

Labour Relations in the Export Processing Zone: Challenges for Organized Labour

edited by
Funmi Adewumi

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Friedrich Ebert Foundation

Labour Relations in the Export Processing Zone: Challenges for Organized Labour

Edited by Funmi Adewumi, Director, Friedrich Ebert Foundation, Lagos, Nigeria. The book is a collection of essays by leading experts in the field of labour relations in the Export Processing Zone (EPZ) in Nigeria. It is a valuable resource for scholars, students, and practitioners alike.

edited by

Funmi Adewumi

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Foreword

One development strategy that has generated so much controversy, especially in respect of its implications for workers' welfare and industrial relations practice in general, is the export-driven industrialisation model that is encapsulated in the Export Processing Zone (EPZ) scheme. Generally conceived to boost exports, investors are usually offered a lot of incentives by the host country, including the relaxation of conventional labour legislations which are too pro-labour. Export processing zones thus become enclaves where workers rights are put in abeyance. Developments in many EPZs across the world confirmed this view. It is partly in response to this that there has been an interest in examining the social and working conditions in the EPZs.

The Nigerian government appears committed (at least going by the amount of money invested so far) to the take-off of the EPZ scheme. Given this preparedness and taking a cue from the experiences of other countries where the scheme is on, it is appropriate to consider in detail the labour relations issues involved and the challenges posed to workers in the context of the EPZ. We do not have to wait until problems arise before addressing them. A pro-active stance can be taken.

It is against this background that in March 1997 (on the 26th and 27th), the Friedrich Ebert Foundation, in partnership with the Nigeria Industrial Relations Association, organised a workshop on the theme; "Labour Relations in the Export Processing Zone: Challenges for Organised Labour". The workshop which held in Calabar, home of the premier EPZ in Nigeria, attracted participants from the trade unions, employers' associations, the academia as well as the Nigerian Export Processing Zone Authority. The collections in this volume are presentations put together for the benefit of a wider audience.

A wide range of issues are raised by the different authors. These include an overview of the EPZ as a development strategy, industrial relations issues within the context of the EPZ (and this from a comparative perspective), the relevance of international labour

standards to employment relations and the major issue of protecting workers' rights. It is hoped that these would equip trade unions officials and workers generally to face the challenges posed by the peculiar nature of operations in EPZs.

Finally, I wish to seize this opportunity to thank all those who contributed to the success of the Calabar workshop and, by extension, this publication, most especially participants and the paper writers as well as the Nigeria Industrial Relations Association for their efforts.

I have no doubt in my mind that readers will find this volume a valuable addition to the existing literature on the subject matter of this book.

Gerhard Wendler,
Resident Representative,
Friedrich Ebert Foundation, Lagos.

The publication of this book is a result of the workshop held in Calabar, Nigeria, in 1990. The workshop was organized by the Friedrich Ebert Foundation, Lagos, in collaboration with the Nigeria Industrial Relations Association (NIRA). The workshop was attended by representatives of trade unions, employers, and government officials. The workshop was a success and it was decided to publish the proceedings of the workshop as a book. This book is the result of the workshop and it contains the views and opinions of the participants. The book is a valuable addition to the existing literature on the subject matter of this book.

The book is divided into five chapters. Chapter One is an overview of the export processing (EPZ) scheme in Nigeria. Chapter Two discusses the challenges of ensuring compliance with international labour standards in EPZs. Chapter Three discusses the experiences of other countries in industrial relations in the EPZ. Chapter Four discusses the experience of Sri Lanka in industrial relations in export processing zones. Chapter Five discusses the challenges for the labour movement in protecting workers' rights in the export processing zones (EPZs).

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Chapter One

Export-Driven Industrialization: An Overview of the Export Processing (EPZ) Scheme in Nigeria

by

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Introduction

Since the mid-1960s, several developing countries implemented policies designed to stimulate exports of non-traditional manufactured goods. One type of this export promotion effort is the establishment of export processing zones (EPZs). Several EPZs were created in the early 1970s and by the 1980s, about 35 existed in Asia alone. EPZs are increasingly becoming important in the export promotion crusade of developing countries.

