

# India

TRADE UNIONS  
AND SPECIAL  
ECONOMIC ZONES  
IN INDIA



ILO ACTRAV  
Bureau  
for Workers'  
Activities

**Working document**



# Trade Unions and Special Economic Zones in

# **INDIA**

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INDIA

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# Introduction

The term SEZ covers a broad range of zones, such as export processing zones, industrial parks, free ports, enterprise zones, and others<sup>1</sup>. Industrial free zones, industrial export zones, free trade zones (often presented as bonded platforms within countries heavily involved in transit trade), special economic zones (principally in China), bonded warehouses, technological and scientific parks, financial services zones, free ports, duty-free zones (destined for the retailing of duty-free consumer goods to tourists) are also among the variants<sup>2</sup>. EPZs have been a feature of Indian policy since 1960<sup>3</sup>.

The firms inside EPZs enjoy favoured treatment with respect to imports of intermediate goods, taxation, and infrastructure. They are also free from industrial regulations applying elsewhere in the country. These privileges are subject to the conditions that almost all of the output is exported and that all imported intermediate goods are used within the zones or else re-exported. Various studies have pointed out that they have been much less successful in India than in ASEAN and China, both in themselves as well as an experimental platform for more general policy change (Aradhana 2004).

In a major regime shift, the Government announced an SEZ scheme in April 2000 as part of the EXIM policy.<sup>4</sup> In 2005, it enacted the SEZ Act and notified the SEZ Rules in February 2006. The main difference between an SEZ and an EPZ is that the former is an integrated township with fully developed infrastructure, while an EPZ is just an industrial enclave (Mayumi Murayama, Nobuko Yokota, 2009).<sup>5</sup> Aradhana observes that the promotion of SEZs is an attempt to deal with infrastructural deficiencies, procedural complexities, and bureaucratic hassles and barriers raised by monetary, trade, fiscal, taxation, tariff, and labour policies.

The Government of India has notified 583 SEZs till October 2011. Out of these, 143 are functional SEZs. Almost 24 per cent of these SEZs are in the IT and ITES sectors. In 2010-11, exports from SEZs have been growing and were to the tune of USD 14.7 (Rs 722.55) billion, indicating a growth rate of 23 per cent over the previous year. By June 2011, the total investment in SEZs had reached USD 42.3 (Rs 2129.143) billion (out of

<sup>1</sup> How Do Special Economic Zones and Industrial Clusters Drive China's Rapid Development?, Douglas Zhihua Zeng, World Bank 2011

<sup>2</sup> Export Processing Zones : A threatened instrument for global economy insertion ? Jean-Pierre Cling

<sup>3</sup> India was the first country in Asia to set up an EPZ in Kandla (Gujarat) in 1965.

<sup>4</sup> In accordance with the 2000 EXIM policy, 8 existing EPZs located at Santa Cruz (Maharashtra), Cochin (Kerala), Kandla and Surat (Gujarat), Chennai (Tamil Nadu), Visakhapatnam (Andhra Pradesh), Falta (West Bengal), and NOIDA (Uttar Pradesh) have been converted into SEZs.

<sup>5</sup> SEZs receive many other concessions, which are discussed in the chapter 'The trajectory of the development of EPZs in India. It was clarified by the Minister of Commerce in Rajya Sabha in 2003 that "the major differences between Export Processing Zones (EPZs) and Special Economic Zones (SEZs) are (i) no minimum export performance stipulation for SEZ units, (ii) domestic sales on payment of full duty allowed for SEZ units against a ceiling of 50% of exports for EPZ units (iii) retention of 100% export earnings by SEZ units in EEFC account; for EPZs this was restricted to 70%, and (iv) simplified custom and central excise procedure in SEZs."

which USD 42.5 (Rs 2088.788) billion had come in after the enactment of the SEZ Act in 2006), and SEZs provided direct employment to about 714,412 persons<sup>6</sup>.

Total land required for approved SEZs is about 670,676 hectares, and for the notified SEZs, it is about 45,897 hectares. Massive infrastructure, mainly land, is required for setting up of SEZs and this has turned SEZs into zones of controversy. Farmers experiencing dispossession of their land have staged massive protests<sup>7</sup> challenging the forceful land acquisition on grounds of “public purpose”. People’s movements have also raised concerns about the forceful acquisition of land and its implications on livelihood, ecosystems, and food security. The Government’s role in siding with the corporates has also been challenged. What remains missing is an analysis of how these zones are changing the existing fabric of labour relations. Alongside the analysis on huge investments that are going into the SEZs, incidents of rights violation and spontaneous outbursts of labour<sup>8</sup> are coming to the forefront. Labour regime in the zones is being made flexible, but the implications of this on labour itself have not been explored. In this context, this study intends to look at the developments related to SEZs from a labour rights perspective.

The present study seeks to give an overview of SEZs in India with focus on those in Noida, Gujarat, Andhra Pradesh, Chennai, and Maharashtra. Firstly, it looks at the trajectory of development of SEZs inclusive of legal provisions. Secondly, it evaluates the investment pattern of some sectors including textiles, electronics, and main multinationals. Thirdly, it focuses on the overall cost-benefit analysis of the selected EPZs. Fourthly, it examines labour response to the employment relations that characterise SEZs.

<sup>6</sup> Source: <http://www.india-briefing.com/news/progress-report-indias-sezs-4957.html/> accessed on January 10, 2012

<sup>7</sup> The West Bengal government decided that Salim group from Indonesia would be given 10,000 acres (40 km) of land for SEZs. This led to massive protests and on March 14, 2007, there was a major outburst in which 14 people were killed. A similar controversy was generated around the land acquisition proposed by the Tata group at Singur in West Bengal in 2008.

<sup>8</sup> Workers of Grazziano Transmission India Ltd struggled to form a union but the struggle turned violent on September 22, 2008. The incident received wide media publicity as the CEO was killed in the scuffle. Workers of NOKIA SEZ in Chennai went on strike on August 13, 2009, demanding salary hike.



# 1: Mapping SEZs in India

## 1.1 SEZs in India

Initially, special economic zones came about as an extension of the export processing zone (EPZ) policy. It was argued<sup>9</sup> that the EPZs were a failure because of their inability to boost India's exports. Various stakeholders found that the EPZ policy provided "piecemeal incentives" that were restrictive. This led to less-than-expected export figures. With a view to overcome the shortcomings experienced on account of the multiplicity of controls and clearances, and thereby also attract larger foreign investments into India, the special economic zones (SEZs) policy was announced in April 2000. The policy intended to make SEZs an engine of economic growth supported by quality infrastructure and an attractive fiscal package, both at the Centre and the state levels, with the minimum possible regulations. Thus, the SEZ policy was introduced in India in 2000 as part of the EXIM policy and then legislated in 2005 under the SEZ Act. As per the Ministry of Commerce and Industry, an SEZ is a "specifically delineated duty-free enclave and shall be deemed to be foreign territory for the purpose of trade operations and duties and tariffs." According to the Exim Policy (2004-09), SEZ is a geographically distributed area or zone where the economic laws are more liberal as compared to other parts of the country. They are self-contained and integrated, having their own infrastructure and support services. The area under an SEZ covers a broad range of zone types, including export processing zones (EPZ), free zones (FZ), industrial estates (IE), free trade zones (FTZ), free ports, urban enterprise zones, and others<sup>10</sup>. SEZs also encourage supportive infrastructure such as housing, roads, ports, and telecommunication. The law specifies the area for export-oriented activities (processing) and the area supporting such export-oriented area (non-processing). Table 1.1 summarises the evolution of SEZs in India. The administrative machinery of the SEZs revolves around the District Commissioner (DC), who is the "overall in-charge of the Special Economic Zone."<sup>11</sup> Promoting export, attracting investment, and labour standards fall under the office of the DC.

Recently, there has been another shift in Government of India's policy with regard to SEZs. The Government, as part of the new industrial policy announced in 2011, has proposed the creation of National Investment and Manufacturing Zones (NIMZs).<sup>12</sup> NIMZs would be large areas of developed land, with the requisite ecosystem for promoting manufacturing activity. They would be different from SEZs in terms of size, level of infrastructure

<sup>9</sup> Murayama and Yokoya 2008

<sup>10</sup> source: <http://www.exim-policy.com>

<sup>11</sup> <http://www.seznews.com/acts-and-rules/sez-act-2005/development-commissioner.htm>

<sup>12</sup> See [http://commerce.nic.in/whatsnew/National\\_Manufacturing\\_Policy2011.pdf](http://commerce.nic.in/whatsnew/National_Manufacturing_Policy2011.pdf). The policy states, "One of the key instruments to catalyze the growth of manufacturing will be establishment of National Investment and Manufacturing Zones (NIMZs), which will be developed in the nature of greenfield industrial townships, benchmarked with the best manufacturing hubs in the world. These will also help us to meet the increasing demand for creating world-class urban centres in India, while also absorbing surplus labour by providing them gainful employment opportunities. These NIMZs will seek to address the infrastructural bottleneck that has been cited as a constraining factor for the growth of manufacturing."

planning, and governance structures related to regulatory procedures and exit policies. The NIMZ will function as a self-governing and autonomous body, and will be declared by the state government as an industrial township under Art 243 Q(c) of the Constitution. A special purpose vehicle (SPV) under this policy will manage the affairs of the NIMZ. This SPV can be a company as well. The developer SPV can take up the work of development on their own through various agencies/contractors, or take up the development in partnership with a developer who shall be selected through a transparent process. The Central Government will improve/provide external physical infrastructure linkages to the NIMZs including rail, road (national highways), ports, airports, and telecom in a time-bound manner. This infrastructure will be created/upgraded through public-private partnerships to the extent possible. Viability gap funding through existing schemes will be provided. Wherever necessary, requisite budgetary provisions for creation of these linkages will also be made.

In the transition from EPZ to SEZ, and now in the proposed transition to NIMZ, huge incentives are given to industry. However, there has never been an assessment of whether industry needs the incentives. The groups that set up units in SEZs (such as Reliance, Nokia, Flextronics) are well-established industries and are capable of securing capital and expanding operations nationally and internationally even without the preferential treatment as SEZs. These units are also specializing in exports and already catering to the international market. Therefore, the need for disbursement of further subsidies to them needs to be further investigated and substantiated.

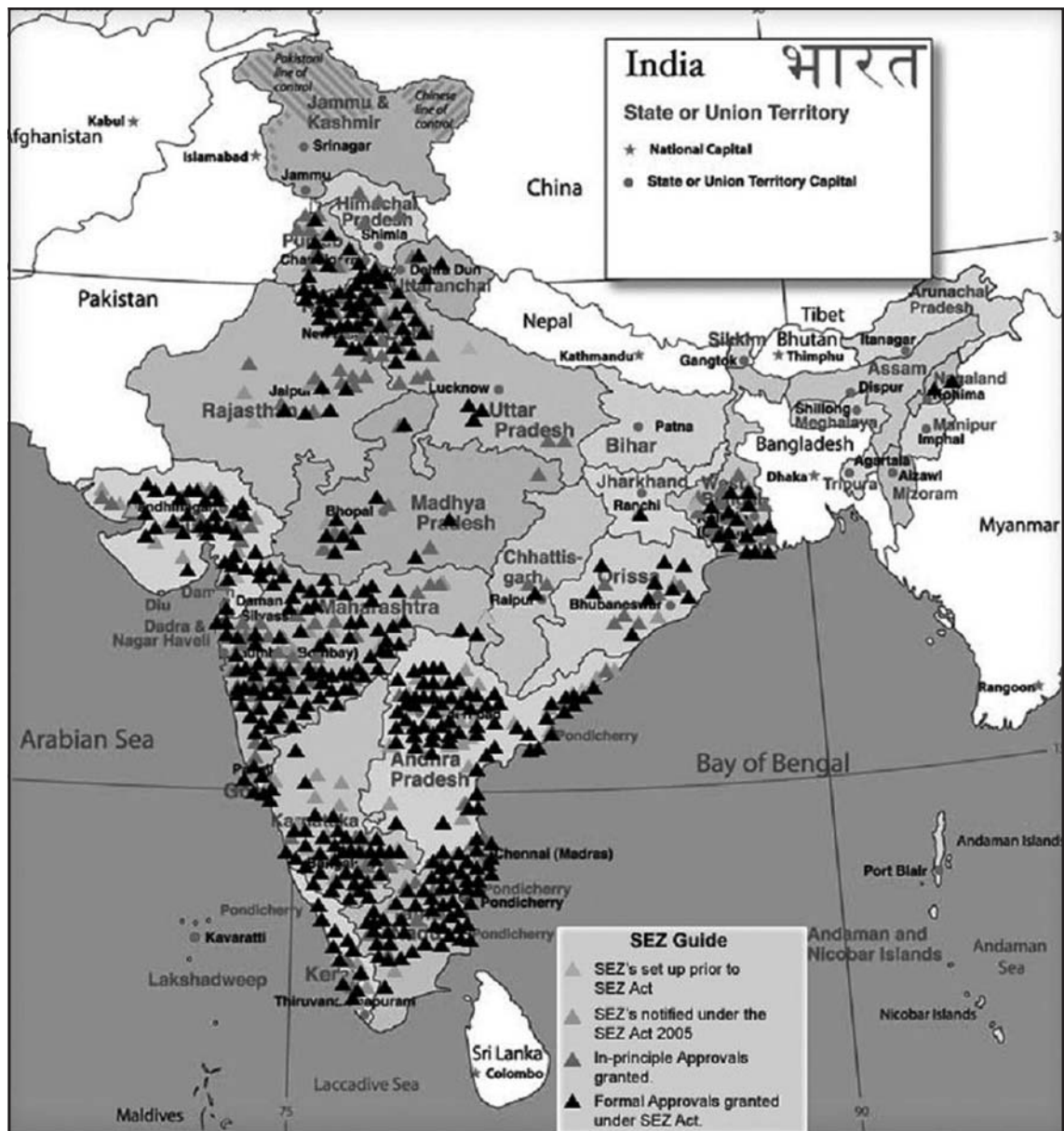
## 1.2 The Trajectory of the Development of EPZs in India

Historically, there are some main objectives of EPZs as interpreted by the various committees and other authorities. In 1988, the Ministry of Commerce clarified that the objectives of EPZs were to increase foreign exchange earnings, develop export-oriented industries, stimulate domestic and foreign investment, and generate employment opportunities.<sup>13</sup>

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<sup>13</sup> Comptroller and Auditor General of India, Report No.16 of 1989 (New Delhi: 1989):p.1

Figure 1.1: Map of EPZ Distribution in India



The first zone was set up in Kandla (Gujarat) as early as 1965. It was followed by the Santa Cruz export processing zone, which came into operation in 1973. Subsequently, the government set up five more zones during the late 1980s. These were at Noida (Uttar Pradesh), Falta (West Bengal), Cochin (Kerala), Chennai (Tamil Nadu), and Visakhapatnam (Andhra Pradesh). Surat EPZ became operational in 1998. In 2000, the export-import (EXIM) policy of India shifted towards a new scheme of special economic zones (SEZs). Under this scheme, EPZs at Kandla, Santa Cruz, Cochin, and Surat were converted into SEZs. In 2003, the other existing EPZs at Noida, Falta, Chennai, and Vizag (also known as Visakhapatnam) were also converted into SEZs.

**Table 1.1: Evolution of SEZs in India**

Timeline	SEZ Progress Highlights	Prevailing Business Environment
1965	Export processing zone (EPZ) established at Kandla, Gujarat	<ul style="list-style-type: none"> <li>• Lack of quality public infrastructure</li> </ul>
1965–2000	More EPZs established at Mumbai, Noida, Falta, Kochi, Visakhapatnam	<ul style="list-style-type: none"> <li>• Rigid government policies</li> <li>• Multiple clearances required</li> <li>• Restrictive FDI policy</li> </ul>
2000–05	Introduction of SEZs with approval of new zones. Existing EPZs converted to SEZs	<ul style="list-style-type: none"> <li>• Attractive incentives</li> <li>• Single window clearance</li> <li>• PPP model of developing zones</li> </ul>
2005–06	Framework for SEZ and approval processes formalised with the legislation of the SEZ Act 2005	<ul style="list-style-type: none"> <li>• Expanding concept of EPZ to promote more exports and FDI</li> </ul>
2006–09	Number of formally approved SEZs rapidly increased to 578, of which 325 are notified. Currently, 91 SEZs are operational in the country	<ul style="list-style-type: none"> <li>• SEZs emerging as preferred destinations for private developers (to create land banks) as well as for multinational corporations and private companies as safe tax havens</li> </ul>

Source: CEC Research and [www.sezindia.nic.in](http://www.sezindia.nic.in)

Between 1964 and 1980, the Kandla and Santa Cruz EPZs were established with an overall ‘inward looking’ policy approach. It was argued that the policies were rigid and the package of incentives and facilities was not attractive within the zone.<sup>14</sup> To overcome this, various committees were appointed by the Indian Government to review the working of the zones. Kandla was reviewed by the Kaul Committee in 1978, while Santa Cruz was reviewed by the Review Committee on Electronics in 1979. In 1980, there was another Committee organised, known as the Tandon Committee, to review both these zones. The main objective of the committee was to formulate policy measures for accelerating the progress of free trade zones and 100-per-cent export-oriented units. These committees pointed at the absence of an implementation authority to centrally coordinate and control the zones, procedural constraints, infrastructural deficiencies, limited concessions, and limited powers of the zone authorities to take actions on the spot, resulting in inordinate delays. These committees made several concrete recommendations to improve the functioning of these zones.

