ILO, this idea should be understood broadly, so that inspectors ensure that workers enjoy the right to organize and bargain collectively.<sup>28</sup> Of course, as we have already noted, many of the issues that labour inspectors routinely address, such as excessive and compulsory hours of work, affect whether workers are able to organize.

There are a number of issues that the trainer may want to raise for discussion, with respect to the adequacy of the labour inspectorate. While it is clear that the trade union will be aware of the general situation in the country and in the EPZ, it may be worth putting it in the context of international norms, as laid out by the ILO:

- ☉ **Are there enough inspectors?** The ILO recommends at least one inspector for every 10,000 workers in industrialized countries, one for every 20,000 workers in transition economies, and one inspector for every 40,000 workers in less developed countries.<sup>29</sup>
- ☉ **Do they have the authority necessary to inspect EPZ workplaces?** The ILO's Committee on Freedom of Association has noted the importance of labour inspectors being able to enter workplaces “freely and without previous notice” in order to limit anti-union discrimination and other violations.<sup>30</sup> Such access has been particularly difficult in EPZs, given increasing private control and private security over entry. In addition, inspectors may not have a mandate to visit workplaces in response to complaints from workers or trade unions, reducing their ability to address time-sensitive violations of freedom of association. Also, even though EPZ work often involves sub-contracting and irregular work, inspectors often lack the authority to reach those workers and workplaces.
- ☉ **Are inspectors equipped to identify the types of violations that frequently undermine women workers' right to organize in EPZs?** The ILO notes that in some countries, labour inspectors are trained to address harassment, including sexual harassment, as important parts of occupational safety and health audits.<sup>31</sup> In addition, some countries have special units

<sup>27</sup> ILO Convention 81, Labour Inspection Convention, 1947, Article 2(1): “The system of labour inspection in industrial workplaces shall apply to all workplaces in respect of which legal provisions relating to conditions of work and the protection of workers while engaged in their work are enforceable by labour inspectors.”

<sup>28</sup> ILO, Labour Inspection, International Labour Conference 95th Session, 2006. Report III (Part 1B) p.15. Also, the ILO's Committee on Freedom of Association recommends, for example, that prior authorization from labour inspectorate should be necessary before dismissing any trade union official in the workplace, to limit anti-union discrimination. (CFA, Digest of Decisions para 831)

<sup>29</sup> ILO, Labour Inspection, 2006, Report III (Part 1B), p.44

<sup>30</sup> CFA, Digest of Decisions, para 834

<sup>31</sup> ILO, Labour Inspection, 2006, Report III (Part 1B), p.4

of trained inspectors, staffed with women inspectors, to engage with women workers on sensitive issues such as maternity protection and gender discrimination.<sup>32</sup>

- ⊙ **How do labour inspectors address migrant workers?** The ILO has noted that, in some countries, labour inspectors are also required to check the status of migrant workers, to ensure that they are authorized to work legally. However, as the ILO points out, the primary duty of labour inspectors should be to protect workers, rather than to enforce labour law.<sup>33</sup> This is critical if migrant workers in EPZs contexts are to feel confident that their right to organize will be protected by the state where they work.



The trainer should be prepared to describe the mechanisms available to the women workers to handle violations or complaints. When there are alleged violations identified by inspectors, or complaints raised by women workers themselves, an independent, impartial and credible body should be in place, to determine whether the law has been breached, by whom and what punishment and/or compensation would be appropriate. With respect to women EPZ workers, it is also important to ensure that these bodies are accessible, affordable and gender-sensitive.

Some questions for the trainer to consider beforehand, when making a preliminary assessment of the situation include:

- ⊙ Are the labour courts or arbitration bodies free of interference or control by any party, including the government? Are they free of corruption or favoritism?
- ⊙ Are the courts or arbitration bodies authorized to address the critical issue of freedom of association, and workers' rights? At a minimum, they should have the power to order further investigations, reinstate workers, award adequate compensation, and levy fines that are a sufficient deterrent where there have been grave violations.
- ⊙ Are the labour courts, or circuit courts, located close enough to the EPZs to be accessible? Do the courts accept complaints from EPZ workers? Is the legal process designed to be inexpensive and simple, so that workers are not deterred from seeking justice? In addition, the process should be swift and should not entail multiple visits and delays.
- ⊙ Are the courts able to address disputes swiftly enough to ensure that justice is served quickly? In some countries with a substantial backlog of cases, employers may be able to use multiple legal challenges and court appeals to delay union recognition for years, even where the challenges have no merit.
- ⊙ How is the gender-sensitivity of the process ensured? Ideally, judges and arbitrators must have been trained to inquire into, and respond to, gender-based discrimination, sexual harassment and other issues that may be a primary or underlying element of women workers' complaints. This would help ensure that the decisions do not reinforce stereotypes about women workers, which would deny them justice. A "women's cell" or other special body could also be instituted, ideally with the assistance of civil society groups, to help support women complainants.

<sup>32</sup> ILO, Labour Inspection, 2006, Report III (Part 1B), p.60

<sup>33</sup> ILO, Labour Inspection, 2006, Report III (Part 1B), p.25



The trainer should be prepared to address questions on the process of the implementation of decisions of the labour court, or arbitration awards. In principle, they should be carried out promptly, whether in terms of monetary compensation or orders for specific remedies, such as reinstatement or an injunction against further dismissals. As the Committee on Freedom of Association has pointed out, any delays in ensuring reinstatement or other remedies for anti-union discrimination could potentially destroy union mobilization, when key activists are settled in other employment, and/or disheartened by the passage of time.

#### 4.4. Specific Challenges to Women Workers in EPZs

It is true, of course, that inadequate provisions for parental leave, or protections against sexual harassment, affect men workers as well as women workers. And it should be conveyed, during the training, that attention to the challenges they identify will yield positive effects for all workers, not only by improving working conditions, but in terms of increasing trade union strength and rights. However, that is beyond the scope of this manual, which focuses primarily on the ways in which gender-insensitive laws affect women EPZ workers and erode their freedom of association.

In undertaking an analysis of the adequacy of the legal framework, the trainer should seek to determine whether the laws are consistent with the ILO's approach to gender equality, as framed in the Decent Work agenda. National laws should promote the rights outlined in the Equal Remuneration Convention, 1951 (No. 100); the Discrimination (Employment and Occupation) Convention, 1958 (No. 111).

As outlined in chapter 3, the training session could then introduce a discussion on domestic laws, as they apply to women workers in particular, with the trainer bringing up concrete examples of common experiences – sexual harassment, discrimination against women workers in the matter of promotions etc. – and facilitating a conversation on how they are treated, under the law.

For more details on these and other issues, see “Gender Equality: A Guide to Collective Bargaining”<sup>34</sup>.

<sup>34</sup> [http://www.ilo.org/actrav/what/pubs/lang--en/docName--WCMS\\_113700/index.htm](http://www.ilo.org/actrav/what/pubs/lang--en/docName--WCMS_113700/index.htm)



**PART II**  
Conducting the Training

Below is a suggested outline for conducting the training in two parts. The first (see chapter 5) offers an approach by which the trainer could share information, as well as facilitate a process by which women workers could arrive at their own analysis of the obstacles they face. The second, (see chapter 6) lays out possible ways to facilitate discussion among the women workers about framing strategies for overcoming the obstacles and beginning to organize.