An EPZ is a special enclave, outside a country's normal customs barriers, within which investing firms, mostly foreign, enjoy special treatment with respect to imports of intermediate goods, company taxation, provision of infrastructures and freedom from industrial regulations applying elsewhere in the country. Though details may vary, a universal feature in EPZs "is the almost complete absence of either taxation or regulation of imports of intermediate goods into the zones. These privileges are subject to the conditions that almost all of the output produced are exported and that all imported intermediate goods are utilised fully within the zones or re-exported" (Warr, 1990: 30).

Following the problems in the Nigerian economy created by the mismanaged windfall from petroleum and the failure of the import

substitution industrialization strategy (ISI), policy-makers began to conceive of establishing an EPZ for the country as a way of promoting industrialization through exports.

Traditionally, Nigeria exports raw materials (agriculture and mineral resources) to developed countries. It was anticipated that the earned foreign exchange will be utilized in developing and modernizing the economy. After several decades, Nigeria still remains essentially an export-based economy. What is sad is that the exports are still in raw form. Therefore, the various policies, programmes and strategies including the various incentives have not altered the export of raw materials and import of finished goods feature of the economy. Partly due to this, government decided to create an EPZ to encourage the export of manufactured or semi-manufactured goods.

This chapter is an overview of this development strategy. Apart from the introduction, section 2 discusses some conceptual issues highlighting the special features of EPZs. In section 3, the Calabar Export Processing Zone is examined while workers welfare in the context of EPZ is analysed in section 4. Section 5 concludes the chapter.

Conceptual issues

Export processing zones or free trade zones are special enclaves outside a country's normal customs barriers where foreign or domestic firms may manufacture or assemble goods for export without paying the normal custom duties on raw materials and exported products.

The economic activities taking place within EPZs have been labour-intensive light manufacturing processes such as electronics assembly, garment production, assembly of light electrical goods, among others. An important feature of firms operating within EPZs is their international mobility. Turnover is often high and firms leaving an EPZ in one country move to an EPZ in another, in which, perhaps, conditions are more favourable.

This 'footloose' character of firms operating within EPZs, that is, their global mobility and capacity to adjust output rapidly in response to changing conditions has been ignored by most of the existing

This 'footloose' character of firms operating within EPZs, that is, their global mobility and capacity to adjust output rapidly in response to changing conditions has been ignored by most of the existing theoretical work on the subject. Thus, the conclusion more often is that EPZs are necessarily welfare-reducing for countries establishing them.

The economic literature on EPZs centre on their benefits and costs. EPZs are closely monitored by host governments and when compared with data available for other public projects in developing countries, there exist a paucity of information. Consequently, empirical works on EPZs are still scanty.

Features of EPZs

The detailed features of EPZs vary, but the following are almost universal and can be used in describing a typical EPZ.

i) Duty free import of raw materials:

Raw materials needed for the production of exports may be imported duty-free and without regard to any quantitative restrictions existing in the domestic economy. Also, products may be exported without payment of export taxes, sales duties and other levies. EPZs may be physically located anywhere in the home (host) country but the processing activities undertaken within them occur 'outside' the country if the jurisdiction of normal customs provisions is considered.

Though goods produced within EPZs may not normally be sold within the domestic economy, rejected goods by foreign buyers can be sold domestically with permission. Invariably, this type of sale will displace imports which would have occurred from other sources and often attract normal custom duties.

EPZs firms' purchases of raw materials and intermediate goods from within the domestic economy are frequently subsidized so as to encourage backward linkages between EPZ firms and the domestic economy. These subsidies are otherwise known as 'rebates' or 'drawbacks' and they often counteract the effects of domestic protection.

ii) Company income-tax holidays:

In most cases, temporary exemptions from normal income-tax provisions are frequently offered, with duration lasting from three to ten years. Normally, EPZ firms negotiate successfully for continuation of tax holidays. At times, they threaten to relocate if tax holidays are not granted.

iii) Reduced bureaucracy:

EPZ firms are often provided with streamlined customs documentation requirements for imported raw materials and capital goods and exported final products. More often, a special branch of customs is usually established to mediate between EPZ firms and the government. The idea is to minimize EPZ firms' administrative costs and to prevent unnecessary and costly delays. The extent to which these bodies are empowered to act on behalf of the government differs. EPZ firms are generally exempted from the following regulations; restrictions on repatriation of profits; restrictions on the employment of foreign nationals in managerial, supervisory and technical roles; and requirements for special approvals for the importation and installation of labour-saving capital equipment. Sometimes EPZ firms may be granted access to the host country's allocation of imports.

iv) Better infrastructure and subsidized utilities:

An EPZ usually consists of a fenced area with a perimeter and gates policed by customs officials to prevent duty-free materials from being smuggled into the domestic economy. According to Warr, (1990: 135) "while infrastructural facilities such as roads, and telephone and telex communications are normally superior to those outside, they are generally inferior to those found in the industrial area of developed countries".

