



HUMAN RIGHTS analysis

Rights of female workers under threat

FAYAZUDDIN AHMAD

LAST decade of globalization indicates that international trade has many things to do with people's livelihoods and their most basic social and economic rights. Trade which is built on the unacceptable levels of social inequities to vulnerable communities and groups, or causes global ecological or environmental damage and disregards our obligations to future generations is not contributing to development.

In the so named "developing" countries globalization mean the opening of trade by reduction of import duties and removal of quantitative restrictions- also entering the World Trade Organisation (WTO) regime. Besides slackening of restrictions on external trade, there has also been a removal of some internal restrictions on movement of commodities. International Monetary Fund (IMF) plays it safe, calculating output on the basis of an estimate of the country's capacity to pay for imports, whether from exports of goods and services or from inflows of capital.

Part of the globalization process was introducing new principles, policies that would fit with the demands of globalization in the era of neo-liberalism; corporations and securities are institutions which were generally unknown until the 19th century. Today these institutions are ubiquitous and influential everywhere. The increasing employment of female by TNCs has permitted researchers to analyze female's direct links to the global assembly line. The subordination of female is part of the same process that has generated the exploitation of colonies... in the world economy. Thousands Export Processing Zones (EPZs) all over the world, employing approximately millions of workers of whom most are female. Foreign Direct Investment (FDI) of TNCs flows to countries where wages are exceedingly low, which implies a high profit rate.

The Chinese EPZs alone employ more than two thirds of the world total. Like many others Chinese government adopted the first work code, offering protection on wages, working hours, employment regulations, holidays, etc. Yet it is rare to find incidents where the code is enforced. These encourage the TNCs and their sub-contractors to conscientiously take advantage of female workers, who make up the absolute majority of the working population of the EPZs. And it is

work and enterprise of the female workers which creates the wealth of the nation leading to the national growths- contributing grossly in the national economy.

Evident trend is that TNCs always prefer to hire female. As female workers are easier to lever by the management as male workers is more difficult because they are less likely to tolerate the malice. Female workers, since they come mainly from rural areas where female have been oppressed for thousands of years and thus made to be more obedient, they tend to be more tolerant even when unscrupulously exploited.

Work day in the EPZs lasts as long as 10-12 hours. Workers find it hard to muddle through with such hard work, but any refusal to work overtime will result in their being fired. If female workers get pregnant, their own choice is resignation since they would be unable to endure such hard work. The employers then need not pay any maternity leave, although the law requires them to pay. Wages are shamefully which is not even enough for food.

Many female workers over-work at the expense of their health. Added to this is management's harsh policy of "no sick leave, restrictions on using toilets, and high medical expenses charged by both private and public hospitals. Thus female workers often bear bad health. Occupational accidents and exposure to toxics are severe problems. Aside from physical health disabilities, female workers suffer spiritual damage from being forced to separate from their families, having few support groups in the cities, sexual harassment, etc. Not only does the government reject workers the right to organize but the work department and official trade unions are so anti-work that they often refuse to enforce existing laws when they are favorable to workers.

Established and large companies such as TNCs came in and brought in their finished goods at much cheaper prices than those of our own manufacturers, thus forcing many local industries to close down. In Zimbabwe, the clothing sector was hardest hit with the closure of the local Cone Textiles, which retrenched thousands of female workers. These workers were family breadwinners with children in schools and houses to pay rent for.

Before the advancement of free economic activity on the national, regional and global levels, most of the African economies were heavily regulated by the state. Under this system, they introduced such

import and export restrictive business practices as import and export licensing, increased import duties, taxes or levies on import transactions, allocation of foreign exchange to essential goods, import and export quotas and other prohibitions. However, this has gradually been replaced by donor-driven deregulation, economic liberalization and privatization of the national economic activities.

In Central and South America as well as Africa- within their new economic structures female played an important role, becoming effective organizers and leaders, and benefiting from programmes that addressed their needs. However, as these regions have been increasingly drawn into the global economy, forced by powerful international lenders to adopt policies of structural adjustment and financial stabilization, governments have lowered public spending, privatized public industries, imposed regressive taxes, and marginalized small producers. While poor and working people are generally hurt by these policies, female are especially vulnerable since cutbacks in the public sector mean that social services are shifted from the paid to the unpaid work of female which, in turn, limits female's participation in the public sphere.

The World Bank (WB) loans and the IMF imposed Structural Adjustment Programmes (SAPs) and have stripped many female of what meager health and education benefits were once available to them. Female's formal sector unemployment has increased due to IMF-induced recessions, privatizations, and government cutbacks. In Africa, incentives that switch land and work to export crop production have forced female to reduce time tending farm plots that are the basis of food security, and then spend more time as unpaid workers. For female in Asia, export-led growth has taken on a different dimension. Not only do female dominate as workers in export industries, but they themselves have become the important exports.

Conditionality as an enabling principle of all the IFIs involved other policies as well like deregulation, liberalization, privatization etc. roughly speaking, conditionality has been linked with a monetarist approach. While loans approved to female provide small amounts of capital, they are structured with the idea that economic activity of female is exclusively small-scale, supplementary, and tied to domestic



needs. Even though the programmes do nothing to affect larger neo-liberal economic structures which continue to reproduce gross inequalities in income they have the unintended consequences of empowering female in their families and communities.