## CHECKLIST

### Workers' rights, and specific violations of those rights at the workplaces in question, and especially for women workers

- ✓ A discussion on preliminary concepts, especially the difference between sex and gender
- ✓ A presentation of the key elements of workers' rights under international law, and an overview of relevant domestic law
- ✓ Discussions of the problems that women workers face in the workplaces in the EPZ
- ✓ Information and discussion about what a union is, how it is formed, and how it could help address violations in the workplace
- ✓ Trainer and workers looking together at the laws to see whether they present an obstacle to organizing. Also, are there problems with the legal framework particularly relevant to women workers?
- ✓ Discussion of state law enforcement mechanisms – inspection, adjudication and implementation – with a particular focus on women workers' experiences with the system
- ✓ Discussion of employer policies and practices – both legal and illegal – in terms of obstacles to organizing
- ✓ Discussion on the social environment, such as gender stereotypes, as it may enable or inhibit organizing

### Developing strategies for organizing

- ✓ Describing strategies such as collective bargaining, advocacy, litigation, and/or the ILO supervisory mechanisms, and discussing if, how and when to use them
- ✓ Reviewing the possible focus points of a collective strategy – the state, the employer, society and unions – and discussing possible ways of approaching and engaging them.

## CHAPTER 5 Discussing the Rights and the Violations

The suggested outline below divides the training, roughly speaking, into four portions:

- 1) What are your rights, as workers and as women?
- 2) What are the most common violations of women workers' rights, in your workplace?
- 3) What is a union, and how could a union help?
- 4) What are the main obstacles for women EPZ workers to exercise freedom of association and to forming/joining a union, and how might you overcome them?

Throughout the training it will be important to combine sharing information with facilitating discussion, to make the session as interactive as possible. The mode of presentation may vary – posters, booklets with drawings, plays or songs, for example, are all good ideas – but it is important to consider carefully what formats will work best for each specific audience.

### 5.1. Why is Gender Relevant?

The trainer may need to initiate the discussions on what it means to be coming together at the training as women workers. For example, it may be useful to discuss sex (the universal, biological differences between men and women) and gender (the differences that are determined by culture and environment, and which change over time and across societies) since it will be necessary for everyone to understand this before launching into concepts of discrimination, or equality. Materials produced by the ILO can be useful in shaping this, including “Gender Mainstreaming Strategies in Decent Work Promotion: Programming Tools”.<sup>35</sup>

### 5.2. Workers' Rights

Trainers should discuss the key elements of international labour standards, as well as domestic law, as outlined in chapters 3 and 4.

A possible way of generating a discussion around rights issues could include alternating between sharing information, and asking questions. Discussion could be framed around topics such as:

- ⊙ What are your rights at work?
- ⊙ What are your rights as women workers?

The trainer may wish to mention some of the ways in which domestic laws may not be in conformity with international standards, based on the preparatory research, and try to engage workers in discussion. The issue will also come up again for discussion later, when considering obstacles to freedom of association.

<sup>35</sup> ILO, 2010, pp. 9-11 [http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/publication/wcms\\_143849.pdf](http://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---sro-bangkok/documents/publication/wcms_143849.pdf)

### 5.3. Problems in the Workplace

It may be most effective to conduct this conversation in a fairly unstructured way, while helping the women workers understand commonalities in their concerns, and, potentially, a commonality of experience to women EPZ workers in other countries. This should be based on the description above of typical violations as well as the trainer's preliminary research.

At the same time, the trainer will have to engage in active facilitation, connecting the discussion to principles of workers' rights and women's rights in the workplace, to ensure that it is relevant to the themes of the training.

Finally, the trainer should carefully make note of the issues raised, so that they can be incorporated into the later discussion of a) reasons to organize, and b) obstacles to organizing, since all of the points are likely to be relevant to both.

### 5.4. Unions, and How They Can Help

Given what was noted before – that many women EPZ workers are first-generation workers without much exposure to trade unionism – it may be necessary to start with some very preliminary information. The trainer should probably begin by describing basic principles of solidarity and the power of collective voice.

Subsequently, the trainer may want to describe why women workers may want to organize a union, rather than some other type of group of collective, or why unions still have a role to play even when women are members of other networks or groups. Some talking points may include:

- ☉ There is a legal framework in place in most countries to support negotiation through a union, and to protect the agreements with employers arrived at through collective bargaining.
- ☉ As democratic organizations with established processes for election and challenge of leadership, unions have the potential for greater accountability than with other forms of association. Laws also in general, provide for ways of challenging non-independent or corrupt structures.
- ☉ When activists run out of options at the local level to push for change at the workplace, there are often national and international networks and structures that they can draw on, through unions, to support the campaign.



Trainers could begin by facilitating a discussion on the hopes and expectations of women workers' about how a trade union can improve their working conditions. By encouraging them to take the lead on this issue, they will also become better advocates for a union among their co-workers. Subsequently, trainers may wish to address one or more of the following:

- ☉ The union's role in providing support on individual grievances, disciplinary action, dismissals and layoffs, as well as collective bargaining.
- ☉ The union's role in addressing sexual harassment, gender-based discrimination, parental leave, child care, and other concerns that may be important to women workers.

- ⊙ Trainers may wish to draw from another ILO publication, “Gender Equality: A Guide to Collective Bargaining”,<sup>36</sup> which talks about how gender issues can be integrated into collective bargaining, to promote gender equality in the workplace as well as in the union.
- ⊙ Collective action, directly addressing the employer through strikes, or making a broader point through public protest.
- ⊙ In taking on the issue of collective action, as well as others, trainers should highlight the importance of women workers making their voices heard in union decision-making processes, both as individuals and collectively. The possibility of a women’s committee within the union, to provide space for women to discuss and debate before articulating their issues before the larger membership, as well as to develop women’s rank-and-file leadership, may also be covered here.
- ⊙ The union’s role beyond the workplace, acting alone or in partnership to advocate with lawmakers and bureaucrats, participating in public campaigns at the community level for social change, or litigating issues in court.
- ⊙ Trainers may want to encourage the women to discuss how unions can assist them in addressing issues such as social stigma they may face as EPZ workers.
- ⊙ The union’s role in addressing how men and women divide responsibilities of domestic chores and household work.



Trainers should draw on their research with respect to domestic law to lay out the mechanics of organizing in the workplace. Discussion will almost certainly touch on workers’ fears of termination or harassment if they organize, and women workers should be encouraged to raise these if they wish. However, the issue of anti-union discrimination, among other barriers to organizing resulting from employer attitudes and practices, will be focused on specifically later in the training.

The outline below assumes that there is no union currently operating in the workplace, though it does take into account the possibility that unions may already be organizing in the EPZ. If there is a union at the workplace, this portion will have to be handled somewhat differently, since there may be issues of “company unionism” or lack of gender sensitivity within the union, which would otherwise be discussed in the next portion of the training. If a union is currently present in the workplace in question, the trainer may wish to combine the two portions of the training, and facilitate a discussion with respect to strategies for challenging, engaging with, or joining, the existing union.