Thus, the second phase started in the 1980s, during which more zones were established based on the Tandon Committee recommendation that the inward-oriented developmental approach needed to be reorganised by strengthening outward-oriented export promotion. Followed by the report, the Government decided to establish four more zones in 1984. The zones established during this phase were at Noida (Uttar Pradesh), Falta (West Bengal), Cochin (Kerala), and Chennai (Tamil Nadu). Visakhapatnam EPZ in Andhra Pradesh was established in 1989. Thus, the total number of operational EPZs in India increased to seven (see Table 1.1). Another significant step was taken in 1980, when the Government introduced the Export Oriented Units (EOU) Scheme. This scheme facilitates the setting

<sup>14</sup> See a more detailed analysis, Rajiv Kumar (1989), *India’s Export Processing Zones*, New Delhi: Oxford University Press.

up of EOUs beyond the boundaries of EPZs. The responsibility of administering these units was also entrusted with the zone administration.

Since 1991, the Indian economy has gone through a paradigm shift in terms of restructuring of economic policies. There was a transformation from the regime of regulated economic development to a competitive regime through industrial delicensing, import liberalisation, and removing barriers to exports for accelerating growth. This phase can be highlighted as the third stage in the development of EPZs in India. EPZs underwent administrative restructuring, procedural simplification, delegation and decentralisation of powers at functioning level, and rationalisation of customs procedures. One of the significant changes was that the powers of the Board of Approval (BoA) were decentralised by introducing an automatic approval route for streamlining licensing procedures and providing operational flexibility. The scope and coverage of the EPZ/EOU scheme was enlarged in 1992 by permitting agriculture, horticulture, and aquaculture sector units as well. In 1994, trading, re-engineering and re-conditioning units were also permitted to be set up. This period was known as a consolidating phase in the transformation of EPZs which continued until 2000.

The significant feature of the fourth phase was the structural transformation of EPZs into special economic zones (SEZs). With a view to overcome the shortcomings experienced on account of the multiplicity of controls and clearances, the absence of world-class infrastructure, and an unstable fiscal regime, and with a view to attract larger foreign investments into India, the Special Economic Zones (SEZs) Policy was announced in April 2000. The export-import (EXIM) policy (1997-2002) introduced a new scheme from April 1, 2000, for establishment of special economic zones (SEZs) in different parts of the country. On November 1, 2000, the export processing zones at Kandla, Santa Cruz (Mumbai), Cochin, and Surat were converted into SEZs. In 2003, the other existing EPZs, namely Noida, Falta, Chennai, and Vizag, were also converted into SEZs. Altogether, a total of 19 SEZs were established prior to the promulgation of the SEZ Act, and these were later – in 2005 – legally deemed as SEZs under the new Act. As of October 31, 2011, 583 formal approvals have been granted for setting up SEZs, of which 381 have been notified and 143 are exporting.

The new SEZ Act provides for drastic simplification of procedures and for single window clearance on matters relating to Central as well as state governments. According to the SEZ Act<sup>15</sup>, its main objectives are: (a) generation of additional economic activity; (b) promotion of exports of goods and services; (c) promotion of investment from domestic and foreign sources; (d) creation of employment opportunities; and (e) development of infrastructure facilities. SEZs are permitted to be set up in the public, private, or joint sector, or by the state governments. SEZs are permitted to be set up in the public, private, or joint sector, or by the state governments with a minimum size of not less than 1,000 hectares. The number of incentives both fiscal and non-fiscal has also been extended to the units operating in SEZs.

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<sup>15</sup> Source: <http://www.sezindia.nic.in/about-introduction.asp>

**Table 1.2: Total Number of SEZs Approved (Statewise) as on October 30, 2011<sup>16</sup>**

Sectors	Formal approvals	Notified SEZs	Operational SEZs (Central Government + State Government/Pvt SEZs + Notified SEZs under the Act, 2005)
Andhra Pradesh	109	75	36
Chandigarh	2	2	1
Chhattisgarh	2	1	0
Delhi	3	0	0
Dadra & Nagar Haveli	3	1	0
Goa	7	3	0
Gujarat	45	29	13
Haryana	46	35	3
Jharkhand	1	1	0
Karnataka	58	36	20
Kerala	28	20	7
Madhya Pradesh	15	6	1
Maharashtra	104	63	18
Nagaland	2	1	0
Orissa	10	6	1
Pondicherry	1	0	0
Punjab	8	2	0
Rajasthan	10	9	4
Tamil Nadu	71	57	28
Uttar Pradesh	34	21	6
Uttarakhand	2	1	0
West Bengal	22	12	5
<b>GRAND TOTAL</b>	<b>583</b>	<b>381</b>	<b>143</b>

<sup>16</sup> Discussion Paper to Facilitate Stakeholder Consultation on Potential Reform of the SEZ Policy and Operating

Minimum Area Requirement for setting up SEZs<sup>17</sup>:

- 1000 hectare for multi-product SEZs;
- 100 hectares for sector specific SEZs; and
- 10 hectares with minimum built up processing areas of 100,000 sqm, 40,000 sqm and 50,000 sqm for IT, Bio-technology, gems & jewellery SEZs respectively.
- Most of applications for multi-product SEZs have been in the range of 1000 hectare to 2500 hectare - only two cases with 10,000 hectare.
- No maximum land area stipulated since it is the State Government, which is to decide upon the approval and land use stipulation.
- Lesser minimum area requirement in respect of special states viz., Assam, Meghalaya, Nagaland, Arunachal Pradesh, Mizoram, Manipur, Tripura, Himachal Pradesh, Uttaranchal, Sikkim, Jammu & Kashmir and Goa & union territories.

Until the establishment of SEZ Act in 2005, the operation of EPZs in India was under the shadow of legal constraints. SEZs practically framed a new industrial relations regime in the country. The EPZs and SEZs differed as follows:

1. 100% FDI investment through automatic route is available to manufacturing SEZ units. In an EPZ, FIPB approval was required.
2. The development commissioners are made single-point authority for SEZs.
3. Unlike the state-controlled EPZs, the SEZs are private, state, or joint sector establishments. Private SEZs are maintained and operated by the developers and the development commissioner's role is restricted to certain statutory functions. The operation and maintenance are fully controlled by the developers. Developers are responsible for providing essential services like water, electricity, and security as well as other facilities like restaurants and recreation centres.
4. In SEZs, there is facility to retain 100 per cent of export proceeds in the EEFC account to meet the foreign exchange requirements of the units. Only up to 70 per cent of export proceeds were allowed to be retained in EEFC accounts for EPZ units.
5. Procedural simplification has been brought in for operations like record keeping, inter-unit transfer, and subcontracting.
6. Unlike EPZs, no minimum export performance (EP) or net foreign exchange earnings as percentage of exports (NFEP) is required for SEZ units.
7. The Small Scale Sector Reservation Policy is not applicable to SEZ Units.
8. All imports in SEZs are based on self-certification, unlike in EPZs, where attestation of development commissioner was required for import of capital goods.
9. The customs examinations that the EPZs were subjected to are not applicable for SEZs.
10. Huge tax benefits and financial assistance are given to SEZ units.
11. Labour laws are circumvented in SEZs.

The Ministry of Commerce acknowledges that there are important geographical and sectoral distortions in the SEZs in India, though they have been articulated as a justification for introducing NIMZ. (see next page).

<sup>17</sup> [http://commerce.nic.in/pressrelease/pressrelease\\_detail.asp?id=1990](http://commerce.nic.in/pressrelease/pressrelease_detail.asp?id=1990)

### Box 1: Some Significant Trends in SEZ Sector Growth

An analytical assessment of the SEZ growth pattern since enactment of the SEZ Act 2005 reveals certain distinct trends, which perhaps are pointers to shortcomings in the conception and implementation of the SEZ policy framework. On a more constructive note, they are also indicators of the opportunity that exists to build on the significant achievements of the sector through suitable reform. The key trends are as follows:

1. Geographical concentration of SEZs: Six states, Andhra Pradesh, Kerala, Maharashtra, Gujarat, Karnataka, and Tamil Nadu, account for a major proportion of SEZs and 92 per cent of total exports.
2. Urban centric growth of SEZs: Even within these six states, SEZs are largely concentrated around existing urban agglomerations, leaving the hinterland virtually untouched.
3. Sectoral dispersion of SEZs: There is a predominance of IT SEZs in the sector, and multi-sector SEZs are few and far between. Of the 143 operational SEZs, only 17 are multi-product SEZs.
4. Skewed Export Pattern: IT/ITES SEZs and Petroleum sector contribute to the roughly two-thirds of SEZ exports. Non-petroleum manufacturing contributes the balance minority share.
5. Inadequate progress of Manufacturing activity: As reflected in 3 and 4 above, the SEZ sector has not fully addressed the concern of boosting the manufacturing sector in India.
6. Limited number of Operational SEZs: While 583 SEZs have been formally approved as on 31st Oct 2011, only 381 have been notified, of which only 143 SEZs are exporting i.e. only 24.53 % of the approved SEZs.

## 1.3 Investment in SEZs

Ashok Kundra problematises that the EPZ policy has been characterised by a lack of objective clarity, a centralised management structure, an absence of linkages with the domestic economy, and misplaced concern for domestic entrepreneurs<sup>18</sup>. Since 1991, with the comprehensive reforms intending to reduce regulations and controls over foreign investment, packages of incentives and facilities have been provided for EPZs. As a result of the decentralisation of power structure, approvals for EPZs are granted by the development commissioner with effective incentives and facilities. Increased investment by private sector indicates a shift in the trend wherein the state has consciously changed its role from being a controller to that of a facilitator in the entire process of development.

<sup>18</sup> See details, Ashok Kundra (2000), *The Performance of India's Export Zones: A Comparison with the Chinese Approach*, Sage: New Delhi.



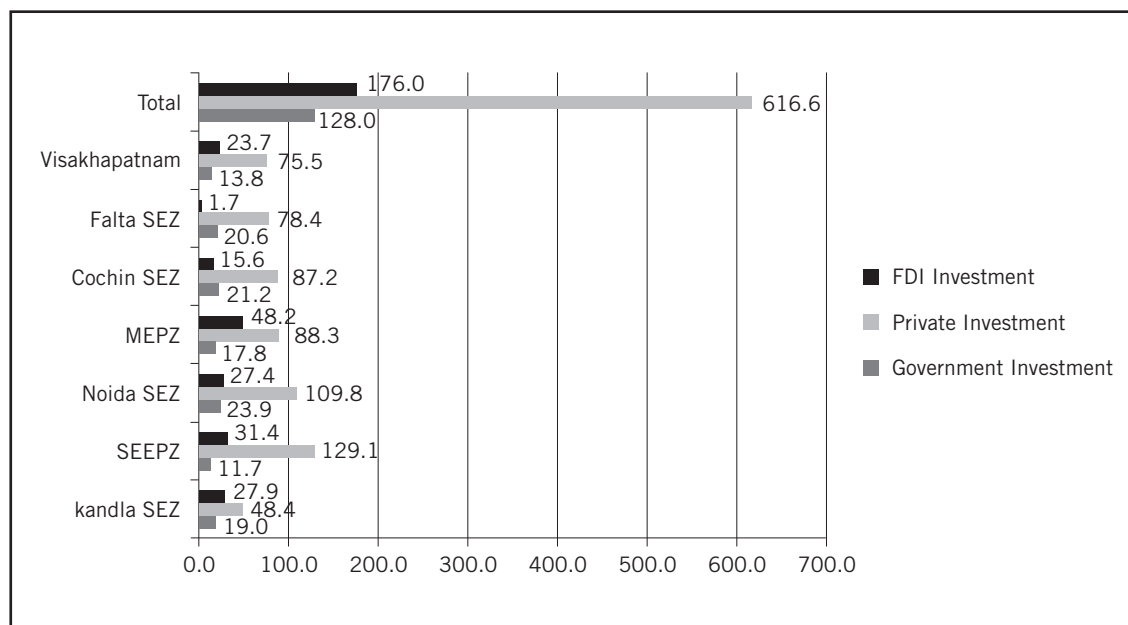
**Table 1.3: Summary of Key Concessions to SEZs**

I	SEZ Unit	SEZ Developer
Operation/ Development Stage	Exempted from:	Exempted from:
	• Customs duty	• Customs duty
	• Excise duty	• Excise duty
	• Sale tax	• Sale tax
	• Service tax	• Service tax
	• Stamp duty and registration fees	• Stamp duty and registration fees
	• Stamp duty on mortgages	• Stamp duty on mortgages
	• Electricity duty	• Electricity duty
	On capital goods, consumables, components, and spares	On capital goods, consumables, components, and spares
Profit Stage	Exempted from income tax as below:	Exempted from:
	• 100% for first 5 years	• Income tax for 10 years
	• 50% for next 5 years	• MAT (will change when DTC comes into place)
	• 50% of profits ploughed back for next 5 years	• Dividend distribution tax
	Exempted from MAT (will change when DTC comes into place)	

Source: SEZ Rules 2006

The investment in SEZs has been continuously rising, although the breakup of investment for each year as government, private, and FDI investment is hard to find. In any case, the investment from the private sector forms the majority of total investment.

**Figure 1.2 : Investments (USD million<sup>19</sup>) in Government SEZs<sup>20</sup>**



As per the official SEZ website, the growth of private investment in SEZs has been impressive, with the recorded level of cumulative private sector investment till the end of March 2009 being to the tune of USD 23300.9 (Rs 1146405.3) million.

**Table 1.4: Private Investment in SEZs (USD million)**

Prior to SEZ Act 2005		2007-08			2008-09		
Central Govt SEZs	State/ Pvt. SEZs	Central Govt SEZs	State/ Pvt. SEZs	Notified SEZs	Central Govt SEZs	State/ Pvt. SEZs	Notified SEZs
792.6	805.0	942.9	536.2	10641.1	689.8	1353.16667	21257.9878

Source: <http://sezindia.nic.in>

However, there is a huge difference in private investment in the SEZs vis-B-vis the exports generated. In the government investments in the same SEZ is included, the difference increases. Prior to the formalization of the SEZ Act 2005 the private investment was relatively less as the majority of investment was by the government with regard to the central government-owned EPZ-converted SEZs. But by 2008-09 private sector investment has increased manifold USD 1353.2 million (Rs 66575.8 million) compared to the investment by the central government USD 689.8 million (Rs. 33936.5 million).