Utilities are more often subsidized. Electricity tariffs are especially important in this regard since light manufacturing enterprises are heavy users of electrical power. Rates charged within EPZs are frequently below, and never above, industrial rates elsewhere in the host country.

In addition, EPZs include standard construction factory buildings, constructed and managed by government authorities; investing firms

can then rent floor space. Such rates are again generally lower than commercial industrial ones elsewhere in the country. Alternatively, intended EPZ firms may lease land within the zone and construct their own buildings.

What is described above is the general characteristics of EPZs. How then does the Calabar Export Processing Zone in Nigeria, fits into this general picture.

Calabar Export Processing Zone

The apparent successes recorded in some Asian countries notably Taiwan and the Republic of Korea with EPZs prompted Nigerian policy-makers to consider establishing EPZs in Nigeria. It was believed that EPZs would attract foreign investment thereby contributing to the growth of the economy.

Hence, in 1980, Gills Nigeria Ltd., a firm of consultants, carried out a feasibility study and recommended, the establishment of an EPZ around the Calabar port. Nine years after, the government recommended a review of the Gills report given the long internal and cost variations due to the changing economic situation. A new study was conducted by a consortium of UNIDO and UNDP experts between November 1990 and June 1991. The submission of this report led to the formation of an inter-ministerial committee charged with the responsibility of drafting the EPZ legislation. Thereafter, experts were appointed to complete the feasibility study. In 1991, government promulgated Decree No. 34 formally establishing the EPZ, and providing for the appointment of the Nigerian Export Processing Zone Authority (NEPZA) to handle its implementation.

A total area of 152,000 hectares close to the Calabar port complex has been set aside to serve as the permanent site of the first EPZ in Nigeria. The foundation stone of the EPZ was laid on November 11, 1991. Government inaugurated an implementation task force in March 1992 with the responsibility to oversee various aspects of the project.

The role played by EPZs in promoting industrialization and manufactured exports has always been controversial. Government has allocated huge funds for the realisation of EPZ in Nigeria. As at the

first quarter of 1997 about N2.5 billion has gone into the project. For the most part, the Calabar EPZ has met almost all the conventional requirements for it to take-off. For example, in 1995, government allocated about N3 million for the provision of facilities in the free trade zone.

The economic environment in the last three years has been favourable for the take off of the EPZ. The rate of inflation is around 22%; the exchange rate regime is stable; interest rate is now market determined and budget deficits have been curtailed. These indices should attract foreign investors to use the facilities provided by the Calabar EPZ. In the 1995 budget, any export processing factory in a bounded export zone was entitled to an accelerated first year 100% capital allowance claim on its qualifying building and plant expenditure without any restriction to full claim of capital allowances in any year of assessment.

Furthermore, in the 1997 budget, plant and machinery imported for use in the EPZ are exempted from VAT. This is to encourage investment in certain preferred sectors of the economy.

A lot of resources has gone into the EPZ scheme hence, society could benefit. The Calabar EPZ will generate employment, increase incomes of firms, result in the establishment of auxilliary ventures (backward and forward linkages) and contribute positively to the economy of Cross River and neighbouring states. The state of manufactured exports in Nigeria indicates the need for an EPZ.

However, in spite of what appears to be a favourable economic climate foreign investors have not shown enough enthusiasm in the scheme. Again as at March, 1997 only two firms were on the verge of take-off. What appears to be an impediment is the inclement political climate in the country.

Performance of manufactured exports in Nigeria.