- ⊙ Is there a union active in the EPZ? If so, the trainer should share contact information, and the process for affiliation that would apply, and discuss the pros and cons of registering an alternative to the existing EPZ union.
- ⊙ The women workers will have to reach out to others in the workplace, gauging their interest in a union, as well as persuading them of the benefits of organizing. It may be best to delay a discussion of actual organizing strategy until later in the training, since it will be necessary to consider this in tandem with a fuller understanding of the obstacles. The trainer should, however, inform the women in the training session of the minimum number or percentage of workers required to form an enterprise-level

<sup>36</sup> [http://www.ilo.org/actrav/what/pubs/lang--en/docName--WCMS\\_113700/index.htm](http://www.ilo.org/actrav/what/pubs/lang--en/docName--WCMS_113700/index.htm)

union, so that they have an understanding of the task ahead. The trainer should also discuss what types of workers are eligible, under domestic law, to participate in a union, including migrants, part-time workers, home-based workers etc. Again, it may be best to delay a discussion on how the legal issues might have an impact on organizing, and whether/how to challenge them, until later in the session.

- ☉ The trainer should address union registration, and any forms of certification that may be needed from the state. The process of seeking recognition from the employer should also be discussed. There are likely to be many complexities related to both of these issues, including the appropriate procedure to follow in the event of a lack of response, or a negative response, from the state or employer. The trainer should consider providing the contact information for legal advisors, ideally within non-profit groups or union structures, who may be willing to assist the workers with the process.
- ☉ The trainer should provide a brief overview of internal union regulations, and the extent to which their scope may be restricted by law. It may be worthwhile addressing ways of promoting internal accountability and transparency to the membership, although the trainer may determine that it is premature to do so. It should certainly be on the agenda to discuss the necessity of establishing rules of membership that do not accidentally exclude categories of women workers, such as casual or home-based workers.



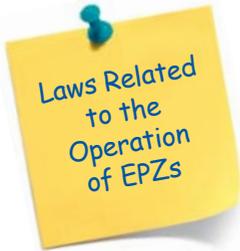
### Obstacles to Forming a Union

The trainer should present an overview of domestic law, to the extent that it exposes obstacles and/or facilitates women workers organizing, based on the guidelines in chapter 3 of this manual. The references below to the legal framework in other EPZ contexts around the world (and in particular, successful campaigns to change the law), should be emphasized, to ensure that there is a real entry point for the women workers to embark on a discussion of useful strategies for transforming in their own situation.

## 5.5. Analyzing the Legal Framework

The trainer could begin by giving the participants an overview of the types of possible legal impediments to the free exercise of trade union rights by women workers in EPZs.

Thereafter, on the basis of an analysis of the relevant national and state/provincial laws, the trainer could highlight the actual legal impediments, if any, to the exercise of freedom of association rights by women workers in EPZs.



### Laws Related to the Operation of EPZs

The trainer should note during the discussion that, as a result of years of advocacy by national unions and interventions by the ILO, it is quite rare to see direct legal restrictions on unionization in EPZs. Many of the provisions cited below have either been repealed, or allowed to lapse. The role played by workers themselves – in protests, for example, or in gathering information on the impact of the laws to share with unions – should be emphasized to ensure that this information is relevant to the workers.

Below are some examples of legal provisions successfully challenged by workers' organizations around the world, which the trainer may wish to share with the workers:

**a) Provisions that try to replace unions with other types of “worker organizations”**

Sri Lanka's Board of Investment developed regulations for its EPZs, in 2002, that promoted “Employees' Councils,” giving them substantially more privileges than were given to unions, including time and space for monthly meeting during working hours. Unions found it very hard to compete with these employer-supported “councils,” and challenged the regulations at the ILO. ILO's Committee on Freedom of Association (see page 21 and Annex A) supported the unions' case and “requested the Government to take all necessary steps to amend the guidelines so as to ensure that representative trade unions enjoy the same facilities as employees' councils without discrimination.”<sup>37</sup>

**b) Failure to ensure that trade unions can have access to EPZ workers**

In Nigeria the Export Processing Zone law stated that no person could enter the zone without the permission of the authority.<sup>38</sup> There was no exception to ensure that trade unionists can enter as necessary to meet with workers. Under pressure from the ILO, Nigeria allowed the restrictions to lapse. However, according to the International Trade Union Confederation (ITUC), freedom of association is still restricted in the country, and unions still have challenges accessing the EPZs.<sup>39</sup>

**c) Limitations on strikes**

In 1990, Turkey began prohibiting strikes in EPZs, requiring that all collective labour disputes be settled by compulsory arbitration instead.<sup>40</sup> Facing widespread protests by workers, including illegal strikes, and pressure from Turkish unions, the ILO and international human rights groups, it allowed the law to expire. ITUC nonetheless still notes that “the right to strike is limited, and there is an excessively long waiting period – nearly three months – before a lawful strike can be called. Picketing is very restricted, strikes over the non-observance of collective agreements are prohibited, and the law bans strikes in many services that cannot be considered essential. Severe penalties, including imprisonment, are possible for participation in unlawful strikes. The law also grants the Council of Ministers the possibility to suspend for 60 days a lawful strike for reasons of public health or national security and then to refer the matter to compulsory arbitration.”<sup>41</sup>

However, as noted previously, there are restrictions to freedom of association allowed by law which remain very common in EPZ settings:

**d) Reduced job security, limitations on protests or assembly, and/or extended working hours:**

The trainer should initiate a discussion regarding the impact of each of the following, if applicable to the EPZ in question:

- ☉ **Short-term contracts.** The women workers may describe having less of an incentive to organize and fight for change. These workers may also wish to discuss the possibility that their contract will not be renewed if the employer realizes that they are involved in union organizing, or are otherwise seen as “confrontational” or “troublemakers.”

<sup>37</sup> CFA, Case No. 2255, Report No. 332 (Sri Lanka), cited in Ramapriya Gopalakrishnan, see footnote 11 above, pp. 36-37 [http://www.ilo.org/wcmsp5/groups/public/@ed\\_norm/@normes/documents/publication/wcms\\_087917.pdf](http://www.ilo.org/wcmsp5/groups/public/@ed_norm/@normes/documents/publication/wcms_087917.pdf)

<sup>38</sup> Decree 63, Nigeria Export Processing Zones Decree 1992, Federal Republic of Nigeria Official Digest page A563-77, Section 13(1) at p. A569

<sup>39</sup> Ramapriya Gopalakrishnan, see footnote 11 above, p.25

<sup>40</sup> Ramapriya Gopalakrishnan, see footnote 11 above, p.25

<sup>41</sup> ITUC, June 2011: <http://survey10.ituc-csi.org/Turkey.html#tabs-3>

- ⊙ **Restrictions on protest and assembly.** The women workers may share experiences or anecdotes of confrontations with police or employers when attempting to gather, either socially or to discuss working conditions.
- ⊙ **Extended working hours.** The issue of how much time is available for organizing may be particularly sharply-felt by the women workers since, as we have already noted, they are more likely than men to have responsibilities in the home which further reduce their free time.

## 5.6. Other Legislation That May Inhibit Organizing

In order to make this issue as concrete and comprehensible to the workers as possible, the trainer should provide just one or two examples from the legal analysis, and be prepared to mention others. It may be useful to supplement the examples from domestic law with references to the situation in other countries, as noted here.