<sup>19</sup> Data of all Figures and tables in the study have been converted into USD to enable a standard readership for an international publication. The base had been used as USD 1 = Rs 49.2 (existing rate as in March 2012)

<sup>20</sup> source: <http://www.nsez.gov.in/nsezwebsite/Resources/Employemnt/inv-in-Emp-in-Govt-State-private-established-prior-to-SEZs.pdf>

## 1.4 Growth of Exports of SEZs

Figure 1.3: Exports from SEZs (In USD Million)

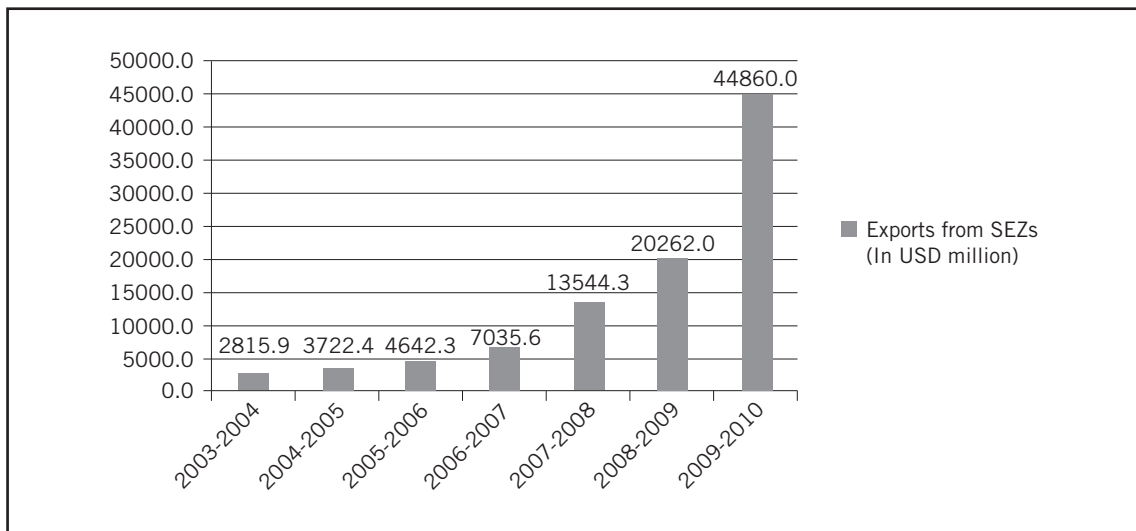
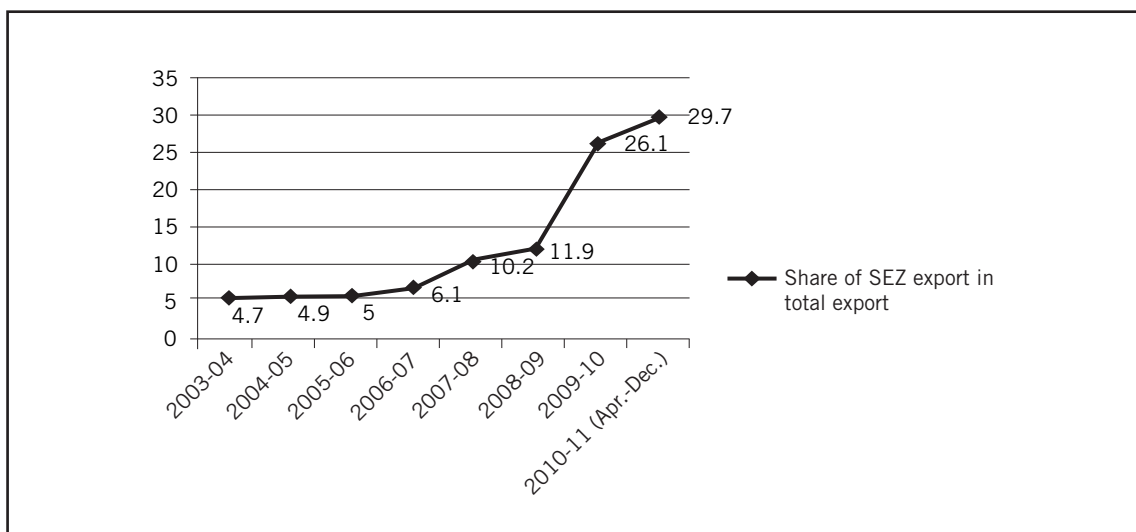


Figure 1.4: Percentage Share of SEZ export in Total Exports



Source: Economic Survey 2010-11; <http://india.gov.in/sectors/commerce/index.php?id=13> w

**Table 1.5 Exports from EOUs and percentage share in India's total export (in USD million)**

Year	India's Export	% share of EOU in India's total export
1997-98	2644.3	7.9
1998-99	2840.5	8.63
1999-2000	3243.1	8.59
2000-01	4137.6	7.82
2001-02	4248.3	8.97
2002-03	5185.7	9.25
2003-04	5962.7	9.83
2004-05	7628.9	10.45
2005-06	9276.8	10.84
2006-07	11621.5	12.24
2007-08	13330.5	25.74
2008-09(P)	17072.7	20.42

Source:[http://www.eouindia.gov.in/fact\\_figure.htm](http://www.eouindia.gov.in/fact_figure.htm)

The growth of exports from SEZs has been positive. But what is often quoted is the annual growth rate of total exports in India and the percentage contribution of SEZs to the total exports for that year. For example, in the year 2007-08, the total exports of the country grew at an impressive rate of 14.71 per cent from the previous year, and the share of SEZ exports to total exports was 10.16 per cent. Together, these two numbers in conjunction appear impressive. However, take the latter away from the former, and you get only 10.16 per cent of total exports being contributed by the SEZs, which receive favourable concessions to the extent possible. The rest 90 per cent of total exports is contributed by units coping without the concessions.

**Table 1.6 Exports from SEZs as percentage of total exports from India**

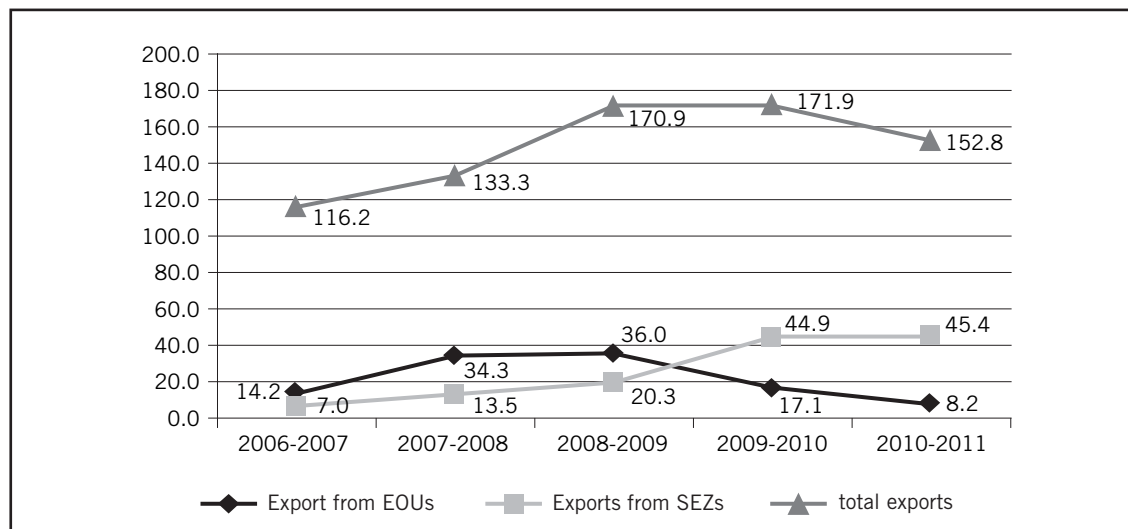
year	Exports from SEZs		Exports from India		Share of SEZ export in total export
	Value (in USD million)	growth	Value (in USD million)	growth	
2003-04	2815.9	39.0	59627.4	-	4.7
2004-05	3722.4	32.2	76288.6	27.9	4.9
2005-06	4642.3	24.7	92767.9	21.6	5
2006-07	7035.6	51.6	116215.2	25.3	6.1
2007-08	13544.3	92.5	13330.5	14.7	10.2
2008-09	20262.0	49.6	170885.2	28.2	11.9
2009-10	44860.0	121.4	171856.5	0.6	26.1
2010-11 (Apr.-Dec.)	45352.0	47*	152770.9	23.4	29.7

Source: *Economic Survey 2010-11* accessed: <http://indiabudget.nic.in/es2010-11/echap-07.pdf>

\*source: [http://commerce.nic.in/publications/annual-report-pdf-2010-11/CHAPTER\\_5.pdf](http://commerce.nic.in/publications/annual-report-pdf-2010-11/CHAPTER_5.pdf)

The true picture is more visible in Figure 1.5 which shows the distinction between total exports from SEZs and from EOUs, put in the context of the country's total exports. A point to note is that exports from units within SEZs and outside EOU units' exports have been separated. When share of SEZ exports is reported by official websites like the Export Promotion Council for EOUs, they club the two numbers. This is because EOU units are governed by the development commissioner of the SEZ, under which they fall jurisdictionally. However, the amount of concessions provided to EOUs away from SEZs is much lesser than concessions provided to those within the SEZ. Moreover, exports from EOU units in Bihar, Chhattisgarh, etc., are included under exports falling under the Falta SEZ. This leads to an exaggeration of SEZ exports numbers. Thus, separation of the figures is important to get a more accurate picture.

**Figure 1.5 Share of SEZ and EOU Exports in Total Exports (In USD Billion)**



Source: Annual Report, Ministry of Commerce and Industry, 2010-11

While both total exports and exports from SEZs have been increasing over the years, SEZ exports still form a very small percentage of the total exports. The contribution has risen from 3.6 per cent in 1996-97 to 4.4 per cent in 2001-02 (annexure 1), to 6 per cent in 2006-07, and finally to 11.9 per cent of total exports in .in 2008-09. 2009-2010 the contribution of SEZs reached 26.1 per cent .

## 1.5 Economic Linkages of EPZs with Domestic Economy

Kundra (2001) points out that there are largely two types of EPZs. One, there are the 'traditional' EPZs that are designated customs bonded enclaves. They are location-specific, having a delineated area where duty-free imports are allowed, with infrastructural facilities and a package of incentives. Two, there are 'institutional' EPZs that are not tied by location but are 'regime-related'. Examples of the former are the SEZs of China (Shandong, Jiangsu, etc.) and India (Kandla, Falta, NSEZ, etc.). The latter can be exemplified as the maquiladoras of Mexico or the EOUs in India. Geographically diverse SEZs are also seen in Mauritius, Dominican Republic, and Jamaica, where zones and firms are active around all three island nations.

EPZs/SEZs can forge backward linkages by way of accessing raw materials through domestic suppliers and subcontracting production to various smaller units. Forward linkages can be established by accessing the domestic markets. In the case of India, both these linkages have been poor. Linkage with the domestic economy was strong when the SEZs came as part of an overall policy reform package, like in the case of China, where it was linked to the initial opening up of the coastal cities (Tzeng 1991<sup>21</sup> and Fu and Gao 2007<sup>22</sup>).

<sup>21</sup> The Political Economy of China's Coastal Development Strategy, Fuh-Wen Tzeng, 1991, Asian Survey Vol 31 No 3

<sup>22</sup> Export Processing Zones in China: A Survey, Xiaolan Fu University of Oxford and Yuning Gao University of Cambridge 31/10/2007

In India, there has been a heavy reliance on imports for raw materials as well as machinery. The proportion of indigenous inputs used by industries in SEZs has been found to be less than 25 per cent (Kundra 2001 and Neetha and Varma 2004). Neetha and Varma (2004), looking at the case of the NOIDA export promotion zone, argue that the nature of production of the zone (multi-product SEZ) prevents any extensive backward and forward linkages. Data reveals a high reliance on imports, ruling out much backward linkage. Forward linkage is also found to be low as almost all production is directed to be exported.

Jenkins (et al 1998) look at the zones in Taiwan and Korea and analyse that they were able to establish strong linkages with the rest of the economy as the Korean government gave preferential access for intermediate goods and raw materials to local companies supplying to EPZ firms and the zone administration provided technical assistance to subcontracting firms. In Taiwan, under government guidance, personnel from firms in the zones were placed at potential suppliers' factories to offer advice in production methods and quality control<sup>23</sup>.

What did happen in the case of India is that the labour administration was made flexible. Production through subcontracting has been widely practised in India. But it has only enabled SEZ firms to meet the rush of orders by utilising out-zone processing facilities and also hoodwinking standards. The nature of jobs is such that they hardly involve qualitative skill enhancement or flow of technical know-how.

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<sup>23</sup> They point out that when Masan zone in Korea initiated operations in 1971, domestic firms supplied 3.3 per cent of inputs, but in four years the percentage increased to 25 per cent and then 44 per cent.

# 2: Mapping of Working Conditions in SEZs

## 2.1 Employment Issues

### 2.1.1 Employment Trends in SEZs

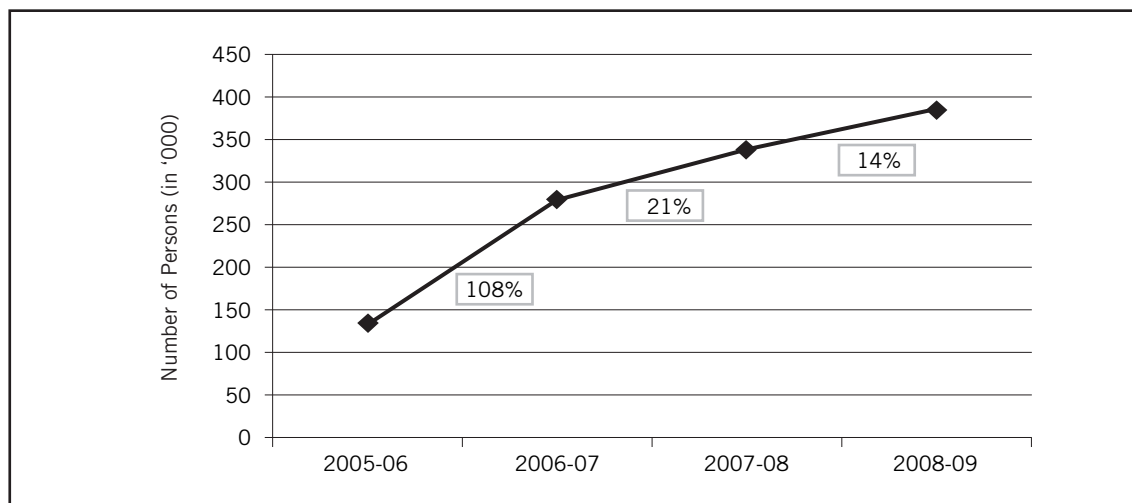
Total direct employment created in all the SEZs in India stands at approximately 387,439 persons as of end of March 2009 (source: sezindia.nic.in). Of this figure, approximately two hundred thousand are employed in the seven government SEZs.

**Table 2.1: Employment (Direct) Generated by SEZs**

Prior to SEZ Act 2005		2007-08			2008-09		
Central Govt SEZs	State/Pvt. SEZs	Central Govt SEZs	State/Pvt. SEZs	Notified SEZs	Central Govt SEZs	State/Pvt. SEZs	Notified SEZs
122,236	12,738	193,474	44,768	100,885	196,922	55,890	134,627

Source: <http://sezindia.nic.in>

**Figure 2.1: Growth in Direct Employment in SEZs**



Source: <http://sezindia.nic.in>



**Table 2.2: Direct Employment in SEZs over Four Years**

Year	2005-06	2006-07	2007-08	2008-09
<b>Direct Employment</b>	134,974	280,832	339,127	387,439

Source: <http://sezindia.nic.in>; Annual Report 2007-08, Department of Commerce

It is evident that with the formalisation of the SEZ Act 2005 in February 2006, increased investment in the SEZs led to a substantial increase in direct employment generated. The initial increase was very high, being nearly double of the existing employment figures. Gradually, the employment is tapering off, from 20.76 per cent in 2007-08 to 14 per cent in 2008-09 (as compared to previous years). Given the continuous increase in investments in the increasing number of SEZs (as shown in previous sub-section), the slower growth of employment leads us to one conclusion—lesser incremental labour for more SEZ acreage. Just by plain numbers, so proudly published by official websites, when looked in conjunction with SEZ area increases, number increases, and investment increases, it emerges that the labour conditions are not all that impressive (fewer labour for more work). This, seen in conjunction with poor wage structure (seldom published by official websites), prove the SEZ critics right.

It is also estimated by the Finance Ministry that the revenue loss on account of SEZs could be over \$25 billion for 2007-10; this would be nearly 4-5 per cent of total tax revenues of the government<sup>24</sup>. Revenue forgone due to SEZ-related activities has gone up phenomenally from USD 281.1 (Rs 1,3830) million in 2006-07 to USD 1279.3 (Rs 6,2940) in 2009-10 (including both corporate and non-corporate sector).

Moreover, with all the incentives that are given to SEZs, there is every chance that industries already operating in the country may shift to the special economic zones and they will not create any new jobs. More than 50 per cent SEZs are for the IT and ITES sector, and it is but natural that most of the IT and ITES companies operating in the country may shift to the SEZs. To this extent, no new job will be created in the country. Noted industrialist Rahul Bajaj has already accepted that incentives offered to SEZs are compelling the already established industries to move inside the zones. There is a similar example found in another Third World country, Mexico: “Employment in the EPZs (maquiladoras) grew by 10.4% in 1995, but this was accompanied by job losses of 9% in Mexico’s manufacturing industries outside the zones. In other words, employment in manufacturing industries shifted towards the EPZ sector without increasing the total number of jobs. This process was described as the ‘maquiladorisation’ of the Mexican economy. The overall problem of unemployment has remained.” (ILO 1998, Jauch 2006)

Jayati Ghosh analyses that there is very little evidence in support of the idea that fiscal concessions are particularly helpful in ensuring more investment, despite the threats routinely issued by corporates in this regard. Many backward developing countries have failed to attract much investment into designated zones despite offering major fiscal and other sops, because the other ‘enabling conditions’ such as infrastructure and socio-political stability have not been sufficiently attractive. Conversely, some of the economies that have attracted the greatest amount of productive foreign investment are those that continue to impose quite a lot of regulation and control upon foreign companies but have buoyant domestic economies, such as China and the Taiwan province of China<sup>25</sup>.