Addressing the issue the UN Commission on Human Rights in their "Globalization and Transnational Corporations" report (E/CN.4/Sub.2/2000/13) added that the "race to the bottom" has seen developing states engage in a competition to provide the best investment environment by progressively lowering, inter alia, work standards; the phenomenon of quantitatively increased employment opportunities accompanied by low-quality conditions of work is manifested especially in the EPZs, where female provide up major portion of work requirements.

Paradoxically, the problems created by the economic and political forces of globalization have spurred female to organize and to step in where state services and supports have been withdrawn. The fall of communism in the former Soviet Union

and its satellites had led to losses in basic needs and social welfare provisions. At the same time, however, it has also stimulated the growth of female's activism in response to the problems created by the economic and political transition.

The political marginalization of working class female and their exclusion from local and state legislatures, often as a consequence of the ushering in of liberal democracy and capitalist market relations, has also prompted female all over the world to establish local organizations and actions that promote female's political participation, strengthen civic education, and develop female's leadership.

Similarly, organizations in Singapore and the Alliance of Arab Female in Egypt actively promote female's participation in electoral politics, offer alternative perspectives to policy makers and influence policy outcomes by formal and informal means. Female's struggles in the economic South are inventing new forms of political action, affecting both daily survival and the economic sphere at the global level,

and creating new policies.

Scheming TNCs is challenging because of the absence of powerful international regulations and inconsistent national legislation. Corporations that conduct business in several countries can therefore often engage in corporate behaviors that are illegal in one country but not in others.

It is reality that TNCs are now major global actors, many larger than most nation states. And they are evolving to address the broader demands of their customers, shareholders, employees, and community stakeholders. And we already have seen that these new demands go beyond the traditional bottom line to address issues of human and to be focused female workers rights.

Whether a new transnational corporate social structure of accumulation is to be emerged in the global economy to promote long-wave upswing- three main engines of potential growth; and the evidence of profitability, accumulation, productivity, and growth- is a matter required in depth analysis. But imposition of human rights duties on TNCs that commit wrongs in the developing world may be a way forward.

Under the now near-hegemonic worldview of welfare economics, TNCs are analogized to individuals competing in the marketplace and thus placed squarely on the private side of the public/private divide. If we step outside of the economic worldview, however, and recognize the extent to which the normative justifications for civil and political human rights have traditionally been rooted in a perceived need to counteract the imbalance of power between the individual and the state, it becomes clear that it is frequently far more appropriate to treat TNCs as "states" than "individuals."

Given that the trend of closer economic and political ties among the world's nations is not likely to be reversed in the near future, it is immensely important that all peoples, regions and countries of the world are able to take part in shaping the policies and actions of multinational bodies. If globalization is to proceed not only on the terms of rich, white men from the West, female, as well as men, from all groups, countries and regions of the globe must have a voice in what we want the world to be and become in the future.

The writer is a Legal Analyst.

REVIEWING the views

Trade union relates with freedom of association

DELARA HOSSAIN

FREEDOM means the state of being free or liberated. Freedom can be found in different forms such as freedom in assembly, association, speech and expression and few others. Bryan Garner has defined the meaning in the dictionary which presents 'the right to join with others in a common undertaking that would be lawful if pursued individually.' This right is protected by the Constitution of the People's Republic of Bangladesh, incorporated in Article 38, which illustrates that 'every citizen shall have the right to form associations or unions, subject to any reasonable restrictions

According to section 2(16) of The Labour Act (40 of 2006) 'trade union' means a registered trade union of workers or employers established under 'chapter 13' of the said Act and includes also 'trade union federation'.

Prior to The Labour Act, 2006 a 'trade union' and its activities were governed by the Industrial Relation Ordinance (XXIII of 1969); section 2 of the said Act has specifically defined trade union which states that a 'trade union' is any combination of workmen or employers formed primarily for the purpose of regulating the relations between workmen and employers, or workmen and workmen or employers and employers, or for restrictive conditions on

union' but subject to some restrictions and the government may curtail such 'right' if the right is used against the 'interest of morality or public order' but the government has to undertake close scrutiny to curtail the same. Additionally, a trade union can set up relation with any 'international organization or federation of workers and employers.'

A registered 'trade union' is always treated as a legal entity thus it can work for the workers and employee and this right shall be guaranteed by the constitution.

Albeit the Labour Act, 2006 is a newly enacted law which states several important aspects relating to the worker. Generally this new law is the compilation of several laws which not only includes the relations of workers in an industry but wages, working hours, leave, etc. Chapter XIII of the Labour Act, 2006 section 178-208 specifically deals with the provisions of the trade union. Before enactment of this Act dispute regarding this matter was dealt under the Industrial Relation Ordinance (XXIII of 1969). Some example of such disputes were dealt by the Court like hereunder:

In *Friends Fisheries Corporation Ltd. and Barishal Fishing Limited v. Samudrik Matsha Sikari Jahaj Sramik Union* (1996), both the petitioners obtained rule on 23.3.1992 calling upon the respondent to show cause as to why the registration of their union should not be declared to have been issued without lawful authority. The petitioners declared that the trade union of the petitioners consists of workers from 16 separate registered companies and as a result they cannot form Common Bargaining Agent and the petitioners obtained the rule in their favour and hence the present Writ Petition No. 1095 of 1992 is decreed.