In any case, the trainer should emphasize the role that workers have played in challenging and protesting against these laws, and should also encourage the group to organize in spite of such obstacles, rather than waiting for change.

Below are two examples that could be especially relevant (for more examples, see Annex A):

- a) **Interference with trade unions' right to set their own rules and ways of functioning:** Cambodia's Labour Code limits the ability of trade unions to elect their leaders in full freedom. It requires, among other things, that union leaders are at least 25 years old, that they be able to read and write, and they have been employed for at least a year.<sup>42</sup> In Cambodia's main industry – manufacturing garments for export – most of the workers are well under 25 and have little formal education, and the turnover of workers is extremely high. The vast majority of these workers are also women, and this law effectively bars them from positions of leadership in the union. Women workers have expressed their unhappiness with this provision to national unions and international allies, and are actively involved in the campaign to change the law.
- b) **Restrictions on migrant workers' rights:** This issue might be best discussed through the lens of women EPZ workers' experiences. In the event that domestic law does in fact place restrictions on migrant workers' right to freedom of association, especially international migrant workers, the trainer should frame the issue by leading a conversation about numbers of migrants employed by the enterprise, whether their working conditions vary from those of non-migrant workers, and how legal restrictions on migrant workers' rights might have an impact on all workers' capacity to organize. The trainer should emphasize that, in many EPZ contexts, such as Jordan, workers have been at the forefront of efforts to build solidarity irrespective of migration status, and challenge the law.
- c) **Problems in Law Specific to Women Workers:** Based on the outline in chapter 2, the trainer should sketch out the main elements of domestic law as it applies to issues such as employment discrimination, sexual harassment, maternity protection and parental leave. A discussion could be fostered on domestic law, its adequacy in comparison with the applicable international standards (summarized above, in chapter 2 of the manual), and the relevance to women's lives at work, through a series of short examples. Of course, as each of the examples below indicates, laws alone will not solve the problem of discrimination, since the actions are rooted in social prejudices. However, changes to legal frameworks are an important part of challenging and changing the underlying attitudes.

<sup>42</sup> Labor Code of the Kingdom of Cambodia, 1997, Article 269

According to ILO Convention 111, women and men must receive the same opportunities and treatment in the workplace. National laws should prohibit discrimination against women in hiring, promotion, or termination of employment.

- ⊙ As Convention 111 makes clear, national law must prohibit and provide remedies for outright discrimination, based on employers' negative stereotypes about women's skills or capabilities as workers. Examples would include denying a woman the opportunity to work in a garment factory's transportation division, and expecting her to work only in the sewing division, even if she is qualified for, and interested in, the transportation job.
- ⊙ Convention 111 also prohibits indirect discrimination, such as sexual harassment. While sexual harassment affects men as well as women, women are more frequently the targets of harassment, and such harassment is a barrier to gender equality. The law must provide a remedy for situations where a worker is placed in fear of losing her job if she refuses a sexual advance, for example, or where unwanted sexual attention makes her work environment unpleasant or intimidating.
- ⊙ Convention 156 addresses multiple forms of discrimination against workers with family responsibilities. It would require, for example, that the legal framework address situations where a woman worker is denied a job because the employer assumes that a woman with young children will not be able to fulfill her workplace obligations.
- ⊙ It would be a violation of Convention 183 if the legal framework failed to deal with prejudices related to maternity (e.g., if an employee is refused minor work accommodations late in her pregnancy, or if a job applicant is forced to take a pregnancy test).

## 5.7. Analyzing State Enforcement Tools

The trainer will have to ensure that the discussion of enforcement mechanisms draws on women workers' real-life experiences, so that the issue remains relevant, and the possibility of engagement feels realistic. After sharing basic information on each of the mechanisms, including contact details, and a simple guide to their use (based on the information in section 3.3 and 4.3.2, adapted as necessary), the trainer should try to draw out the workers on their perceptions of how each works in practice.

### INSPECTION

Questions to raise for discussion might include:

- ⊙ Do labour inspectors try to talk to workers offsite, where they may feel more comfortable speaking frankly about working conditions?
- ⊙ Are there men and women inspectors? Would the workers feel comfortable talking to the inspectors about concerns that may be higher priority for women, such as sexual harassment or accommodations for breastfeeding mothers?
- ⊙ Do inspectors ever inquire about trade unions, or collective bargaining agreements?
- ⊙ Do workers believe that inspectors could be trusted to respond appropriately to complaints of unfair dismissal of union activists, or issues that have an indirect impact on workers' ability to organize, such as excessive overtime?

## ADJUDICATION AND IMPLEMENTATION

These two issues – the resolution of complaints and the subsequent implementation of the determination – which the trainer will have analyzed separately in chapter 2, have been combined here, for the purposes of the training session, since they are so closely related. Given that not all the workers will have experiences with labour courts or arbitration bodies to share, the trainer may wish to draw on one or two of the workers present, who may have sought back-wages or reinstatement through these processes, to share their stories at greater length. From there, it should be possible to initiate a conversation about perceptions of fairness, corruption, competence, expense, and other important issues. It may also be the case that workers who do not have personal experiences with these mechanisms may rely on anecdotes from friends or neighbours as an entry point to this discussion. The trainer should encourage this, since the effectiveness of enforcement mechanisms is not only about individual experiences, but about their general reputation in the communities they are intended to serve.

### 5.8. Employer Policies and Practices

When discussing the impact of employer policies and practices on workers' right to freedom of association, the trainer will have to facilitate a conversation that will involve workers talking about concrete actions (terminations or demotions, for example) as well as less tangible actions, where workers have a harder time articulating the specific problem. The workers should be encouraged to discuss these feelings, even if the issue may initially seem vague. When conditions at work lead to workers feeling disempowered, humiliated, isolated and stressed, it makes organizing more difficult. At the same time, a validation of the feelings in a public space, with workers potentially coming together to identify them as a shared concern, can serve to advance worker solidarity and mobilization.

### ILLEGAL PRACTICES

Sharing examples of illegal employer practices may be the best mean of initiating a discussion, since many of these concepts are hard to understand in the abstract:

- a) **Anti-union discrimination.** The trainer may wish to ask about any terminations of union activists, or threats to workers that the enterprise will close if a union forms. In some EPZs, it is common knowledge that companies simply close and re-open under a different name if there is union organizing. Other forms of discrimination common to many EPZ contexts, which the trainer may raise if not mentioned by workers, include requiring new workers to sign letters promising that they will not join a union, or “blacklisting” (refusing to hire) workers known to be unionists. In some countries, blacklisting may even extend to family members of unionists.
- b) **Interference in the activities of trade unions.** The trainer should share examples such as setting up “company” unions, trying to “supervise” or intervene in union elections, approaching union leaders in an effort to corrupt them, or signing “sweetheart” collective bargaining agreements drafted without genuine negotiation with workers' representatives.
- c) **Gender-based discrimination.** The trainer could give one or two examples of gender-based discrimination and the potential impact on freedom of association, before initiating a discussion. For instance, it is often reported that some EPZ employers prefer to hire women over men. While this may seem like “positive discrimination,” it is generally linked to statements asserting the belief that women are more “docile” or easy to control, and also, less likely to form and join unions. These stereotypes generally make it harder to organize, as unions active in organizing women report, since such employers tend to have a deeper resistance to recognizing majority-women unions.