<sup>24</sup> Source: Financial Express, February 16 2008

<sup>25</sup> Assessing the Economic Impact of SEZs, Jayati Ghosh, Labour File, Vol.6-No.4&5, Special Economic Zones: Their Impact on Labour (Article - Assessing the Economic Impact of SEZs - pp 19 - 21)

## 2.2 Legal Exemptions to SEZs and Their Implications on Labour

The SEZ Act does not explicitly talk of labour laws. Even Section 49 of the SEZ Act, which allows individual states to modify the SEZ Act, reads thus: “Provided that nothing contained in this section shall apply to any modifications of any Central Act or any rules or regulations made there under or any notification or order issued or direction given or scheme made there under so far as such modification, rule, regulation, notification, order or direction or scheme relates to the matters relating to trade unions, industrial and labour disputes, welfare of labour including conditions of work, provident funds, employers’ liability, workmen’s compensation, invalidity and old age pension and maternity benefits applicable in any Special Economic Zones.” So, unlike the fiscal laws, rules, and regulations, the labour laws apparently cannot be modified invoking the provisions of the SEZ Act. Are the same labour laws applicable to units within and outside the zones? What are the differences and how are they brought in?

First, in reality, though labour laws cannot be modified, it is still open for state governments to make changes by notifications and other administrative means. Looking at the documents or orders issued by the state governments, the labour laws have, in effect, been modified. In particular, Gujarat, Haryana, Madhya Pradesh, West Bengal, Tamil Nadu, Uttar Pradesh, and Punjab have their own rules, which are discussed in detail in the following sections.

Second, the SEZ Act 2005 makes the development commissioner the highest authority to ensure maintenance of labour laws. In effect, the powers of the labour commissioner (Section 12, Subsection 3) along with other functions are vested in the DC. Section 12 of the SEZ Act<sup>26</sup> elaborates on the functions of the development commissioner as follows:

12. (1) Every Development Commissioner shall take all steps in order to discharge his functions under this Act to ensure speedy development of the Special Economic Zone and promotion of exports therefrom.
- (2) Without prejudice to the generality of the foregoing provisions, the Development Commissioner shall- (a) guide the entrepreneurs for setting up of Units in the Special Economic Zone; (b) ensure and take suitable steps for effective promotion of exports from the Special Economic Zone; (c) ensure proper co-ordination with the Central Government or State Government Departments concerned or agencies with respect to, or for the purposes, of clauses (a) and (b); (d) monitor the performance of the Developer and the Units in a Special Economic Zone ; (e) discharge such other functions as may be assigned to him by the Central Government under this Act or any other law for the time being in force; and (f) discharge such other functions as may be delegated to him by the Board.
- (3) Every Development Commissioner shall be overall in charge of the Special Economic Zone and shall exercise administrative control and supervision over the officers and employees appointed under sub-section (2) of section 11 (including the officials deputed to such Special Economic Zone) to discharge any of the functions under this Act.
- (4) Without prejudice to the provisions of sub-section (1) to (3), every Development Commissioner shall discharge such functions and exercise such powers as may be delegated to him by a general or special order by the Central Government or the State Government concerned, as the case may be.

<sup>26</sup> Source: <http://india.gov.in/allimpfrms/allacts/3111.pdf>

- (5) Every Development Commissioner may call for such information from a Developer or Unit from time to time as may be necessary to monitor the performance of the Developer or the Unit, as the case may be.
- (6) The Development Commissioner, may, delegate any or all of his powers or functions to any of the officers employed under him.

Singh (2009) analyses that the act of shifting the implementation of labour laws from the labour commissioner to the development commissioner generates a conflict of interest in the office, generating costs to the extent that there is an inducement for the office not to privilege labour interests in relation to those of employers. Costs in terms of the competency of the office to deal technically with labour matters are also there<sup>27</sup>.

Third, in effect what the SEZ Act has facilitated is a process of privatisation of monitoring of labour rights. For inspections that are mandatory in units outside SEZs, as per the Factories Act (1948) for the health and safety of workers, the Workmen's Compensation Act, and the ESI Act, the units in SEZs are permitted to obtain reports from accredited agencies notified by the state government. The ESI Act makes it mandatory for the employer to register his employees obtaining a certain level of salary under the ESI scheme. Workers covered under the ESI Act are entitled to sickness, maternity, and disablement benefits through ESI hospitals. In case a workman becomes disabled, the employer must refer the case to the medical board to determine the extent of disability. The disability determined by the medical board can be challenged by the worker before the Medical Appeal Tribunal (MAT). The order of MAT may be appealed against in the ESI Court; and this may be further appealed against in the High Court. Compensation is payable to the workman on the basis of final determination of the disability by the High Court, and the periodical payment of compensation is for the lifetime of the workman since such compensation is by way of insurance. By creating an accredited agency under the SEZ Act, the entire liability of the employer and the ESI Corporation is given a go-by<sup>28</sup>. The report of the accredited agency has no binding force under the Factories Act and the ESI Act. Therefore, no penal action can be taken against the employer for industrial accidents, occupational disease, or hazards (Iyer 2008).

Section 23 of the SEZ Act curtails the powers of the labour courts in SEZs. Section 23 reads thus:

23. (1) The State Government, in which the Special Economic Zone is situated, may, with the concurrence of the Chief Justice of the High Court of that State, designate one or more courts- (a) to try all suits of a civil nature arising in the Special Economic Zone; and (b) to try notified offences committed in the Special Economic Zone.
- (2). No court, other than the court designated under sub-section (1), shall try any suit or conduct the trial of any notified offence referred to in that sub-section: Provided that the courts, in which any suit of a civil nature in a Special Economic Zone had been filed before the commencement of this Act, shall continue to try such suit after such commencement: Provided further that the courts in which any trial of any notified offence is being conducted before the commencement of this Act, shall continue to conduct the trial of such offence after the commencement of this Act: Provided also that the courts competent to try any notified offence before the commencement of this Act, shall conduct the trial in respect of such offence after the commencement of this Act until the courts have

<sup>27</sup> Labour Law and Special Economic Zones in India, Jaivir Singh, CLSG Working Paper (2009)

<sup>28</sup> Iyer S.H., Analysis of the Structure and the Practice of the Legal Machinery (with reference to Labour) of SEZs, Labour File, July-October 2008

been designated under sub-section (1) and all such cases relating to such trials shall thereafter be transferred to such Courts so designated which shall conduct the trial from the stage at which such cases were so transferred.

So, in addition to privatization of monitoring of labour rights, the labour and civil court does not have the jurisdiction to hear a dispute arising in the SEZs.

Fourth, a major relaxation in labour laws in SEZ enclaves, as imposed by SEZ Act, is that the enclaves are declared as Public Utility Services. Employees who are working in a public utility service are prohibited from striking according to Section 22 of Industrial Disputes Act, 1947. They cannot go on a strike without giving a notice of strike within the six weeks before striking. They cannot go on strike within fourteen days of providing the strike notice or during conciliation.

Section 22 in the Industrial Disputes Act, 1947 states thus:

#### 22. Prohibition of strikes and lock-outs

- (1) No person employed in a public utility service shall go on strike in breach of contract— (a) without giving to the employer notice of strike, as herein- after provided, within six weeks before striking; or (b) within fourteen days of giving such notice; or (c) before the expiry of the date of strike specified in any such notice as aforesaid; or (d) during the pendency of any conciliation proceedings before a conciliation officer and seven days after the conclusion of such proceedings.

Fifth, the Trade Union Act has also been amended, restricting the entry of union. Section 22 of the Trade Union Act, 1926, states thus:

22. Proportion of office-bearers to be connected with the industry.—(1) Not less than one-half of the total number of the office-bearers of every registered Trade Union in an unrecognised sector shall be persons actually engaged or employed in an industry with which the Trade Union is connected:  
Provided that the appropriate Government may, by special or general order, declare that the provisions of this section shall not apply to any Trade Union or class of Trade Unions specified in the order (2) Save as otherwise provided in sub-section (1), all office-bearers of a registered Trade Union, except not more than one-third of the total number of the office-bearers or five, whichever is less, shall be persons actually engaged or employed in the establishment or industry with which the Trade Union is connected<sup>29</sup>.

So, essentially in a union, 50 per cent of the office bearers of the union can be people not working in the industry. This provision enabled the national trade union leadership to establish trade unions across various industries over the years. But in the case of SEZs, states (e.g., Uttar Pradesh) have claimed exemption from Section 22 of Trade Union Act, 1926, restricting/excluding outsiders from becoming office bearers of trade unions. The government of New Delhi has exempted SEZs from most of the labour laws and there is a ban on the formation of trade unions. In Andhra Pradesh, the labour department has been dissuaded from conducting inspections in SEZs. Workers fear that those who protest will be immediately sacked. In the Noida EPZ, workers have been sacked for demanding that labour laws be implemented<sup>30</sup>. In Schedule II of the Gujarat SEZ Act<sup>31</sup>, a provision has

<sup>29</sup> Source: <http://www.vakilno1.com/bareacts/tradeunionact/S22.html>

<sup>30</sup> Annual Survey of Violation of Trade Union Rights 2007, ITUC; source: <http://survey07.ituc-csi.org/getcountry.php?IDCountry=IND&IDLlang=EN> accessed on January 11, 2012

<sup>31</sup> Gujarat Government Gazette Extraordinary Published by authority Part-iv Gujarat Act No.11 of 2004

been added to Section 22 of the Trade Union Act, with respect to SEZs, which reads as under:

“PROVIDED further that all the office bearers of the registered trade unions of the industry registered trade unions of the industrial establishment situated in the Special Economic Zone declared as such by the Government of India shall be persons actually engaged or employed in an industry with which trade union is concerned.”

Though India has so far not ratified the ILO conventions 87 and 98, it is generally acknowledged that India recognises the right to organise and collective bargaining. Fundamental rights enshrined in the Constitution guarantee to all citizens the freedom of association and expression. Trade Union Act, 1926, and Industrial Disputes Act, 1948, legalise the right of workers to form union and bargain collectively, notwithstanding restrictions on certain employments including those in the government sector. However, in practice, SEZs restrict the right to organise.

Sixth, Madhya Pradesh<sup>32</sup>, Uttar Pradesh<sup>33</sup>, and many other states have exempted SEZs from Contract Labour (R&A) Act<sup>34</sup> and, therefore, contract workers have no status in labour law. Sub-section (2) of Section 10 of the Contract Labour Act lays down sufficient guidelines for deciding upon the abolition of contract labour in any process, operation, or other work in any establishment. The guidelines are mandatory in nature and relate to:

- Conditions of work and benefits provided to the contract labour.
- Whether the work is of a perennial nature.
- Whether the work is incidental or necessary for the work of an establishment.
- Whether the work is sufficient to employ a considerable number of whole-time workmen.
- Whether the work is being done ordinarily through regular workmen in that establishment or a similar establishment<sup>35</sup>.

There are numerous cases of laws that have interpreted the Contract Labour Act in favour of the workers. However, in the case of SEZs, workers can be employed by the employer through contractors even for work of a regular and perennial nature. All that the employer in the SEZ has to do to comply with this Act is to furnish relevant details in the consolidated annual return. Part-C of the consolidated annual report provides as under:

“Part A, B & C are to be furnished, if the establishment has employed more than 9 contract labour on any day during the order under report (The details to be provided by the Principal employer). My establishment is covered under the Contract Labour (Regulation and Abolition) Act, 1970 and the workers are paid wages and overtime wages as prescribed by the Government of Gujarat. I have maintained records and registers as per the Act.” (Iyer 2008)

Madhya Pradesh is also claiming exemption from the Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959<sup>36</sup>, with regard to the provision of calling the unemployed persons for interview, and also from the present conditions stipulated by the

<sup>32</sup> [http://www.sezindia.nic.in/writereaddata/statePolicies/mp\\_policy.pdf](http://www.sezindia.nic.in/writereaddata/statePolicies/mp_policy.pdf)

<sup>33</sup> <http://www.noidaauthorityonline.com/ANNEXURE8.pdf>

<sup>34</sup> Contract Labour Regulation and Prohibition Act states that the contract workers cannot be engaged for “core activities”. By this exemption, the units will be able to hire contract labour for all activities.

<sup>35</sup> ILC Session 41, Contract Labour in India. Source: [www.labour.nic.in](http://www.labour.nic.in) accessed on January 18, 2012

<sup>36</sup> Section 4.2 of the Employment Exchanges (Compulsory Notification of Vacancies) Act, 1959, talks of intimation to employment exchange about vacancies

Apprentices Act, 1991<sup>37</sup>. This allows the employers in SEZs to hire and fire workers at their will. Units in SEZs are thereby not bound to employ a permanent workforce. They can hire as many workers as required, as contract or casual workers or as apprentices.

Seventh, states have made amendments under Chapter V-A and V-B of the ID Act. Section 25-F of the ID Act reads:

No workman employed in any industry who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until—  
(a) The workman has been given one month's notice in writing indicating the reasons for retrenchment and the period of notice has expired, or the workman has been paid in lieu of such notice, wages for the period of the notice; (b) The workman has been paid, at the time of retrenchment, compensation which shall be equivalent to fifteen days' average pay 2[ for every completed year of continuous service] or any part thereof in excess of six months; and (c) Notice in the prescribed manner is served on the appropriate Government 3[for such authority as may be specified by the appropriate Government by notification in the Official Gazette.

Amendment proposed by Maharashtra seeks to avoid the application of Chapter V-A<sup>38</sup> to industries in SEZs. A number of states have proposed that SEZs, or at least undertakings in SEZs with less than 300 workmen, be exempted from Chapter V-B of the ID Act.

25-K Application of Chapter V-B: (1) The provision of this Chapter shall apply to an industrial establishment (not being an establishment of seasonal character or in which work is performed only intermittently) in which not less than 2[one] hundred workmen were employed on an average per working day for the preceding twelve months.

25-M Prohibition of lay-off: (1) No workman (other than a badli workman or a casual workman) whose name is borne on the muster-rolls of an industrial establishment to which this Chapter applies shall be laid off by his employer except (1) with the prior permission of the appropriate Government or such authority as may be specified by that Government by notification in the Official Gazette (hereafter in this section referred to as the specified authority), obtained on an application made in this behalf, unless such lay-off is due to shortage of power or to natural calamity, and in the case of a mine, such lay-off is due also to fire, flood, excess or inflammable gas or explosion, and 2(2) An application for permission under sub-section (1) shall be made by the employer in the prescribed manner stating clearly the reasons for the intended lay-off and a copy of such application shall also be served simultaneously on the workmen concerned in the prescribed manner.

Again, 25-N describes conditions precedent to retrenchment of workmen: (1) No workman employed in any industrial establishment to which this Chapter applies who has been in continuous service for not less than one year under an employer shall be retrenched by that employer until; (a) the workman has been given three months' notice in writing indicating the reasons for retrenchment and the period of

<sup>37</sup> Source: <http://www.simplifyhronline.com/complydemo/showfullact.asp?act=AAR>

<sup>38</sup> Section V-A includes: 25-A - Application of section 25-C to 25-E; 25-B - Definition of continuous service; 25-C - Right of workmen laid off for compensation; 25-D - Duty of an employer to maintain muster-rolls of workmen; 25-E - Workmen not entitled to compensation in certain cases; 25-F - Conditions precedent to retrenchment of workmen; 25-FF - Compensation to workmen in case of transfer of undertakings; 25-FFA - Sixty days notice to be given of intention to close down any undertaking  
25-G - Procedure for retrenchment; 25-H - Repayment of retrenchment workmen; 25-I - (Omitted)

notice has expired or the workman has been paid in lieu of such notice, wages for the period of the notice; and (b) the prior permission of the appropriate Government or such authority as may be specified by that Government by notification in the Official Gazette, (hereafter in this section referred to as the specified authority) has been obtained on an application in this behalf.