Nevertheless, both the respondents are registered companies and they have an agreement with other union such as Bangladesh Marine Fisheries Association and thus it cannot be said that the union of the petitioners consists of workers from separate and independent companies or establishments and they do not come within the mischief of disqualification for being members of a trade union as it has mentioned under section 7A (1)(b) of the Ordinance.

In *Karnaphuli Paper Mills Sramik Karmachari Union v. Registrar of the Trade Union and others* 11 BLD (HCD) 367, the fact was that the project of the Bangladesh Chemical Industries Corporation (BCIC) Kaptai, Chittagong Hill Tracts, known as Kaptai Rope Line and R.D. and B.E. project and the workers of this project had a union bearing the Registration No. 593. The BCIC amalgamated both the said project with Karnaphuli Paper Mills Limited and then made an application to the Registrar of Trade Union for approval of their changed classification and constitution on the basis of resolution dated 10.11.1987.

The Karnaphuli Paper Mills workers Union was the Collective Bargaining Agent (C.B.A.) and the tenure of it expired on 3.5.1988; so they made an application for election of C.B.A. and a notice in this behalf was served from the Registrar of the trade union to hold election which was held on 13.7.1988. The said union also filed a suit to the Labour Court under section 34 of the Industrial Relations Ordinance, 1969 to record the amendment of their constitution and change of the classification of the union and also a temporary injunction was required under Order 39 Rule 1 and 2 of the Code of Civil Procedure from issuing the Registrar of the Trade Union to the expired agent and in response to that the Registrar became the defendant of the suit from the Labour Court. The suit filed in the Labour Court, was not by C.B.A. but workers who have the right to draw up their own constitution and rules to elect their bargaining agent and so they claimed the election held on 13.7.1988 was in violation of law to the learned High Court Division and court upheld their contention.

At the conclusion, bearing in mind the present situation of the garments workers in Bangladesh, it is emphasized that trade union should be allowed to form. Trade union is a part of freedom of association; presence of this can result in strong outcome for any in organisation and also help create good relationship between the employer and employee.

The writer is student of East West University, Department of Development Studies.

RIGHTS corner

India: Reveal Truth about Childbirth Deaths

INDIA is falling behind other countries in meeting international commitments to improve obstetric care because it does not adequately monitor deaths and injuries in the critical period following childbirth and fix gaps in its health system and programs, Human Rights Watch said.

Representatives from around the world met on October 26, 2009, to review and reaffirm international goals for sexual and reproductive health, including maternal health. Public health experts say that the key to progress in maternal health is ensuring that women with pregnancy complications are able to get appropriate care during childbirth. But Human Rights Watch research shows this is not happening in India even though it has started healthcare programs that guarantee free obstetric care to rural women.

"India should be a leader in protecting and monitoring women's sexual and reproductive health," said Aruna Kashyap, researcher for the Women's Rights Division of Human Rights Watch. "Yet women continue to die entirely preventable deaths, and health authorities do not track down the reasons or do what is needed to rectify the health system."

The government counts the number of births in health clinics and hospitals, but these are often woefully under-resourced and under-staffed. Many women die or suffer serious injury after giving birth under these circumstances. The Indian government does not monitor what happens to women after childbirth, especially in the following 24 to 72 critical hours, when the chances of dying are the highest. Without this information, it cannot save women who go back home and die or develop long-lasting complications.

The Indian government should change its approach to monitoring and examine whether women with pregnancy-related complications are in fact getting the kind of treatment they need and whether they are surviving childbirth in the postpartum period. The Indian government's new Health Management Information System includes some of this data for monitoring, but it remains to be seen whether this data will be consistently collected and utilized for maternal health care programming at district and state levels.

In the "Call to Urgent Action for Maternal Health" issued after the October 26 meeting in Addis Ababa, members of parliament and civil society representatives from across the world reaffirmed their commitment to goals set out in the landmark 1994 International Conference on Population and Development (ICPD). Key goals include providing universal access to sexual and reproductive health care to all women, reducing preventable deaths from childbirth and unsafe abortions, monitoring implementation, and reporting on progress both locally and globally. India was at this meeting and reaffirmed its commitment to these goals.

Source: Human Rights Watch.



imposed by law in the interest of morality or public order.' The right of free association is closely associated with the freedom of speech and depends on the foundation of a free society.

Trade Union is one of the important associations, which plays an important role for particular organization. The word trade union means, a union composed of workers of the same or several related trades.

the conduct of any trade or business and includes a federation of two or more trade unions.

Section 3 of the said Act has stated about the activities of the trade union: a trade union has the right to set out members' activities for the welfare of their own whether they are the workers or employers, they can draft their own constitution and rules to regulate the 'trade