- d) **Other violations of women's rights.** In addition to mentioning general issues that are likely to be common across regions – employers' denials of rights commonly found in domestic law, such as maternity leave, lighter work during pregnancy, or breastfeeding breaks – the trainer may wish to mention less universal violations, to encourage women to reflect on their own particular experiences. For example, in some Latin American EPZs, employers may force women job applicants to take a pregnancy test before they are hired, and then verbally warn them not to get pregnant during the period of their employment, in order to limit the expense of providing legally-mandated maternity leave.

### **PROBLEMATIC PRACTICES THAT MAY NOT BE ILLEGAL UNDER DOMESTIC LAW**

The main reason for separating this issue from the one above is that strategies for addressing and challenging these practices will have to be different. Discussing the impact of “flexible” work relationships on women EPZ workers' right to association, as outlined in chapter 3, will require that the trainer begin by outlining the phenomenon – of outsourcing, subcontracting and labour brokers – before attempting to initiate a discussion. The ILO has stated that the impact of reduced employment security and other forms of more “flexible” working relationships is likely to affect women more intensely than men, simply because “women have always been over-represented in atypical forms of work, especially as part-time or casual workers.”<sup>43</sup> Following this, the trainer could introduce a discussion of the women's own experiences of flexible arrangements in their workplace, and its impacts.

## **5.9. Social Environment**

As noted in section 2.4., a conversation related to social environment as a potential obstacle to organizing will have to be handled carefully, to ensure that the women being trained do not feel judged or mocked, by other workers or by the trainer. In particular, the trainer should be wary of initiating casual discussion of workers' background and self-perception in a training session, where there is limited opportunity for follow-up or clarification, especially in contexts where the workers come from many difference religious, regional, ethnic, linguistic backgrounds. The trainer may wish to begin with a very general discussion of gender stereotypes, for example, and see if the group is ready to embark on a more specific conversation that is respectful of differences.

The trainer may also ask women to describe ways in which their different backgrounds may serve as opportunities, providing sets of skills or philosophies that they could draw on in organizing.

## **5.10. Representation of Women Workers in Trade Unions**

Having identified the factors responsible for the under representation of women in decision making bodies and at leadership levels of trade unions, the trainer could ask the participants to share their thoughts about how to increase the participation of women workers in male-dominated trade unions. Possible measures could include:

- ⊙ Framing a policy aiming on equal rights, treatment and opportunities for women members of the union
- ⊙ Setting up women's committees to ensure their effective representation within the union and to create awareness of their special needs at work. Women's committees

<sup>43</sup> ILO, ABC of Women Workers' Rights and Gender Equality, 2nd edition, 2007, p.21 [http://www.ilo.org/wcmsp5/groups/public/---dgreports/---gender/documents/publication/wcms\\_087314.pdf](http://www.ilo.org/wcmsp5/groups/public/---dgreports/---gender/documents/publication/wcms_087314.pdf)

could also be involved in the training of women members. Such committees must have adequate funding and be closely linked to the decision making structures of the union. Women's committees should also be involved in the formulation of demands for collective bargaining purposes. Women's departments that are complementary to the women's committees could also be established to take up issues concerning women in the workplace and in the union.

- ⊙ Reserving seats for women within the policy making bodies of the union.
- ⊙ Requiring that a certain percentage of the executive body consist of women.
- ⊙ Affirmative action<sup>44</sup> to have a specific number of women workers in decision making posts by a certain date.
- ⊙ Gender sensitization of the male members of the organization
- ⊙ Scheduling trade union meetings at times convenient for women members, taking into consideration that many have family responsibilities.
- ⊙ Providing child care facilities during trade union meetings and other trade union activities.
- ⊙ Negotiating with employers to ensure that women workers have paid time off work to enable their participation in union activities.
- ⊙ Ensuring that women members are represented in negotiating teams and all education and training programmes by following a proportionality principle.

### 5.11. Enhancing the Capacity of Women Leaders

The trainer should ask the participants to reflect on and share their thoughts on the concept of leadership and the qualities needed for success as a leader. These qualities include courage, patience, perseverance, being sensitive to the needs of others in the organization, motivating others, fostering teamwork and the ability to build consensus.

The trainer should, through group exercises, games and role plays and the use of audio-visual aids, foster the following skills:

- ⊙ Listening and effective communication skills
- ⊙ Relationship skills
- ⊙ Public speaking
- ⊙ Management and planning techniques
- ⊙ Management of trade union funds
- ⊙ Group management
- ⊙ Problem solving skills
- ⊙ Conflict resolution
- ⊙ Negotiating skills
- ⊙ Planning campaigns
- ⊙ Mobilizing people and other resources for campaigning
- ⊙ Maintaining and sustaining networks and linkages

<sup>44</sup> See "Affirmative action" in ILO, *ABC of Women Workers' Rights and Gender Equality*, 2nd edition, 2007. [http://www.ilo.org/wcmsp5/groups/public/---dgreports/---gender/documents/publication/wcms\\_087314.pdf](http://www.ilo.org/wcmsp5/groups/public/---dgreports/---gender/documents/publication/wcms_087314.pdf)

## CHAPTER 6 Overcoming the Obstacles

Having identified and discussed potential obstacles, the trainer can then turn to strategies that should be considered, in overcoming them and creating greater opportunities for women EPZ workers to organize. In this part of the training, ensuring that the workers choose some priority areas to focus on, supporting their participation, and helping them develop the confidence to share ideas and challenge each other respectfully, will be an important part of the process.

The trainer may want to structure the discussion by firstly presenting different means of action to take as described in section 6.1, and secondly by focusing on four possible areas of impact as outlined in section 6.2: the state, employers, society and the unions. Again, it should be emphasized that not everything outlined below will apply to every situation; the trainer will have to exercise judgment.

At the outset, the trainer would need to make the women workers familiar with the methods and strategies generally adopted by trade unions to further and defend the interests of their members. Role plays could be conducted to demonstrate concepts such as collective bargaining, legal advocacy and media advocacy to the class and make the participants familiar with how the grievances of workers are represented by union representatives before the employer and before the labour administration officials.

### 6.1. Strategies

Trade unions adopt several means to further and defend the interests of their members that the women workers may find useful, either in collaboration with the unions or on their own, as listed below:

#### a) Advocacy

Advocacy has been defined as any activity intended to raise consciousness among decision makers and the general public about an issue or a disadvantaged group with a view to bringing about changes in policy and improvements in their situation.

##### **Legal advocacy**

Trade unions may engage in legal advocacy to bring about legal reforms. In the first instance, this would require a study of the relevant existing laws and an identification of the inadequacies in the law. In order to amend or repeal existing laws that impair the rights of workers or have new laws enacted, trade unions may engage in campaigns. They may also lobby with Members of Parliament and other politicians for this purpose.

##### **Media advocacy**

The media can be a powerful tool to advance workers' and women's rights issues. Trade unions may strategically get issues of concern to them and their activities covered by the media. For this purpose, they may hold press conferences, prepare press releases and arrange for their spokespersons to be interviewed. The use of social networking media – particularly internet-based resources – can also be a powerful tool.