The Madhya Pradesh government is also claiming exemption from Section 9A of the Industrial Disputes Act, 1947, which is regarding notice of change of condition of service<sup>39</sup>. At present, Section 9A reads thus:

Notice of change:

No employer, who proposes to effect any change in the conditions of service applicable to any workman in respect of any matter specified in the Fourth Schedule, shall effect such change - (a) Without giving to the workmen likely to be affected by such change a notice in the prescribed manner of the nature of the change proposed to be effected; or

(b) Within twenty-one days of giving such notice provided that no notice shall be required for effecting any such change. (a) Where the change is effected in pursuance of any 1[settlement or award]; or (b) Where the workmen likely to be affected by the change are persons to whom the Fundamental and Supplementary Rules... or any other rules or regulations that may be notified in this behalf by the appropriate Government in the Official Gazette, apply.

Retrenchments, layoffs, and closures are a general phenomenon during periods of recession. Workers are easily available and, hence, industries in the EPZs do not mind dismissing a worker in the event of his/her falling ill or becoming medically incapacitated, even if temporarily. Usually, the companies reap the tax and other benefits for five years and then shut down all of a sudden, only to reopen in some other zone, or even reopen in the same zone with some other name. In NSEZ, during a period of 10 years, 68 units have been closed.

Eighth, the SEZ Act is silent on the applicability of the Minimum Wages Act within the SEZs. The Minimum Wages Act of India (1948) does not define 'minimum wage', nor does it provide guidelines for its quantification. It requires the appropriate government to fix minimum wage rates in respect of employments specified in the schedule. It also requires that the existing government review and revise the minimum wage rates at intervals not exceeding five years. The appropriate government fixes the minimum wage in respect of those scheduled employments where the number of employees is 1,000 or more. The 15th Indian Labour Conference 1957 quantified the main components of minimum wage (S.K. Das IJLE Vol. 41 No. 2):

- 1) A standard working-class family is three consumption units
- 2) Food requirements: Net intake of calories to be taken is 2,700 calories per day (as recommended by Dr Aykrod for an average Indian adult doing moderate activity).
- 3) Clothing requirements: Per-capita consumption of 18 yards per annum, whereby an average worker's family of four would get a total of 72 yards
- 4) Housing requirements: Rent corresponding to the minimum area provided for under the government industrial housing scheme
- 5) Miscellaneous items of expenditure such as fuel and lighting to constitute 20 per cent of the total minimum wage

<sup>39</sup> Policy, Government of Madhya Pradesh: [http://www.sezindia.nic.in/writereaddata/statePolicies/mp\\_policy.pdf](http://www.sezindia.nic.in/writereaddata/statePolicies/mp_policy.pdf)

Supreme Court, in the case of Workmen of Reptakos Brett and Co Ltd vs. Management (1991), added a sixth element to the criteria accepted in the 15th ILC for minimum wage – 25 per cent of the above for children's education, medical requirements, minimum recreations including festivals/ceremonies, and provisions for old age, marriage, etc.

*It is also important to note that more recently, based on this criterion, the Sixth Pay Commission of India decided that the minimum wage of a central government employee will not be less than Rs 10,000<sup>40</sup>.*

However, there has been no study to assess the applicability of this in the SEZs. Even worse is the provision of self-certification (by employer) of compliance with the Minimum Wages Act. Madhya Pradesh has claimed exemption from Section 26 of Payment of Wages Act, 1936, which elaborates on the display of rate of wages<sup>41</sup>. Madhya Pradesh has also claimed exemption from the Employees Provident Fund Act, 1952, the Employees State Insurance Act, 1948 (in case the unit can provide an equivalent medical cover), and the Payment of Gratuity Act, 1972. In practice, the workers are not able to earn minimum wage by working for the stipulated hours. This is explained in the section on working conditions.

According to the policy framework for special economic zones in Andhra Pradesh<sup>42</sup>, the labour framework for an SEZ includes exemption under Section 13 of Minimum Wages Act which fixes hours for normal work days<sup>43</sup>. Also, Section 18 of the Minimum Wages Act is not applicable in SEZs, enabling employers not to keep any records of the working hours or records of the people employed in the units of the zone<sup>44</sup>. The Maharashtra SEZ Policy exempts SEZs under the Factories Act, 1948, from Section 51 (weekly hours), Section 52 (weekly holidays), Section 54 (daily hours), and Section 56 (spread over).

Ninth, provisions of the Factories Act, 1948, with regard to health and safety are undermined in the SEZs. All states in their legislations vest the powers of the factory inspector, who is the authority to conduct inspections in a factory to ensure adherence to safety norms, in the person/agency delegated by the DC. Quoting the Andhra Pradesh Government SEZ Policy<sup>45</sup>, “for inspection relating to workers’ health and safety, the State Government permits units to undertake inspection by accredited agencies notified by DC.” The Maharashtra SEZ policy states that “...Appropriate powers under single agency clearance system for granting clearance/ approvals to SEZ units pertaining to Industrial Health and Safety will be delegated to the Development Commissioner”.<sup>46</sup> The UP Government policy<sup>47</sup> also states that “The Secretary, Industrial Development, Govt of UP, will have the right to call for inspection any external agency for the health and safety of labourers of the units established in the Special Economic Zone.”

<sup>40</sup> <http://www.referencer.in/PayCommission/Default.aspx>

<sup>41</sup> Section 26 in the Payment of Wages Act, 1936 26. Rule-making power.-(1) The State Government may make rules to regulate the procedure to be followed by the authorities and Courts referred to in sections 15 and 17.

<sup>42</sup> (Orders issued INDUSTRIES & COMMERCE (INF) DEPARTMENT G.O.Ms.No.151 Dated : 09.04.2002)

<sup>43</sup> Section 13 states: “13. Fixing hours for a normal day”...minimum rates of wages in respect of which have been fixed under this Act, the appropriate Government may- (a) fix the number of hours, which shall constitute a normal working day, inclusive of one or more specified intervals: (b) Provide for a day of rest in every period of seven days, which shall be allowed to all employees or to any specified class of employees, and for the payment of remuneration in respect of such days of rest; (c) provide for payment for work on a day of rest at a rate not less than the overtime rate.....”

<sup>44</sup> Interviews with workers from NOIDA SEZ (2008) revealed that more than 70 per cent workers inside the zones do not have any written record either at the security gate of the zone or in the factory. Their name is written only in a simple register at the factory gate to record their attendance.

<sup>45</sup> Annexure to G.O. Ms.No. 151, Inds & Comm. (IF) Department

<sup>46</sup> [http://www.sezindia.nic.in/writereaddata/statePolicies/mp\\_policy.pdf](http://www.sezindia.nic.in/writereaddata/statePolicies/mp_policy.pdf)

<sup>47</sup> Labour Section-1, OFFICE MEMORANDUM, No. 1955/36-1-200-40/S.T./99, Lucknow: Dated 10 October, 2000



## Working Conditions in SEZs

Present data sources – National Sample Survey Organisation (NSSO) or the Census – do not give disaggregated data on the status of employment, wage, and social security status of the SEZ workers. Interviews with trade union leaders reveal that majority of workers in SEZs are casual or without any formal contract. Hiring workers through contractors is a common trend. A general trend is that casual and contractual workers are not given any proof of employment. They are not given formal appointment letters, contract papers, or proper identity cards. Usually, what they would call an identity card is just a punch card with the employee number on it, which can be exchanged and given to another worker easily. Since workers do not possess records or proofs of the companies that are engaging them, they can be hired and fired frequently. Workers keep on moving from one company to another within the SEZ, and are often under the same contractor. However, at the same time, due to the pressure of buyers, which comes from their commitment to ethical codes, these practices are not always easily discernible. In several cases, a company may claim to be employing workers directly and as permanent workers, but due to the exemption from Section V-B of the ID Act, they can be hired and fired just like the contract workers.

As the companies are trying to compete in the global market, they cut costs by using cheap labour, intensification of work, and putting more pressure on workers to reach higher production targets. Interviews with trade unions leaders reveal that workers are mostly in the age group of 16-29 years, and when they cross this age limit, they do not get employment easily. High labour turnover, absenteeism, stress, fatigue, low productivity, and labour unrest characterise most SEZs.

## Wage and Social Security

There is no government report on the existing wage and social security of workers in SEZs. Information is obtained from independent field-based studies. Existing studies<sup>48</sup> on SEZs reveal that the Minimum Wages Act is implemented on paper but workers never get it. Only permanent workers get minimum wages, and rest of the workforce, which forms a significant majority, are denied their minimum wage. Payment of wage could be in the form of daily, monthly, and piece rate. Piece-rated wages are common in the SEZ garment units. The wages of contract labour are paid by the labour contractors and remains concealed. Overtime is not properly recorded and calculated. In effect, workers get the minimum wage after working for 10-12 hours. Provident fund, ESI, and bonus are also limited to the regular workers.

According to a study done by Neetha and Varma in the NSEZ in 2002<sup>49</sup>, about 18 per cent workers received between Rs 1,000 and Rs 1,250; about 22 per cent between Rs 1,250 and Rs 1,500; and about 53 per cent between Rs 1,500 and Rs 2,500. Only six per cent received above Rs 2,500. Variations were found in terms of industries, normal to peak season (higher wage in peak season), and men and women (as women were mostly concentrated in the lower-skilled jobs).

Workers' Interviews<sup>50</sup> from a field study conducted by CEC in the NSEZ revealed that a majority of workers inside the zone are not paid according to the norms prescribed by the government for the specific jobs.<sup>51</sup> Minimum wages are as they are outside the zone. Workers

<sup>48</sup> PRIA 2000, Mazumdar 2001, Neetha 2004 and Vyas and Sunanda (2007).

<sup>49</sup> Labour, Employment and Gender Issues in EPZs: The Case of NEPZ, Neetha N and Uday Kumar Varma, VVGNLI (2004)

<sup>50</sup> Interviews conducted as part of CEC's field study in 2008. CEC's field study was conducted in the NSEZ and Apache SEZ. The study is unpublished.

<sup>51</sup> Field study was conducted in 2008. Report is unpublished.

are hired on a contractual basis through labour contractors or as apprentices. Daily targets are set for them, which make them work for 10-14 hours in a day on an average, after which they are given wage that is actually what they should get for 8 hours of work. The majority of workers are denied their PF since there are no records. A small section of permanent workers get minimum wages but there is rarely any increment in their salary.

A field study conducted by CEC in the Apache SEZ found almost similar conditions as in NSEZ. Workers here get minimum wages including basic + attendance bonus + motivation bonus + cost-of-living bonus). But the bonuses are paid on the basis of performance. Overtime is also apparently paid at a premium rate (double wages). But workers reported that the number of overtime hours worked is grossly misrepresented in the salary statement – company pays overtime of maximum 25 hours per month, though workers record overtime of about 40-50 hours per month. Workers have protested demanding proper increments and reduced workload and overtime, but no improvements have been made in their situation.

Venugopal (2005) writes that in the Cochin SEZ approximately 55 percent of the total workforce is made up of contract workers, though almost all the activities conducted by the units in the CSEZ are permanent and perpetual. Workers are paid as low as Rs 35 to Rs 75 a day, and are often made to work more than the stipulated eight hours for no extra payment; the rules of the Minimum Wages Act offer no protection to contract workers. Worse, they have to part with anything between Rs 10 and Rs 15 daily to the contractor as his commission. Recruiting agencies get paid for the contracted amount from the companies in the zone. It is they who then make the payments to the workers on a monthly basis after deducting their commission<sup>52</sup>.

In case of skilled labour employed by units set up by MNCs, the wages paid are usually above the minimum wages. However, it is interesting to note that their salaries are much lesser than their counterparts working for the same company and in the same capacity, in another country. For example: In the Nokia SEZ, salaries paid range from Rs 3,400 to Rs 5,400, well above the minimum wages. Meanwhile, Nokia pays its employees globally about Euro 44,624 per annum, or Rs 2.9 million per annum; this works out to be as high as 45 times of what is being paid in the Indian SEZ. Even adjusted to a different purchasing power parity for India compared with Finland, the salary differential is 10 times in favour of the global employee<sup>53</sup>.

According to an article in *The Hindu*, published in 2008, the number of people likely to be displaced by the already notified SEZs is approximately 1.14 million, which is 18 times higher than the number of people officially claimed to get direct employment in the notified zones! The Commerce Ministry's estimate is that 14 persons get indirect employment while 10 new direct jobs are created by an SEZ. This translates into the total employment gain from SEZs to be just about one-eighth of the loss represented by displacement<sup>54</sup>. Thus while plain numbers of wages, even if published, look rightful, in comparison with the right variables, it works out to be unfair to the Indian SEZ worker, whether skilled or unskilled.

<sup>52</sup> Venugopal P.N., *Special exploitation zones (2005)*, Source: <http://sanhati.com/articles/106/>

<sup>53</sup> Source: "Nokia SEZ: Public Price of Success" published in *Economic & Political Weekly*, Oct 3, 2009, Vol XLIV no. 40.

<sup>54</sup> Source: *The Hindu*, link: <http://www.flonnet.com/fl2504/stories/20080229507311100.htm>

## Working Hours, Leaves, and Rest Periods

In practice, working hours are completely unregulated. Studies reveal that though the working hours in India are legally restricted to 48 hours per week, 60-72 hours of work is common practice in SEZs. Working conditions in SEZs are characterised by intensification of work, increasing the pressure to reach higher production targets in reduced time. A low wage structure, usually barely the minimum wage, is given to the workers after their putting in work for almost 10-12 hours in a day. Though workers work overtime, they do not get a premium rate (double wages) for the extra hours. Workers put in longer and longer hours because the pay is low and there is a constant fear of losing the job.

In the NOIDA SEZ, workers from a garment unit reported that they worked for 10 hours every day. In addition, they had to put in 2-6 hours of overtime for most of the days in the week (for all six days during peak season, which is for 6 months in a year). Compensation for the overtime (over 10 hours of work) was paid but not at a premium rate<sup>55</sup>. The production targets for workers are very high and pressure is such that they are not easily permitted to even go to toilets. Contract and casual workers do not get paid leaves. There is always a fear of retrenchment due to the high turnover.

In a report on working conditions in Falta SEZ, it is noted that worker from Patton industries work for 12 hours but their employment cards are punched for 8 hours<sup>56</sup>. Contract and casual workers, who comprise the bulk of the workforce in the industries in SEZs, do not get paid leaves. There is always a fear of retrenchment and, therefore, the workers comply with the orders of supervisors, irrespective of whether the orders are just or unjust. It is a fact that many companies in the zones shut down without paying any compensation to the workers.

Interviews with workers and trade union leaders linked with Apache point out that management fixes very high targets for workers and if the targets are not achieved, overtime is a must. One hour or two hours of overtime is a regular practice and it is compulsory for women workers also. Work pressure becomes a regular physical torture and if the targets are not achieved, it also becomes subtle mental torture by the management. The workers have to take permission for going to toilets and many a time they are not even allowed. Women workers face severe problems in this regard. It is also reported that workers are physically beaten<sup>57</sup>.

## Health and Safety

Studies reveal that despite a hazardous work environment in SEZs, the development commissioner's office turns a blind eye towards it. It is observed in some zones that during hot summers, workers are unable to take adequate quantity of water due to heavy workloads. Dehydration, heat stroke, heat rashes, and gastrointestinal problems are common. In the garment industry, improper ventilation is a common problem and the workers face respiratory disorders like asthma, long-lasting cough, and breathlessness. It is also revealed in some studies that many women workers were suffering from gynaecological disorders like pains and excessive blood flow during their periods. Workers are not provided with sufficient protective equipments, and both minor and major accidents are common<sup>58</sup>.

<sup>55</sup> Interviews with workers of NODA SEZ conducted during cec field study

<sup>56</sup> Falta SEZ in West Bengal: A fact-finding report on workers and environmental impact, November 26, 2009, Sanhati

<sup>57</sup> Interviews were conducted during field study done by CEC in 2008

<sup>58</sup> PRIA 2000

When workers work with chemicals, little or no information is provided about the chemicals. Management rarely provides medical safety data sheets (MSDS) about the chemicals, even though it is legally binding to provide these in a language that is understood by the workers. According to a study<sup>59</sup> on occupational health and safety of workers in garment units in SEZs in India, management in the SEZ units makes no investment towards the health and safety of workers. Management is still in the accident-prevention mode. In fact, most factories have not moved beyond this when putting in place measures for health and safety. They conduct fire drills because fire is seen as one of the major hazards that can cause death and destruction. But there is no comprehensive medical help. Many of these problems are not even recognised as 'major' issues. Some of the factories provide some kind of medical aid inside the premises but it is very basic first aid. Problems like severe body ache and backache are perceived as 'minor' problems that 'everyone' faces. Sometimes, women have to sit on a hard stool for more than 12 hours with no back rest because the management refuses to provide chairs with a simple backrest, let alone set up a proper dust-extraction system so that the lungs of workers can remain healthy. Replacing a sick worker with a fresh healthy worker seems to be an easier option than investing in improving working conditions. The machinery on which women have to work have been designed predominantly for men and, thus, women are forced to work in uncomfortable positions. Women face a range of health problems, including musculoskeletal disorders caused by repetitive work and awkward working postures such as bending, etc., for long hours; respiratory problems including tuberculosis; reproductive problems including irregular periods and miscarriages; and noise-induced hearing loss.

### **Women in SEZs**

The percentage of women workers in SEZ enclaves is significantly high. Current data on employment in SEZs shows that a total of 349,203 persons were employed in SEZs in 2008, out of which women represented 37 per cent. Total incremental employment generated in SEZs since February 2006 is recorded to be 214,499 persons. ([www.sezindia.nic.in](http://www.sezindia.nic.in)) However, it does not give us the complete picture since studies reveal that the majority of female workers are either casual or contract workers and they are not on the rolls, because of which they are under-represented in official data. A significant downfall in the overall employment in SEZs was recorded in 2002 and its impact was mainly on female employment. But now, there are hints that female employment is on the rise, as in the case of Kandla, Falta, and Madras<sup>60</sup>.

<sup>59</sup> Sanjiv Pandita, Labour File <http://www.labourfile.org/ArticleMore.aspx?id=481>

<sup>60</sup> Ministry of Labour, GOI 2008

**Table 2.3: Share of Female Employment in SEZs**

Year	Kandla	Santa Cruz	Noida	Madras	Cochin	Falga	Total
1981	40	58.3					46.5
1985	40	53.3		93.0		37.5	46.5
1990	48	48.8	16.2	61.7	54.6	35.5	47.7
1996	39.3	37.8	25.3	69.5	61.2	38.6	44.8
2002	40	35.7	22.0	46.7	48.0	37.0	35.8
2003	40	35.7	22.0	46.7	48.0	33.0	36.9
2008	48.04	30.96	17.93	56.47	44.29	51.62	36.58

Source: Calculated on the basis of data provided by Ministry of Commerce, Government of India, 2008, and Agrawal 2007

Women mainly get employment in labour-intensive units like garment and electronic assembly units. The majority of women workers are contract or casual workers and do not get the legal benefits they are entitled to. Studies on Indian SEZs reveal that preference is given to unmarried females in low-paying jobs like trimming, checking, and packing, or as helpers. The studies on working conditions in some Indian SEZs also assert that a large number of women in Indian EPZs also face sexual harassment. A study by Society for Participatory Research in Asia (PRIA) (2000) states that in the SEZs, the problems of sexual harassment were present. The supervisors are generally male and they use highly objectionable language with the women. If women are unable to complete the set target, the supervisor may even abuse them physically.

Interviews with the workers in NOIDA SEZ reveal that most of the women fall in the contract/casual category of workers. They do not get maternity leave and they are generally thrown out of job if pregnant. The majority of women workers are unmarried and in the age group of 16-22 years. Very few married women in the age group of 25-30 years are working in the zone<sup>61</sup>. Sexual harassment is very common in the zone but not frequently reported due to social reasons. Supervisors and contractors have the power to throw out casual/contract workers and using this power, they sexually exploit the female workers. This was cited by the trade union leaders as one of the reasons why they opposed women working in night shifts.

In Apache SEZ, there is no apparent discrimination against female workers in terms of employment, opportunities, and wages. Technically, women also get maternity leave for three months. Yet, most of the women employed are unmarried and in the age group of 16-25 years<sup>62</sup>. In 2007, workers at Apache went on a two-day strike against harassment of a women worker by a Taiwanese supervisor. After the strike, though things improved slightly, the improvements could not be sustained<sup>63</sup>.

<sup>61</sup> Field Study – CEC 2008

<sup>62</sup> *ibid*

<sup>63</sup> It is reported by workers that at least 25 unmarried women workers went through abortions within two years. In one incident, a woman worker gave birth to a child in a bathroom inside the zone and ran away. According to them, some company officials are taking care of the child. But, in their view, these cases do not expose the sexual exploitation; rather, sexual relations are established by consent. To verify these facts, we could not make further investigations, but it seems that this may not be happening only by consent.

According to PRIA (2000), there was prevalence of child labour in Madras Export Processing Zone. Young girls in the age group of 12-16 years were found working in some companies. Even some investors in the zone frankly admitted to employing children. The employer in an artificial flower manufacturing company, which employs only young girls, maintained that the job was such that it needed only small and delicate fingers. The number of child workers in the zone can be in thousands. Children are paid much less wages than adults and they are recruited on daily wage basis. Absence from work would mean no wages. The study suspects use of child labour in other zones also. However, child labour is not prominent in SEZs. What is apparent is the employment of adolescent women workers in industries like garment and engineering, hired as apprentices, and this is a growing trend both inside and outside SEZs.

## **Social Dialogue**

As has been discussed in the previous section, in India, labour and factory legislations of the land are applicable in the zones but they are diluted or reframed in the favour of employers – e.g., exemption from section V-B of ID Act and declaring them as public utility services. Moreover, labour laws whatsoever are rarely practised, and informally, employers get full freedom from labour laws. All SEZs in India have been declared as a ‘public utility’ under the Industrial Disputes Act. This restricts the workers from going to strike, as it requires complicated legal procedures. Outside unions are not allowed in the SEZs and it becomes very difficult for trade union leaders to contact and freely talk with the SEZ workers. Studies reveal that all attempts of workers to get organised are discouraged by investors as well as government authorities. Workers trying to form unions are thrown out. An atmosphere of terror is created so that no worker initiates or supports any unionisation process. Zones, being walled enclaves, prohibit union organisers to freely talk to workers and organise them. Even the workers of different units inside the zones are in one way or the other prevented from interacting with each other. This makes it quite difficult for even the renowned national trade unions of the country to organise SEZ workers.

The development commissioner of the SEZ is the single-point authority and all the powers of relevant Central and state departments are vested in the DC for the purpose of an SEZ. Powers of labour commissioner are also vested in the DC for the purpose of an SEZ. In such a situation, even if the labour laws of the land are applicable in SEZs, the officers of labour department cannot freely enter the enclaves and see whether these laws are implemented or not. They have to take prior permission from the DC if they find it necessary to visit the factories. Only the DC is responsible to ensure the implementation of the laws and for conciliation to settle labour disputes. This is the irony: that the DC, whose major responsibility is to help the investors to boost exports, is also provided with the responsibility to settle labour disputes.

Any complaint regarding a labour dispute goes first to the deputy development commissioner, who then assigns the task of first level of conciliation to his assistant officer. If the issue is not resolved in the first level of conciliation, then the second level of conciliation is overseen by the deputy development commissioner. If the issue is not resolved at his level also, then he refers it to the DC, who calls both the parties for final conciliation. In this formal structure of dispute settlement, there are no trade unions.

Interviews with trade unions reveal that local goons and police still play important roles in the informal dispute settlement mechanism. Contractors also play an important role in dispute settlement. They usually have a nexus with local goons. A usual strategy is that contractors provide supervisors from among the locals who can behave like local goons, and at the time of dispute they also send local goons in disguise of supervisors for shorter

periods. These 'supervisors' 'resolve' the dispute on the spot. The management also employs a small number of workers from among locals and tries to convert them into agents of management.

Usually, workers in a zone are not aware of the authority and powers of the development commissioner. There is no such office or headquarters for the workers to reach out to. Workers have no knowledge about whom to complain to when there is a problem.

Young and unmarried women represent a significant section of the workforce, but there have been no serious efforts by trade unions to understand their problems and to devise a proper strategy to unionise them. Their problems do not relate to only the shop floor; they are exploited as workers and also as women, and many times, both issues are mixed in such a way that they cannot be treated separately. Workers initiating any effort towards unionisation are thrown out in no time.

Yet, at the same time, efforts at unionisation are taking place. Interviews of workers from NOIDA SEZ suggest that unionisation efforts are taking place and that central trade unions and their leadership are giving more attention and support to SEZ workers. Even in cases where a plant-level union has not been established, worker members of central trade unions are present in the SEZ units. An instance of collective protest was that of Samtex workers in 2008 led by AITUC. An ill worker was not allowed to take leave and later he died, which led the workers to protest. Seven workers of Samtex were thrown out. With the help of AITUC, workers challenged their lockout and won the struggle. According to workers, if management gets even a hint of any unionisation effort, it will throw out the suspected workers in no time. However, workers, when they have come close to unions, have evolved strategies to establish coordination among themselves and act collectively even if there is no union. While interacting with workers, it was quite evident that the level of discontent is growing among them, and even though no unions are officially allowed, there are growing spontaneous outbursts against rights violations. In fact, the rate of spontaneous and individualised protests is higher than organised struggles, and in almost all such cases, employment of the worker is terminated.

According to union leaders, the industrial structure and working conditions of the workers also make the unionisation process difficult. The majority of workers are casual or on contract, and do not stay for long in any one unit. Moreover, the industrial structure is such that free interaction among workers and entry of trade union organisers in the zones are difficult. This peculiar situation of the workforce in SEZs, with their larger proportion of young and unmarried female workers, makes the situation more complex.

**Case Study 1:** Manjesh Yadav was a worker in a factory making JCB parts inside NSEZ and thrown out just two months back. He daily comes at the gates of NSEZ to see whether there is any vacancy in any factory. He told us about his hopes and sufferings. He came from a village in western UP and joined as a helper in a factory in NSEZ. Only in two days he was working with the full efficiency of a trained worker. According to him, youngsters coming from villages learn the skills of running machines in two to five days. But even when he was working as an operator on the floor, he was paid the wages of an unskilled worker. Therefore, after about two months, he left the job so that he could join some other factory as operator. He joined the JCB parts-making factory in 2006, and in a very short period he developed such technical skills that with the help of a chart with desired specifications he made a hydraulic iron-drilling machine all on his own. He was overjoyed by this success and in the meantime, he was assured that he would be made permanent. Yet, just after successfully running his machine, without being given any reason, he was thrown out. Manjesh has no proof that he was an employee of the said company. He says that a 'pass' was given to him for a short period, but he had to return it to the factory office. Now, he cannot make any claim for his dues, nor can he make any complaint about illegal dismissal. As far as PF is concerned, he says no slip was given to the worker, so that no worker knew their PF account number. He suspects that there is actually no PF account of workers and that the labour contractors and the company loot this amount from the wages of the workers. Manjesh is helpless; he says if he does not get a job within this month, the family in the village will die of hunger.

**Case Study 2:** An ex-worker of Apache SEZ: "I am educated up to 12th standard and my age is 25 years. Before joining the Apache SEZ, I was unemployed and engaged in cultivating my fields with my father. I joined Apache in January 2007 as an operator after a training of one month. Training is given by the company. During this period, the company does not pay any stipend but provides free accommodation and food. After one month, the company identified my abilities and promoted me to the position of assistant supervisor. I was earning Rs 6,000 to Rs 7,000 including all bonuses, and I was satisfied with my salary. But the production targets created problems. If the targets were not achieved in my department, I was made responsible and even threatened. Targets are so high that it becomes almost impossible to achieve them, but I devoted all my energies and skills to chase them. Many times I was successful, but sometimes I failed. Mental torture was increasing day by day, and the limit was crossed one day when an angry Taiwanese official physically beat me. Thereafter, I realised that this mental and physical torture was part of the job in Apache. It was a question of my whole life. How could I live like this and bear the tortures my whole life? So, I decided to leave the job and resigned."

*Source: CEC field Study on SEZs in India 2008 (unpublished)*



# 3: Mapping Trade Union Presence in SEZs

This chapter presents the various methods evolved by trade unions to organise workers in the SEZs over a period of time. It also attempts to document the strategies adopted by the management in their day-to-day production activities in the SEZs, and the counter-strategies adopted by the trade unions to tackle them. This is also an attempt to draw an overall picture of the trade union activity and compare and contrast the experiences of trade union activists working among the SEZ and the non-SEZ workers. This chapter tries to understand the future plans of the trade union movement in addressing the issues of labour violation and labour unrest in the SEZs.

## 3.1 Challenges Encountered by Trade Unions while Organising Workers in SEZs

As discussed in the previous chapters, the Government of India has given autonomy to the states to adopt the SEZ Act with suitable changes. State governments<sup>64</sup> competed with each other in providing maximum benefits to investors and liberalising the concerned laws in the interests of attracting foreign capital and generating employment. Therefore, the SEZ law and policy took different shapes in different states. No state, while adopting the SEZ Act, formally gave a free hand to investors regarding implementation of labour laws. In practice, though, labour laws are not enforced in any of the SEZ units across the country. Kerala stands as an exception in terms of the government issuing an order requiring all investors to give an undertaking regarding implementation of labour laws in the SEZs. But in terms of implementation, the situation is the same as in any other state. In practice, no labour laws, such as PF, gratuity, minimum wages, and regular work hours, are implemented.

### 3.1.1 Restricted entry into SEZ premises:

As we have seen in the previous chapter, states have taken exemptions for SEZs from Section 22 of the Trade Union Act, thereby restricting the entry of outsiders as office bearers in trade unions. This restricts the entry of trade unions into factories located inside the SEZ premises.

<sup>64</sup> In Sept. 2011, Mumbai offered concessions to SEZ developers in the form of set-off (reimbursement) of value-added tax and waiver of non-agriculture (NA) as well as royalty charges. Source: [http://articles.timesofindia.indiatimes.com/2011-09-15/mumbai/30160016\\_1\\_sez-developers-sez-policy-special-economic-zone](http://articles.timesofindia.indiatimes.com/2011-09-15/mumbai/30160016_1_sez-developers-sez-policy-special-economic-zone); The State Government of Rajasthan has worked out a package of concessions and incentives in 2002 including tax concessions and land at concessional rates. Details: [http://www.nsez.gov.in/nsezwebsite/Resources/SEZ\\_circulars/Rajasthan%20SEZ%20circulars/Rajasthan\\_SEZ\\_Policy.pdf](http://www.nsez.gov.in/nsezwebsite/Resources/SEZ_circulars/Rajasthan%20SEZ%20circulars/Rajasthan_SEZ_Policy.pdf);

Restricted entry is not a new phenomenon and the management of several textile factories in Tamil Nadu, much before the enactment of the SEZ Act, had obtained injunction orders from courts banning the presence of union activists not only in the factory premises but also within 2 to 3 kilometres of the factory.<sup>65</sup> But the SEZs aggravate this phenomenon as trade unions cannot hold meetings even outside the factory premises. Interviews with trade union leaders reveal that generally entry into the SEZ premises is possible only through one gate. Workers, raw-material suppliers, security guards, supervisors, and other related employees are given entry passes only after a certificate is issued by the management of the concerned unit.

Since physical entry itself is a problem, trade union's access to workers was restricted. In order to create a rapport with the workers, trade unions tried to meet the workers at places other than their workplace. But as a strategy to further prevent interaction of workers with outsiders, factories provide transportation for workers in company vehicles and the workers get dropped exactly at the doorsteps of their work site. Same is the case while they are leaving the factory. These kinds of practice prevent the workers from interacting with not only trade union leaders from outside but also workers working in the same SEZ in other units. There are restrictions even over talking to a fellow worker.

Even more dismal is the condition of migrant workers. In some SEZs, young migrant workers are provided accommodation by the company, under strict vigilance even during non-working hours. These workers are from remote districts in the state. Their unfamiliarity with the location was used by the management to exploit them. In the name of providing boarding and lodging, management has been, in effect, able to have them available for work as and when needed and control all aspects of workers' lives. Workers are allowed to go out only once in a week. Several such cases have been reported from Chennai and Mumbai. Speaking on this, PJ Chandrashekhara Rao, state president, AITUC Council, Andhra Pradesh, said, "Both export processing zones and special economic zones are just like prisons. Workers are treated worse than prisoners<sup>66</sup>."

There have been some instances, as narrated by trade union leaders, where the management asked trade unions to enter the factory premises in the SEZ and later called the police and lodged complaints of trespassing<sup>67</sup>. Some of these cases were reported from Chennai. So, the entry of trade union leaders into the SEZ premises is the very first obstacle for trade union activity. This restricted entry is also used very cleverly against the workers, to dismiss them from service. There are instances where the management issued letters to the security at the gate instructing them that so and so workers were no longer their employees and that they must not be allowed into the factory any more<sup>68</sup>. The security personnel refuse such workers entry, even to go inside and argue their case. After one or two days, the company sends a notice stating that since the workers have been absent from work for such and such dates, they have been dismissed from service. The workers cannot go inside, prevented not just from arguing their case but also from getting the payments due to them.