### Campaigns

Trade unions may engage in campaigns to bring about a change in the law or to make governments change their policies. Campaigns may also be undertaken to embarrass an employer and exert pressure on it to change its policies and practices. A campaign refers to a series of coordinated events undertaken with a common aim. Campaign activities may include:

- ⦿ Presenting petitions to the concerned authorities
- ⦿ Printing and distributing fliers and information sheets
- ⦿ Public meetings
- ⦿ Demonstrations, strikes and processions
- ⦿ Printing and distributing fliers and information sheets
- ⦿ Street theatre
- ⦿ Speaking to the media
- ⦿ Getting people and organizations that support the cause to sign petitions, or mail letters to the government or the concerned employer
- ⦿ Internet or online campaigns where websites and online petitions can be used to get support for a cause

Campaigns may go on for several months or even years. Holding events on commemorative days such as May Day and International Women's Day would help the campaign get media attention.

### **Networking**

Unions may network with other organizations working on similar issues at the national, regional and international levels and this helps to:

- ⊙ share information
- ⊙ broaden the support for their struggles
- ⊙ broaden their perspective on labour issues
- ⊙ organize transnational campaigns
- ⊙ raise resources to help sustain their organizations
- ⊙ organize training programmes and other activities
- ⊙ get the requisite technical assistance

### **Pressure group activities**

Trade unions may resort to pressure group activities when employers are perceived to act unjustly against workers and trade unions. They may also resort to pressure group activities to exert pressure on the employer or the government to take into consideration the needs and concerns of workers. Pressure group activities include:

- ⊙ Demonstrations
- ⊙ Strikes
- ⊙ Processions

## **b) Legal Remedies**

Trade unions may take recourse to legal remedies to :

- ⊙ enforce the rights of their officials and members under existing laws and collective agreements;
- ⊙ enable their officials and members to engage in trade union activities;
- ⊙ fight against acts of anti-union discrimination and acts of interference by employers.

Litigation can be strategically used to advance women workers' causes. Public interest litigation is an example of the kinds of strategic litigation to which trade unions may have recourse, with a view to bring about changes in the law or achieve better law enforcement.

### **Accessing the ILO Supervisory Mechanisms**

When there are violations of the freedom of association and collective bargaining rights of workers either under the law or in practice and the governments of ILO member states fail to take the necessary action to protect the rights of the concerned workers, the unions representing the workers may consider accessing the ILO supervisory and complaints mechanisms. Information about these mechanisms is contained in Appendix A to this manual.

### c) Collective Bargaining

Trade unions hold negotiations with employers in respect of the terms and conditions of employment of the workers and other matters of mutual interest. The process of holding negotiations between a collective group of workers and the employers is referred to as 'collective bargaining.' Collective bargaining may result in the union and the employer arriving at an agreement and this is referred to as a 'collective agreement.' In some countries, a collective agreement is referred to as a 'settlement'.

Trade unions represent the interests of workers by:

- ☉ taking up cases of workers who have been treated unfairly with the employer ;
- ☉ presenting petitions concerning the needs and concerns of their members to labour administration officials and the government;
- ☉ representing the interests of their members before labour administration officials, government officials, rural development agencies etc.; and
- ☉ participating in tripartite discussions with representatives of employers and representatives of the government on labour issues.

## 6.2. Target Groups

As the women EPZ workers become aware of their rights and possible actions, they might want to focus on one or several groups to target through their advocacy efforts. The trainer should, together with the women, use her/his knowledge of the local context to find the best strategy to achieve the desired goals. The advocacy strategies described above in section 6.1 above may be used to address several of the following audiences.

### a) The State

Based on the discussion of the particular issues related to legal frameworks and enforcement, the women may choose to consider the possibility of joining with allies to engage the state on legislative reform, or improvement of enforcement mechanisms. Approaches could include the following:

**Lobbying:** While this may seem unrealistic as a strategy for rank-and-file workers, the trainer may wish to remind the group of some of the successful campaigns led by workers in other countries. The trainer may suggest options for the women to discuss – for example, beginning at a very local level, by leading a delegation to local elected officials, and then contacting other groups to reach higher-level officials. The trainer may also suggest some talking points: When attempting to persuade legislators of the need for legal reform or better implementation of legal guarantees, it may be effective to emphasize certain talking points, noting, for example, that core labour standards – including the freedom of association – actually promote long-term investment and national development, according to the ILO.<sup>45</sup> Workers could discuss the likelihood of success of such an approach, based on their perception of the receptiveness of local and regional leaders.

**Litigation:** While this may be one of the first strategies that the women suggest, the trainer may wish to point out that, in most countries, this is an expensive and time-consuming process. However, as part of a broader campaign publicizing violations of the rights of women EPZ workers, in partnership with allies who have staff and resources for lawyers, the workers may want to consider a challenge to laws or practices of the state through the courts.

<sup>45</sup> ILO, *Employment and Social Policy in respect of export processing zones*, 2003, p.7 [http://www.ilo.org/public/libdoc/ilo/GB/286/GB.286\\_esp\\_3\\_engl.pdf](http://www.ilo.org/public/libdoc/ilo/GB/286/GB.286_esp_3_engl.pdf)

**Appealing to international organizations:** Here, again, the trainer will have to begin simply by conveying information. While there are other potential mechanisms within the UN system, the most relevant are likely to be the two supervisory bodies of the ILO. The Committee on Freedom of Association (CFA) examines complaints regarding violations of freedom of association, whether or not the country concerned had ratified Conventions Nos. 87 and 98. The Committee of Experts on the Application of Conventions and Recommendations (CEACR) examines government reports on ratified conventions, as well as comments from workers' and employers' organizations. The trainer should point to some of the benefits of an approach to the ILO supervisory bodies, since they have consistently focused on limitations on the freedom of association in EPZs, and have been extremely attuned to the particular concerns of women workers.

**Seeking support from community-based organizations or community leaders:** The trainer may simply suggest that the women workers discuss the groups active in the areas where they live and work, to see if any of them may be willing to support them in pressing the state for changes in law or state practice.

## b) The Employer

The trainer may wish to begin by stating that there are a number of options available to workers, when attempting to counter illegal or legal employer practices that serve as obstacles to organizing. While there are some strategies in common with those for engaging the state – such as litigation, or partnering with other local organizations – the points below include only those specific to employers. The trainer should ensure that there is ample opportunity for discussion among the group.

**Talking points:** When dealing with an employer who refuses access to union organizers, or otherwise interferes with EPZ workers' rights, would it be possible for the workers to nominate a representative to approach the employer for a face-to-face meeting? The trainer could point out that the ILO has stressed the benefits to employers that result from an improved industrial relations climate, and has linked the suppression of trade union rights in EPZs to a range of problems that are a concern for employers as well as workers such as “high labour turnover, absenteeism, stress and fatigue, low rates of productivity, excessive wastage of materials and labour unrest.”<sup>46</sup>

**International complaints mechanisms:** The multinational enterprise mother companies with subsidiaries in the EPZ or buying from enterprises in an EPZ, may have adopted codes of conduct or supplier engagement codes, with a specific chapter on labour rights, often referring to internationally accepted standards, such as ILO Conventions. The trainer may wish to inform the workers about the aim of the codes and the system it may have in place through external monitoring and auditing.