John Lukos, working president of Cochin SEZ Workers' Union, AITUC, Kerala, shared this, "Most of the workers come from districts of Kerala, such as Idukki, Kottayam, and Pathanamthitta. They do not have any grassroots relationship with the area they are working in. Most of the time, their unfamiliarity with the location, along with other factors

<sup>65</sup> Injunction order is a court order that orders a party or an individual to refrain from doing something. In this particular case, court ordered trade unions not to enter the SEZ premises; failing to do so will be treated as a criminal offence.

<sup>66</sup> In a telephonic interview with PJ Chandrashekhara Rao, AITUC, Andhra Pradesh, on 21 December 2011

<sup>67</sup> Reported from Chennai by AITUC Tamil Nadu General Secretary Thyaga Rajan over a telephonic interview on 20 December 2011

<sup>68</sup> Reported from Noida SEZ by HMS trade union leader RC Singh Chauhan, HMS, Noida District General Secretary, in interview on 3 December 2011

such as their poor background and job insecurity, is used to exploit them further. In order to counter the situation, an SEZ workers' union was formed for workers of all units of the SEZ. There are 150 to 200 members in our union."

CH Narasimha Rao, ex-president of CITU Andhra Pradesh, explained, "We tried to organise workers in almost all the SEZs in Visakhapatnam; we have similar experiences to narrate throughout the state. In SEZs, every movement of the workers is supervised. If any worker takes pamphlets inside, stringent action is taken against them. The management appoints goons as supervisors. On receiving any information, they stop the worker at the main gate itself and instruct the security personnel that such and such person is not to be allowed inside."

RC Singh Chauhan, general secretary, HMS, Noida District, informed, "We tried organising workers in Silvia Apparels Limited and Garmex Exports Company, both of which are export-oriented garment manufacturing units, but we failed in our attempts."

Sanjay Vadhavkar, president, HMS, Maharashtra state, shared his insight, "Whether it is SEZs or EPZs, the story is the same. Restricted physical entry is the main problem. In the Santa Cruz Export Processing Zone (SEEPZ), many central trade unions and two regional trade unions, Bharatiya Kamagar Sena (BKS) and Bharatiya Karmagar Karmachari Mahasangh (BKMM), tried to organise workers in the gems and jewellery units. As part of our organising efforts, we tried sending our activists as workers by obtaining gate pass through contacts we had inside. They went inside and tried talking to workers about their rights to form a union. Due to the experience of termination of workers in the electronic unit, the workers were very scared and requested our activists not to approach them further."

### **3.1.2 Appointment of contract workers:**

Contract/casual workers and apprentices in SEZs do the work of regular workers in SEZs. States have claimed exemption for SEZs from the Contract Labour Regulation and Abolition Act (1970) and Apprentices Act (1961). Since there is no job security and contract workers can be removed from the job any time, they are unable to develop a relationship with either their work site or their fellow workers. It is a very conscious and strategic plan by the employers to push workers into a situation of constant fear, insecurity, and dependency so that they do not dare to venture into any trade unionism. Workers cannot develop any sense of belonging, sense of security, and sense of togetherness if there is constant insecurity and worry about finding alternative work on a day-to-day basis. RC Singh Chauhan, HMS, NOIDA, informed, "We are forming district-wise and area-wise unions. We have a district-wide general union for the whole of Noida. Here, the major problem is proving the identity of the worker. Workers' names are usually not registered in employer's registers. No attendance rolls are maintained. No identity cards are given. When we assist workers in forming a union, we submit the names of the workers to the Labour Department, which then goes for verification and comes back to us and informs that the names of so and so workers are not there in the register. They ask us to change the names and submit the form again. We frequently encounter this problem. Often, the Labour Department, on the pretext of verifying the names and details of the workers, passes on the information to the management. Immediately, the next day itself, those workers are stopped at the gate by the security personnel and told that they have been sacked from duty from that day onwards. Once a worker is outside the SEZ premises, he is not allowed inside even to argue his case with the management. Unions need to basically question these contract-worker appointments. As per the government orders, employers can appoint contract workers only for certain jobs, but here they are assigned work that is generally done by permanent workers. They are also paid much less wages than permanent workers, without any protection. As per the law, no contract worker should

be made to work on the production floor. By appointing contract workers instead of permanent workers, employers are reducing production costs and generating huge profits.”

### **3.1.3 Absence of labour administration:**

Development commissioners never pay heed to the workers’ demands. In case of the Visakhapatnam SEZ, CITU asked for ILO’s intervention and ILO recommended that two different people be entrusted with these two very different tasks, as development commissioner and as grievance redresser. But, as was the case with ILO conventions 87 and 98, this particular recommendation was also not given any attention, either by the government or by the employers. Workers’ struggles for better wages and better working conditions and intent to exercise their right to unionise are often treated as a law-and-order problem. The nexus between the state and the employers has led to a situation where the police is used as an instrument to suppress workers’ struggles.

There are several instances where coercion and physical force was applied on workers to make them leave their path of struggle. Using private goons in labour disputes has, in recent times, become a rampant phenomenon. In SEZs or non-SEZs, workers have been beaten brutally for protesting against unfair practices. This is evident from the cases of Graziano, Silvia, and Garmex Exports in Noida; Rico, Sunbeam, Maruti, and Hyundai in Gurgaon; and several textile factories in Tamil Nadu. Hemlata, All India Secretary, CITU, said, “Earlier, the management used to take external assistance from goons, but now employers have started employing goons as managers in production sites.” Mobilising workers to join unions in spite of physical threats is quite a challenge for trade unions.

### **3.1.4 Denial of registration:**

Interviews with trade unionists who have tried to organise workers in SEZs reveal that if workers of any SEZ unit get together and approach the Labour Department with the required papers, the department delays the process on one pretext or the other. Meanwhile, the department informs the management about the workers’ plans of registration and also hands over the names of the workers who consulted them, often under the pretext of verifying the identity of the workers<sup>69</sup>. Thereafter, the management takes stringent action against the workers who attempted to register a union. There are innumerable instances where workers have been suspended, retrenched, or dismissed from service, or at times transferred to other places, for trying to exercise their constitutionally guaranteed democratic right, the right to association, granted to every citizen of India under Chapter III of the Indian Constitution.

There are also a number of instances where labour departments have rejected workers’ application for registration of a union. The pretext used by the Labour Department is clearly observed in the rejection of the application by workers at Maruti to unionise; their application was rejected on the pretext that they did not follow the due procedure before going on a strike held prior to union registration. SEZ units are also treated in the same way<sup>70</sup>.

Sanjay Vadhavakar, HMS, Maharashtra, shared his experience: “The labour department would not cooperate in registering the union. In the name of verification, they informed the management about the workers’ attempts to unionise. Labour departments can verify the identity of the workers even without informing the management about the workers’ union.

<sup>69</sup> Inputs from telephonic interview on 21st December 2011 at 2.30 PM with Sanjay Vadhavakar, HMS, Mumbai

<sup>70</sup> Senior Trade Union Leader from AITUC interviewed by CEC on December 20, 2011

It is not statutorily mandated that the Labour Department must verify the identity of the workers only through the management, but in all the cases they use it as a pretext to inform the management about the attempt to register a union.”

Recently, a joint coalition of central trade unions submitted a charter of demands to the Central Government; one of the nine demands was that registration of trade unions be completed within 41 days from the date on which application is filed by the workers.

### **3.1.5 Puppet unions/management union:**

An old strategy employed by managements is to establish puppet unions, which they fully control. Once union formation becomes unavoidable, the management pushes forward a union of their choice, which then acts according to their dictates. This is a challenge for trade unions, which have to compete with such puppet unions of the management and prove their own genuineness as effective articulators for the cause of workers. This is one of the ploys by the management that fuelled the fire in the recent case of Maruti. In the case of FOXCUM, an SEZ in Tamil Nadu, the management tried to take advantage of the rivalry between trade unions affiliated to CITU and LPF. The management promoted LPF-affiliated union Thozhilalar Munnetra Sangam (FITMS) over CITU-affiliated and large-membership union Thozhilalar Sangham (FITS) 71<sup>71</sup>.

### **3.1.6 Unhealthy trade union rivalry at the ground level:**

At ground level, trade unions have rivalries with each other since these are the workers' wings of different political convictions and ideologies. There are some independent unions or unions that declare themselves as independent of any political ideology or conviction. The rivalry of political parties in various spaces, such as elections, has an impact on trade unions. Even at the work sites, trade unions compete with each other in gaining the confidence of workers, which ultimately is calculated in terms of the number of enrolments and in winning positions in the union elections. During elections, the rivalry often sharpens and results in instances that result in unwarranted actions<sup>72</sup>. The challenge faced by the trade unions is to overcome their own traditional mindsets and rivalries with fellow trade unions. Fostering a sense of unity and oneness among ideologically varied and divided trade unions is a major challenge and a situational emergency for unions now.

### **3.1.7 Disappearance of SEZ units after availing of tax concessions:**

The SEZ Act facilitated huge tax concessions to investors in the name of promoting foreign currency and investment in the industrial sector. Investors in SEZs were given 100 per cent tax exemption for the first five years and 50 per cent tax exemption on export profits for next five years, and a 100 per cent tax holiday was given to SEZ developers for ten consecutive years. Similarly, many other concessions were provided to SEZ investors on the pretext of earning foreign currency through exports and employment generation. While the Government went out of its way and extended full cooperation to SEZs, acquiring thousands of acres of land, they convinced the nation with huge claims of employment generation in SEZs. But in reality, many of the production units and companies in SEZs continued their activities only as long as they could avail of tax concessions, and flew off when this period of concessions was over. Though no systematic study has been done in this regard, trade

<sup>71</sup> Source: telephonic interview conducted with senior trade union leader from AP

<sup>72</sup> Based on a telephonic interview on 1 December 2011 with Rajendragiri, HMS research wing, Mumbai

unions say that there are several such cases where companies made maximum profits by availing of tax concessions, and then left the site overnight. There are several such cases in the Visakhapatnam SEZ. Some of the units in Visakhapatnam vanished overnight and workers found out that they were jobless only when they reported for work the next day.

## 3.2 Strategies Adopted to Organise SEZ Workers

Despite obstacles, there have been some successful examples of unionising in the SEZ sector. CH Narasimha Rao, CITU, shared this piece of information, “In one SEZ manufacturing unit, Synergies Castings Limited at Duvvada, Visakhapatnam, workers participated in a strike. While they were on the strike, the management, in order to intimidate them, closed all the three exit doors from inside the SEZ. The management thought of exerting pressure on them by keeping them locked for two to three days. The workers were furious when they learnt about the ploy of the management to confine them illegally and all 300 of them jumped the 12 feet high gate and came out of the SEZ premises. After that, with the employer’s intervention, they arrived at a settlement in their favour.”

### 3.2.1 Area-wise/region-wise unions:

In the SEZs, since entry of trade unions is prohibited and workers in contact with unions are victimised, trade unions evolved a strategy of area-wise or region-wise unions. CH Narasimha Rao informed, “Since there is restricted entry at SEZ premises, we are organising workers at their residences. We decided to organise at the village level and allotted some of our finest leadership for organising SEZ workers at the mandal (block) level. We are allotting a whole-timer for each mandal. It is difficult to have internal leadership, given the context of restrictions over the workers, so we are engaging our cadre as external leaders. In case of a spontaneous strike, we will go there and extend support, offer guidance, and try to negotiate with the management. We guide the workers in terms of references for negotiations. We will try hard to secure some benefits through the struggle, in order to restore the spirit of struggle in them.”

These area-wise or region-wise unions also facilitate interaction among workers from different units. Such interaction leads to solidarity in times of crisis and any unfair action faced by workers of one SEZ can hopefully be resisted by the workforce of the entire area. Kanchipuram Pothu Thozhilalar Sangham (Kancheevaram General Workers’ Union) is an area-wise union formed by workers of the Kanchipuram SEZ, which is affiliated with CITU. Raghu Raj, BMS Ernakulam, informed, “BMS formed Ernakulam Zilla Motor Thozhilalar Sangham (Ernakulaum District Motor Workers’ Union) as a district union in Ernakulam. Drivers including lorry drivers working in the SEZ port enrolled as members in this union<sup>73</sup>.”

### 3.2.2 Organising outside factory premises:

In Kerala, CITU chalked out a strategy to approach workers at the place from where they are recruited. CITU activists went to villages where large-scale recruitment for SEZ units takes place and conducted awareness programmes among workers about constitutionally entitled rights and about the necessity of unionisation. In some areas, workers were mobilised through contractors who visited villages and lured poor families with promises of attractive salaries and lodging and boarding facilities for the young workers. Falling prey to their allurements, many poor households, left with no other livelihood options, willingly sent

<sup>73</sup> In a telephonic interview, on 29 December 2011 with Raghu Raj, BMS, Kerala

young members of the family to work in these units. CITU attempted to organise this workforce in their village itself. Tapan Sen said, “Villagers were angry with us when we approached them and started talking about the exploitation of these young people at the work sites. Some people even told us that they had no other livelihood option; at least they would be able to earn a little money if they finally managed to get some work. ‘Why are you telling us that it involves exploitation?’ We had to explain to them the inhuman work conditions these people were subjected to and about the advantages of unionisation.”

### **3.2.3 Building harmonious relationship between workers and locals:**

There have been several instances where the management created a rift between the local people of a particular industrial area or an SEZ and the workers. These differences were successfully used by employers to suppress workers’ struggles. In the case of Andhra Pradesh, workers from Telangana districts are appointed in Andhra and Rayalaseema sub-regions, while workers from Andhra are appointed in Telangana and Rayalaseema sub-regions. Same is the case with workers from Rayalaseema. Unfamiliar work location and bondage-like working conditions make these workers surrender completely to the contractors and the management. According to a union leader, “The management, most of the times, tries to pit migrant workers against the local workers in order to prevent any local support towards workers’ struggles.” Interviews with trade unions revealed that there have been occasions where, pursuant to a workers’ strike, the management threatened to close down the entire unit and shift it somewhere else, and this led to a rift between local workers and migrant workers on the grounds that the capital would move elsewhere if their struggle continued. Therefore, trade unions are working towards eliminating such rivalry and developing harmonious relations.

### **3.2.4 Building trade union solidarity:**

Trade unions including INTUC, AITUC, HMS, CITU, AIUTUC, TUCC, ACCTU, UTUC, and independent workers’ and employees’ federations have come together on several occasions in the past few years, and launched joint struggles as well as collaborated with one another on issue-based struggles. Building trade union solidarity across unions with diverse political commitments and convictions has been a successful strategy to strengthen labour resistances.

Trade union leaders feel that in the post-1990s, the definition of industry has been transformed. With free flow of capital across the world, it becomes necessary to build stronger networks with workers and trade unions globally. This will help in gaining bargaining power and articulation of workers’ concerns.

Network among different unions helps in building solidarity and larger platforms of struggle. In the case of FOXCONN, Nokia SEZ, Chennai, International Metal Workers’ Federation (IMF) pressurised the Tamil Nadu government and FOXCONN management through showing solidarity with the workers’ struggle<sup>74</sup>.

Trade unions in interviews also expressed the view that it is important to build larger solidarity platforms with worker-friendly forces in the society. Such solidarity networks promote confidence among the workers. Some trade union leaders talked about involving students, youth, and other worker-friendly forces as part of building these solidarity networks. Trade unions feel that it is important to mobilise the opinion of international

<sup>74</sup> The International Metal Workers’ Federation extended its solidarity to the FOXCONN workers and its General Secretary, Jyrki Raina, sent letters to the then Chief Minister, Karunanidhi, demanding justice for the struggling workers of FOXCONN in Nokia SEZ. [www.imfmetal.org](http://www.imfmetal.org)

institutions and agencies against the unfair work practices at production sites. They are of the opinion that publicising the undemocratic practices of employers in the international arena will exert some moral and ethical pressure on employers. Some unions are working on this strategy through their youth wings and also through issue-based support to international campaigns.

### **3.2.5 Policy interventions:**

Trade unions can be spontaneous, action-oriented bodies and immediate redressers, and at the same time intervene at the various levels on policy issues. Trade union leaders feel that it is a situational necessity to create awareness among workers about larger political issues so that the anti-worker policies and programmes can be resisted at various levels, starting from the firm level and at the level of state and national federations. Central trade unions through their state and national federations are trying to pressurise the government to strengthen the role of the labour departments and ensure their democratic and responsible functioning.