**Reaching out to other unions and Global Union Federations:** National trade union centres, unions in other countries and Global Union Federations may be able to offer advice. In some cases, they may have experiences with the corporation, including a collective bargaining agreement or a recently-concluded dispute, which could be useful. Moreover, unions may be able to provide support through solidarity campaigns in countries where the products are sold, or by exerting pressure in the country where the corporation has its head office, to demand respect for freedom of association and other labour rights.

<sup>46</sup> Van Heerden, see footnote 1 above, p.11

**Seeking support from the public:** The trainer may wish to offer, for discussion, the idea of workers beginning or joining a campaign to try to influence public opinion. In addition to reaching out to community-based groups and community leaders, as mentioned above in the context of engagement with the state, seeking the attention of local media could help a campaign for organizing rights at a specific employer. Reports about violations of work place Code of Conducts can be highlighted.

### c) Society

Changing cultural attitudes towards women and addressing gender stereotypes, often in combination with prejudices against minority groups based on ethnicity, language, religion and caste, among other things, is a long and hard but necessary process. The trainer could propose, for discussion, some ways for workers to challenge some of the aspects of society that limit women's roles as workers and as activists, and then seek further ideas from the group. The trainer could suggest, for example, reaching out to women's groups active on the issue of gender and women's rights issues, and working with them to develop a shared agenda on the specific issue of women EPZ workers.

- a) Working with gender-responsive secular and religious communities and leaders for them to change attitudes and gender stereotypes which are discriminatory for women.
- b) Using the media, social networks etc.

### d) Trade unions

The trainer could facilitate a discussion on ways that women workers can be better integrated in, and represented by, existing trade unions. In agreement with a trade union the women might find it useful to develop formal women's committees as a step towards full integration and gender balance at all levels of the union. To read more about women's committees and how trade unions can work to achieve gender equality, the trainer might find it useful to consult the manual "Achieving Gender Equality – A Trade Union Manual" by ITUC.<sup>47</sup>

In facilitating a conversation about engagement with an existing union, the trainer could also refer to the compilation "Gender Equality and Decent Work - Good Practices at the Workplace"<sup>48</sup> developed by the ILO, identifying practices and good examples from around the world promoting gender equality and decent work. There is an example of a trade union "diversity and gender equality" policy designed to push internal transformation, as well as more effective organizing, which could offer some guidelines. The basic elements of that trade union policy include:

- ☉ Methods of electing union representatives and leaders that ensures representation of women, such as reservation of a certain number of posts for women, and/or a requirement that there be at least one female candidate for every open post.
- ☉ Checking that times for union meetings do not conflict with work schedules or family obligations.
- ☉ Developing collective bargaining agendas that address harassment, gender-based violence, employment equity, pay equity, maternity and parental leave and child care.
- ☉ Hiring and training women organizers.

<sup>47</sup> [http://www.ituc-csi.org/IMG/pdf/manual\\_ENGOK.pdf](http://www.ituc-csi.org/IMG/pdf/manual_ENGOK.pdf)

<sup>48</sup> ILO, Gender Equality and Decent Work: Good Practices at the Workplace. 2004. p.37. The reference is to the diversity and gender equality policy of the Canadian Auto Workers union. <http://www.ilo.org/dyn/gender/docs/RES/398/F1448380228>

## CHAPTER 7 Long term follow-up

As more and more trainings are conducted it is to be expected that useful networks can be established between women workers in EPZs. It is unlikely that the same organizing strategies will be applicable throughout the world. It may well be that there is more for workers to learn from a very different sector in a very different region, than experiences with an EPZ in a neighboring country, where employment practices may be starkly different. However, it is to be hoped that this process will lead to a better understanding of the situation, an identification of more common themes and approaches, and potentially, the development of more ways for workers to support each other across borders.

Engaging and training women EPZ workers needs to be followed up by sustained support and follow-up by the trade unions to ensure continued assistance of the activities initiated with this manual. The women workers should participate and be represented by the unions in social dialogue, and their priorities included in collective bargaining agreements.

In most societies women face discrimination in the world of work. By ensuring that they have a voice to make their needs heard the first step is taken towards a more equitable and fair work environment. This manual will hopefully contribute to that happening.

# APPENDIX A Information about the ILO's supervisory and special supervisory/complaints mechanisms

## I. REGULAR SYSTEM OF SUPERVISION

### a) **Committee of Experts on the Application of Conventions and Recommendations.**

A ratifying country is required to submit periodic reports to the ILO regarding the application of the Conventions under the law and in practice. Reports are due every other year for Conventions Nos. 87 and 98. Reports are due every five years for Conventions Nos. 111 and 141. Copies of the reports are required to be sent by the Government to representative employers' and workers' organizations in the country for their comments. Employers' and workers' organizations may also send their comments on the application of the Conventions directly to the ILO.

The application of ratified Conventions is supervised by the ILO Committee of Experts on the Application of Conventions and Recommendations, an independent 20 member body consisting of eminent jurists. It may request States to take the necessary action to apply the provisions of a Convention under the law or in practice.

When a workers' organization wishes to draw to the attention of the Committee of Experts any infringement of freedom of association and collective bargaining rights, it may send its comments in this respect to the International Labour Standards Department of the International Labour Office in Geneva.

### b) **Committee on the Application of Standards**

The Committee is a tripartite body consisting of representatives of governments, employers and workers. The Committee examines the annual report submitted by the Committee of Experts on the Application of Conventions and Recommendations and discusses issues of concern. It invites representatives of the concerned governments to appear before it to respond to such issues. The Committee may recommend measures to be taken to apply the provisions of a Convention either in law or in practice.

## II. SPECIAL PROCEDURES

### a) **Committee on Freedom of Association**

The Committee is a tripartite nine-member body consisting of representatives of workers, employers and governments. It is headed by an independent Chairperson. The Committee examines complaints from workers' or employers' organizations concerning the infringement of freedom of association and collective bargaining rights. Such complaints may be referred even against Governments of countries that have not ratified either Convention No. 87 or 98. The Committee makes conclusions and recommendations on the basis of the information provided by the complaint and the government concerned with the complaint.

Complaints to the Committee on Freedom of Association may be made:

- by a national organization directly interested in the matter
- an international organization with ILO consultative status
- an international organization whose affiliates are directly affected by the matters raised in the complaint.

In the case of organizations making a complaint to the Committee for the first time, the following information should be provided:

- Information about its membership
- Its statutes/by-laws
- Information about its national/international affiliations
- Any information that would lead to an appreciation of the nature of the organization

The complaint must be signed by the representative of the complainant organization. If the complaint is sent by fax, it must be followed by the original signed document.