These are some of the strategies trade unions have evolved over a period of time to organise scattered workers, in spite of the huge repression of the trade union movement. However, while taking note of trade union operations in SEZ units, one should remember that there is no single formula or strategy to organise workers in production processes in SEZs or non-SEZs. The strategies or plans of trade unions have so far evolved as a response to the specific situation they encountered when working among the workers.



## Cases of Labour Rights Violations in SEZs

*(Compiled from information given by various trade union leaders interviewed for this study)*

1. **FOXCONN, Chennai:** FOXCONN India Developers (P) Ltd is an electronic hardware manufacturing multinational company located at the Nokia SEZ in Sriperumbudur, Kancheepuram District, Chennai. There are around 7,800 workers, approximately 1,800 of whom are permanent and the remaining 6,000 are contract-based workers. Women workers are predominant in numbers. When the workers of this company resorted to strike for better wages, the management responded in a very autocratic and undemocratic manner. There are two unions registered in this unit: one is CITU-affiliated FOXCONN India Thozhilalar Sangham (FITS) and the other is FOXCONN India Thozhilalar Munnetra Sangam (FITMS), which is affiliated to LPF. Since the management refused to recognise the popular union (FITS) for further negotiations over wage revision and other related issues, workers who were with FITS called for a sit-in strike. Permanent workers gave the call on 22 September, while notice for the strike had been served to the management much earlier. Contract workers, too, boycotted their duties and stood with them. The strike went on till the management assured the workers of negotiations with the union with majority members, in the presence of the Labour Department, on 27 September. With the assurance from the management, the workers withdrew the sit-in strike. Breaching its assurance, FOXCONN announced on 23 September that they had already entered into an agreement with FITMS and that they would stick to that agreement. When workers protested against this, the management called the police, who arrested several workers, including A Soundhirarajan, CITU Tamil Nadu State General Secretary, and E Muthu Kumar, CITU District Secretary, Kancheepuram, and FITS President. These people were kept in judicial custody and for the first time in Indian trade union history, a trade union leader, A Soundhirarajan, was produced in the court with handcuffs. Even after the arrests and judicial remand, the management imposed eight days' deduction in the workers' salaries and suspended 23 workers. They refused to take back these 23 workers until they accepted the agreement and resigned as office bearers. Till date, those 23 workers are under suspension on the pretext of an ongoing internal enquiry. The trade union leaders who got arrested are out on bail but forced to attend court proceedings till date. This is the dark side of the world's renowned mobile company Nokia's mobile parts supplier FOXCONN.
2. **Duvvada SEZ, Andhra Pradesh:** Worldwide Diamond Manufacturers Pvt. Ltd at Duvvada, Vishakapatnam is owned by Israel- and Belgium-based investors. In the Duvvada SEZ, both companies and their management promised employment for 60,000 people while acquiring land, but in reality only 16,000 workers got jobs. Several cases of management harassment of workers have been reported from here. Management refused to give one-day holiday to the workers even on the eve of Christmas. Some of the Christian workers took one day off from work and reported to duty on the day after Christmas, i.e., December 26, 2001. But they were stopped at the main gate itself and were told they were terminated from service since they were absent on the previous day. The workers, who had met such cruelty on several occasions in the past as well, decided to protest. One such previous incident had happened when a pregnant woman was stopped at the gate and told that she had been terminated from service because she was pregnant. Workers were fed up with such daily incidents and resorted to strike. Nearly 3,000 workers went to strike, which continued for one month. Management filed several false cases against the workers and CITU leaders who had gone in support of the workers. In the midst of this strike, CITU conducted a meeting at the CITU office. CITU All-India Secretary Hema Latha

was on her way back from the office after addressing the gathering when she was arrested and detained for a few hours in a local police station; the charge against her was of provoking workers. In this regard, CITU also approached the ILO and Tapan Sen argued out the case for CITU. As a consequence, the ILO made certain recommendations, which, however, never saw the light of day.

3. **Atchutapuram SEZ, AP:** Yet another SEZ under operation in Visakhapatnam is at Achutapuram; 9200 acres of land were acquired for this SEZ alone. There are 20 units, which employ a young workforce between the ages of 20 and 40 years. Brandix India Apparel, which is a textile factory, employs 16,000 workers in this SEZ. Most of the workers are women and they are forced to work continuously for eight hours in a standing posture. Several cases of harassment have been reported to CITU. There are restrictions over women workers even going to toilets. Women workers are asked to attend the call of nature within a stipulated time of 5 minutes. If any worker fails to report back in the said time, male supervisors bang on the toilet doors. Several cases of sexual harassment are reported from here and women workers are not allowed maternity benefits. Whenever workers revolted, the management used to file false cases against them. The police resorted to intense repression in many instances. Once, when CITU leaders asked the police why there was this kind of an unusual response to workers, they responded by saying, "What can we do? The orders are directly coming from CM's office!" Even the police is helpless as there are strict orders from higher offices to curb the struggle by all means. In spite of the huge repression, CITU has been able to register unions in some of the SEZ units. But there are several restrictions: no pamphlet can be taken inside the gate, no one can distribute pamphlets at the gate, and no trade union leader is allowed within one kilometre of the SEZ. Workers come to work from distant places, even 30 to 40 kilometres away. The company arranges their transport in order to prevent workers from interacting with anyone. Buses pick up the workers from their homes and directly drop them at the company door. All these workers are paid very less. This company releases polluted water with chemicals into the sea. There is a direct pipeline from the factory to the sea. Because of this polluted water, the fisherfolk of Pudimadaka are losing their livelihood as the contaminated water is killing the fish. When the fisher community of that area raised this issue, the company entered into an agreement with them. As per the agreement, the company has to employ 3,000 fishermen who lost their livelihood. So far, though, only about 600 fishermen have been given work in the factory. Management pays them Rs 70 to Rs 80 per day, whereas they used to earn Rs 300 to Rs 400 per day as fishermen. When they demanded a wage increase, all of them were retrenched. The agreement is null and void now.
4. **Chippada SEZ, AP:** Many pharmaceutical units have come up in Chippada village in Visakhapatnam, Andhra Pradesh, and the surrounding villages. When villagers complained of pollution and requested for rehabilitation, the government forced them into another area, which is at a lower level and not suitable for settlements. Villagers refused to move from there, approached the court, and got a stay order. Now, even after six years since the SEZ came into existence, they still live in the same village, surrounded by pollution.
5. **Santa Cruz Export Processing Zone (SEEPZ), Mumbai:** Santa Cruz Export Processing Zone is a multi-product SEZ located in Mumbai, with many gems and jewellery units and electronic hardware units, and a few software companies. It was started in 1973, but trade unions have not been allowed in it till today. In one of the electronic units of SEEPZ, when all the women workers tried to form a union, they were terminated from work.

6. **Silvia Apparel Limited, NOIDA SEZ:** In the case of Silvia Apparels, the management never implemented a single labour law. Workers were not even allowed to talk to one another. There are many cases of harassment that were never brought out of the SEZ premises. About 300 to 400 women workers and 500 to 600 men workers work there. No registers were maintained to prove that a particular worker belonged to this company. Workers were given neither minimum wages nor any other benefits as per the labour statutes. When the workers gathered together and tried to form a union to put forward their demands, the management resorted to violence. Workers even complained to the development officer, but he never paid any heed to their demands. At one point, when the workers had gathered together, the management ordered a lathi charge by its security personnel. Workers were beaten up brutally inside the company premises. After that lathi charge, workers were unable to form a union. All the plans of forming a union came apart.
7. **AMS Fashions Private Limited, NOIDA SEZ:** In 2001, the employers retrenched all the workers from Silvia Apparels Private Limited and changed the company's name to AMS Fashions. The same old story was repeated in AMS Fashions. When a manager misbehaved with two women workers, there was a huge protest by workers in November 2011. When two women workers raised an alarm against the misbehaviour of Manager Althaf Hussain, they were brutally beaten by the company's security personnel. These two women workers approached the police to file a case, but the police refused to even file an FIR. They approached the magistrate and he directed the police to register an FIR under Section 156, and also ordered for a probe. In response to this, the police conducted an enquiry and submitted a report saying the claims of these two women workers were invalid, and that no such violence took place at the work site. Now, AMS Fashions has also closed down and all the workers have been sent back.
8. **Garmex exports company, NOIDA SEZ:** At Garmex, when workers tried to form a union, the management ordered a lathi charge. One woman worker died in the lathi charge. The company has since closed down.
9. **G.D. Flex engineering unit, NOIDA SEZ:** This unit manufactures hand gloves and toilet brushes. Here, HMS took the initiative and registered a union, which was affiliated to HMS. The union negotiated with the management and got their demands fulfilled. As per the HMS activists, this registration took place much before the labour department's powers were delegated to the development commissioner. At later stages, internal conflict among the employers resulted in closing down of the unit.
10. **Middle East Shipping Company India limited (MESCO):** Workers tried to organise and register a union in the Middle East Shipping Company, but the management retrenched all the workers when they found out about their attempt to unionise.
11. **Safe Shield India Rubber Products Private Limited:** Safe Shield India Rubber Products Private Limited is a surgical and gynaecological gloves manufacturing company located at Cochin Special Economic Zone. There are 40 workers in this unit and among them, 11 have enrolled in the union. One of the women workers was elected as the vice president of the SEZ union. Since she was one of the officer bearers of the union, the management sent her a notice and after conducting an internal enquiry, she was terminated from work. That's not all. These 11 women were forced to continuously work in a standing posture for 12-hour shifts. With AITUC intervention, the management later allowed them to work normally.

# Conclusion

EPZs were initiated in India in 1960 as special enclaves to promote export-oriented industrialisation and attract foreign investment. The firms inside them enjoy favoured treatment with respect to imports of intermediate goods, taxation, and infrastructure. They are also free from industrial regulations applying elsewhere in the country. These privileges are subject to the conditions that almost all of the output is exported and that all imported intermediate goods are used within the zones or re-exported. The SEZs came about as an extension of the export processing zone (EPZ) policy. EPZs were seen as a failure because of their inability to boost India's exports. With a view to overcome the shortcomings experienced on account of the multiplicity of controls and clearances, and also attract larger foreign investments into India, the special economic zones (SEZs) policy was announced in April 2000. The Government of India has notified 583 SEZs till October 2011. Recently, the Government, as part of the new industrial policy announced in 2011, has proposed the creation of National Investment and Manufacturing Zones (NIMZs). NIMZs would be large areas of developed land with the requisite ecosystem for promoting manufacturing activity. A special purpose vehicle (SPV) under this policy will manage the affairs of the NIMZ. In the transition from EPZ to SEZ, and now the proposed transition to NIMZ, huge incentives are given to industry. However, there has never been an assessment of whether the industry needs the incentives. The groups that set up units in SEZs (such as Reliance, Nokia, and Flextronics) are well-established industries and capable of securing capital and expanding operations nationally and internationally even without the preferential treatment as SEZs. Therefore, the need for disbursement of further subsidies to them needs to be further investigated and substantiated.

With the formalisation of the SEZ Act 2005, increased investment led to a substantial increase in direct employment generated. The initial increase was very high, but gradually the increase in employment is tapering off. Given the continuous increase in investments in the growing numbers of SEZs, the slower growth of employment leads us to one conclusion—lesser incremental labour for more SEZ acreage. This needs to be reviewed in conjunction with the poor wage structure and the lack of social security and other benefits in SEZs.

While both total exports and exports from SEZs have been increasing over the years, SEZ exports still form a very small percentage of the total exports. There is a huge difference in private investment in the SEZ vis-à-vis the exports generated. There is also a high reliance on imports for inputs by the companies operating in SEZs, indicating weak backward linkage. Production through subcontracting is widely practiced, but it has only enabled SEZ firms to meet the rush of orders by utilising out-zone processing facilities and also hoodwinking standards. Forward linkage is also found to be low as almost all production is directed to be exported. The Finance Ministry estimates that revenue loss on account of SEZs could be over \$25 billion for 2007-10; this amounts to nearly 4-5 per cent of total tax revenues of the government. With all the incentives that are given to SEZs, there is every chance that industries already operating in the country may shift inside the special

economic zones, and they will not create any new jobs in the country. Given some of these concerns, as Ghosh (2006) raises, SEZs cannot be the only strategy for industrialisation, and even within a broader strategy, the specific features of this policy need a systematic re-examination.

SEZs provide single window clearance and the district commissioner is the overall authority for all matters. Powers of the labour commissioner have been delegated to the DC. In effect, in the SEZs it is the same authority that is in charge of attracting investment and enhancing exports and also of all labour-related matters. Therefore, though theoretically labour laws are applicable in the SEZs, in practice a system has been institutionalised by which their implementation will remain weak to the extent of being made redundant. Declaration of SEZ as a public utility service curtails the ability of workers to strike and reduces their bargaining strength. Moreover, the autonomy to the states to adopt the Act with suitable changes has led to a situation where state governments are competing with each other in providing maximum benefits to the investors and liberalising the concerned laws in the name of attracting foreign capital and generating employment.

States have taken exemptions for SEZs from Section 22 of the Trade Union Act, restricting the entry of outsiders as office bearers in trade unions. Physical entry itself is restricted and workers' movement is strictly controlled and monitored by the employers. When workers have attempted to organise workers, registration is strategically denied. Any move towards unionisation leads to dismissal from service. Workers are mostly contract or casual workers, facilitating easy hire and fire by the management. Labour administration is absent and the office of the DC does not respond to workers' complaints. There is a clear nexus between the state and the employers, and workers' protests are being looked at as a law-and-order problem rather than as an issue of tripartite negotiation.

While trade unions have evolved strategies over a period of time to organise the workers in spite of the huge repression of the trade union movement, it is important to point out some important challenges facing unions. These include organising workers, developing leadership, encouraging young people to be more involved in unions and encouraging greater involvement of women in leadership positions. Addressing these issues is vital for continued trade union engagement in the SEZs.

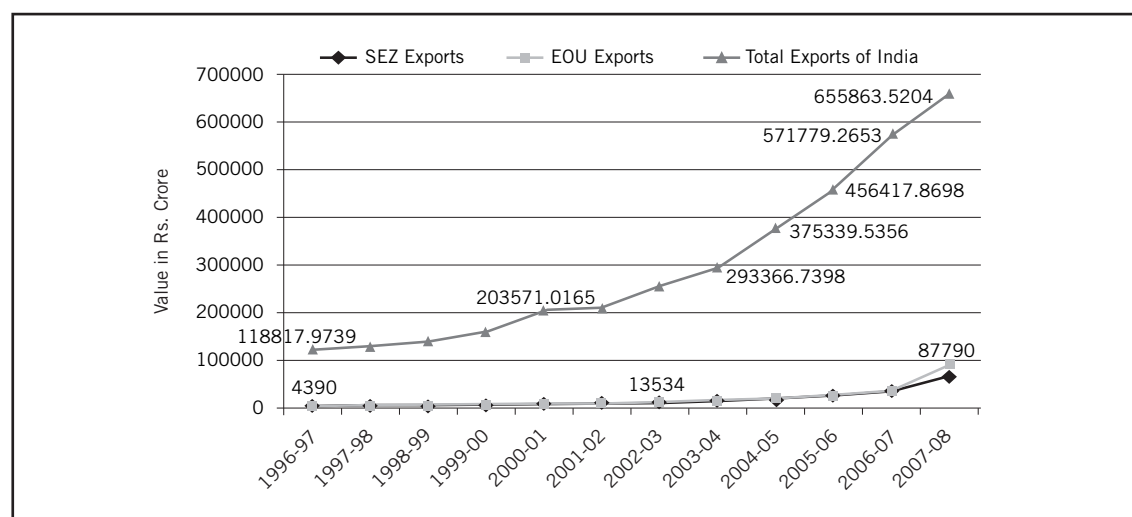
# Annex 1

**Table: EPZs in India (by Type of Product)**

Kandla Free Trade Zone (KAFTZ)	1965	Kandla	Gujarat	Multi-product
Santa Cruz Electronic Export Processing Zone (SEEPZ)	1974	Mumbai	Maharashtra	Electronics and gems and jewellery
Madras Export Processing Zone (MEPZ)	1984	Chennai	Tamil Nadu	Multi-products
Cochin Export Processing Zone (CEPZ)	1984	Cochin	Kerala	Multi-products
Falta Export Processing Zone (FEPZ)	1984	Falta	West Bengal	Multi-products
Visakhapatnam Export Processing Zone (VEPZ)	1989	Visakhapatnam	Andhra Pradesh	Multi-products

Soucre: [www.sez.nic.in](http://www.sez.nic.in)

**Figure: Exports from SEZs, EOUs in relation to Total Export of India (1996-97 to 2007-08)**



Source: Annual Reports, Ministry of Commerce