Complaints to the Committee on Freedom of Association may be sent to:

The Director-General  
International Labour Organization  
CH-1211, Geneva 22  
Switzerland

#### b) **Representation**

The representation procedure is governed by articles 24 and 25 of the ILO Constitution. It grants an industrial association of employers or of workers the right to present to the ILO Governing Body a representation against any member state which, in its view, "has failed to secure in any respect the effective observance within its jurisdiction of any Convention to which it is a party". A three-member tripartite committee of the Governing Body may be set up to examine the representation and the government's response. The report that the committee submits to the Governing Body states the legal and practical aspects of the case, examines the information submitted, and concludes with recommendations. Where the government's response is not considered satisfactory, the Governing Body is entitled to publish the representation and the response. Representations concerning the application of Conventions Nos. 87 and 98 are usually referred for examination to the Committee on Freedom of Association.

For more information on how to make a representation, see: <http://www.ilo.org/global/standards/applying-and-promoting-international-labour-standards/representations/lang--en/index.htm>

#### c) **Complaints**

The complaint procedure is governed by articles 26 to 34 of the ILO Constitution. Under these provisions, a complaint may be filed against a member state for not complying with a ratified convention by another member state which ratified the same convention, a delegate to the International Labour Conference or the Governing Body in its own capacity. Upon receipt of a complaint, the Governing Body may form a Commission of Inquiry, consisting of three independent members, which is responsible for carrying out a full investigation of the complaint, ascertaining all the facts of the case and making recommendations on measures to be taken to address the problems raised by the complaint. A Commission of Inquiry is the ILO's highest-level investigative procedure; it is generally set up when a member state is accused of committing persistent and serious violations and has repeatedly refused to address them.

When a country refuses to fulfill the recommendations of a Commission of Inquiry, the Governing Body can take action under article 33 of the ILO Constitution. This provision states that "[i]n 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."

For more information on how to file a complaint, see <http://www.ilo.org/global/standards/applying-and-promoting-international-labour-standards/complaints/lang--en/index.htm>

More information about the supervisory mechanisms can be found in the Guide to International Labour Standards, International Training Centre of the ILO, 2008 available online at [http://training.itcilo.it/ils/materials/public/English/Guide\\_ILS.pdf](http://training.itcilo.it/ils/materials/public/English/Guide_ILS.pdf) See "Supervising the application of standards," pp. 260-276.

## APPENDIX B Case studies

### SHARING STRATEGIES AND EXPERIENCES OF ORGANIZING FROM OTHER PARTS OF THE WORLD

The trainer may find it useful to bring in concrete examples of women EPZ workers' successes in organizing, as a part of the training.

Unions affiliated to the International Metalworkers' Federation (IMF) have described a range of strategies, used by unions as well as women workers, which have led to successes in organizing within EPZs in the Asian region.

- Wages have proven to be a crucial issue in organizing, whether unions have raised their profile among workers by demanding increases in the minimum wage, or workers have joined together to challenge underpayment.
- Organizing within communities clearly yields results. There may be many different approaches to community-level organizing. A union in the Philippines pointed to the role played by workers who lost their jobs, organizing on the ground. In India, a union emphasized that providing services at the level of the community, beyond the workplace – assisting workers in securing bank loans, or getting their children into schools, for example – was very effective.
- Promoting women's leadership in the union is critical, both as a means of recruiting more women into the union, and in order to ensure that women's participation is meaningful and sustained.

From Unions Rise to the Challenge of EPZ Organizing, Anita Gardner, IMF, 6 October 2009  
<http://www.imfmetal.org/index.cfm?c=20797>

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The International Textile, Garment and Leather Workers Federation (ITGLWF) has compiled narratives about successful organizing efforts in EPZ operations in the Philippines.

- At one textile factory, women workers challenged a “company” union by organizing an alternative union. When faced with employer threats to close the enterprise if they organized, the workers sought the support of their new union and the ITGLWF for legal assistance and trainings in legal rights. This increased the confidence of workers and their sense of unity
- Women workers at a packaging facility successfully challenged management's attempt to prevent the formation of a union by putting in place a “Labour-Management Council.” The role of the women leaders was very important, since they were in a position to share information quickly and efficiently with other women, through their existing shop-floor relationships, and this ensured that trust and transparency were maintained throughout the process of transition to a real and representative workers' organization.
- Workers at an EPZ enterprise manufacturing tennis balls were faced with a situation where women were not being hired or promoted, apparently because the employer did not want to provide maternity leave. The union realized the necessity of organizing the women, and of sensitizing male workers on gender issues in order to address this challenge, and conducted trainings, study circles, and initiated a women's committee within the union structure.

From Success Stories in Organizing Women Workers and Trade Union Rights in the Philippine Export Processing Zones (EPZs), ITGLWF, December 2003 [www.itglwf.org/docs/EPZStudy.doc](http://www.itglwf.org/docs/EPZStudy.doc)

In early 2011, a collaboration between workers in Mexico and trade unions and NGOs in investor countries created the necessary pressure on a company in the country's EPZs – known as “maquilas” – to lead it to negotiate in good faith, and sign a collective bargaining agreement that displaced the former “company” union. The company, Johnson Controls, which produces seats for several major automobile companies, employs a workforce that is more than 50% women.

Workers had been faced with a situation where they were unable to receive any support from the company-controlled union, and were governed by a “protection contract” that even signed away their legal rights. This “protection contract” had been put in place by the yellow union<sup>49</sup> to prevent workers from trying to organize a genuine union. However, workers sought the support of groups within and outside Mexico, including the International Metalworkers Federation, the Canadian and US autoworkers unions, the United Steelworkers, and the Maquila Solidarity Network. The international public campaign pressured the company to recognize the National Union of Mine, Metal, Steel and Related Workers of the Mexican Republic (known as “Los Mineros”) as the workers' democratically chosen union.

From Puebla workers at Johnson Controls sign first collective bargaining agreement, Maquila Solidarity Network, 19 April 2011 <http://en.maquilasolidarity.org/>

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The Trades Union Congress of Ghana has integrated EPZ issues into its formal gender policy, given the high numbers of women workers in EPZs. The policy position emerges from the realization that addressing the under-representation of women in the union (9-10%, where women's participation in formal sector employment is about 25%) involves a holistic approach to the marginalization of women in workplaces, and in society. The gender policy, therefore, also looks at proportionate representation for women in union leadership, the integration of gender issues in collective bargaining agreements, and the need for unions to act affirmatively in support of women's rights in society and at work. There have been several tangible outcomes to the TUC's approach. For example the election of female leadership in the Ghana Mine Workers Union, even in a context of a predominantly male workforce. Also, partnerships between the TUC and women's organizations to promote education for girls and women, and to condemn violence against women, have led to the building of greater trust and cooperation among unions and networks of women's groups – alliances that are critical to organizing.

From Trade union responses to globalization: Case study on Ghana, Kwasi Anyemedu, International Institute for Labour Studies, 2000, pp.12-13  
<http://ilo-mirror.library.cornell.edu/public/english/bureau/inst/download/dp12100.pdf>

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<sup>49</sup>ILO, Gender Equality and Decent Work: Good Practices at the Workplace. 2004. p.37. The reference is to the diversity and gender equality policy of the Canadian Auto Workers union. <http://www.ilo.org/dyn/gender/docs/RES/398/F1448380228>





# FREEDOM OF ASSOCIATION FOR WOMEN WORKERS IN EPZs

## International Labour Office

4, route des Morillons  
CH-1211 Geneva 22  
Switzerland

## The Bureau for Gender Equality

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## Declaration

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ISBN 978-92-2-125675-5



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