Table 1 below shows the performance of manufactured exports in Nigeria. For the entire period, manufactured exports as a proportion of total exports was less than 1%. On the other hand, oil export continues to dominate. The establishment of the EPZ in Calabar is aimed at increasing the share of manufactured exports. The

Table 1

Manufactured Exports as a Proportion of Total Exports, 1982- 92 (%)

| Year | Manufactured Exports as a % of total Exports | Oil Exports as a % of Total Exports. |
|------|--|--------------------------------------|
| 1982 | 0.16 | 97.1 |
| 1983 | 0.12 | 94.2 |
| 1984 | 0.16 | 95.0 |
| 1985 | 0.07 | 96.7 |
| 1986 | 0.04 | 93.1 |
| 1987 | 0.51 | 95.3 |
| 1988 | 0.60 | 91.2 |
| 1989 | 0.55 | 94.9 |
| 1990 | 0.67 | 97.0 |
| 1991 | 0.92 | 96.2 |
| 1992 | 0.53 | 97.8 |

Source: Jerome, J. and A. Adenikinju "Trade Policies and the Promotion of Manufactured Exports in Nigeria" in NES, 1995, p. 200.

Export Processing Zone and workers' welfare

It is necessary that the welfare of workers be addressed in the Calabar EPZ. There is a general tendency for firms in the EPZ to exploit workers - pay lower wages and do not provide necessary facilities like adequate medical care.

Working conditions in EPZs have been widely criticized by scholars from industrialized countries. The criticism centres on harsh working conditions and low wages. This situation was discovered in a study on working conditions in Phillipines' Bataan EPZ. This ought to be avoided in Nigeria hence, it is useful that from the start a cordial working relationship should exist between workers and employers. Industrial peace is necessary for sound EPZ that will stimulate growth in the economy. This issue is treated more elaborately in Chapter 5.

Conclusion

This chapter has examined export promotion in the context of EPZs. There is no doubt that the Calabar Export Processing Zone has some of the basic features of any EPZ in the world. Nonetheless, there is need to continue to develop the basic infrastructure. Government should as a matter of urgency commission the Calabar EPZ. It will enhance the economic activities of the area and neighbouring states.

There is need to state that firms operating within the EPZ must ensure industrial peace. The surest way of achieving this is to provide basic facilities and incentives for workers. Industrialization through EPZ should not negate the welfare of workers.

References

Ekpo, A.H. (1995) "Openness and Economic Performance in Nigeria: A Time Series Analysis" in Nigerian Economic Society (1995) External Trade and Economic Development in Nigeria, Ibadan, Steps-Ahead.

Federal Government of Nigeria. Annual Budget 1995 and 1996. Lagos: Federal Government Press.

Jerome, A. and A. Adenikinju (1995) "Trade Policies and the Promotion of Manufactured Exports in Nigeria" in Nigerian Economics Society, op.cit.

Milner, P. (1990) (ed.) Export Promotion Strategies: Theory and Evidence from Developing Countries, New York, Harvester Wheatsheaf.

Warr, P. (1990) "Export Processing Zones" in Milner, C. (ed) op.cit.

World Bank (1992) "Export Processing Zones" Policy and Research Series No. 20 Country Economics Department.

Chapter Two

Ensuring Compliance with International Labour Standards in EPZs

by

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Introduction

For practical purposes an EPZ is seen as a clearly delineated industrial estate which constitutes a free trade enclave in the customs and trade regime of a country and where foreign manufacturing firms, producing mainly for export, benefit from a certain number of fiscal and financial incentives.

The major interest of the modern EPZ concept lies not so much in the invention itself, as in the world-wide diffusion to developing countries rather than to the more industrialised countries of Europe and North America. In 1970, there were some ten developing countries throughout the world with at least one "Shannon-style" EPZ. By 1986, their number had reached a total of 46. Information available indicate that more than half the countries classified by the United Nations as "developing" are active in the EPZ business. In Africa, the early starters include Mauritius, Liberia, Senegal and Togo. Others who have since joined the band wagon are Tunisia, Egypt, Madagascar, Tanzania, Cameroon, Ghana, Nigeria, Zaire and Kenya. Others like Zimbabwe, Cape Verde, Ethiopia, Namibia, Malawi, Mozambique, Zambia, Seychelles and South Africa are developing their programmes.

The modern EPZ should rightly be considered an Irish invention. Faced with the ineluctable decline of Shannon International Airport, caused by the advent of the jet airliner which, unlike its propeller-driven

predecessors, no longer needed to refuel on the trans-atlantic flight, the Irish authorities decided in 1959 to transform the airport area into a free trade zone and attract foreign firms to set up manufacturing facilities in the area. The reasoning behind this was that the firms would help to replace the jobs lost as a result of the airport's decline, provide new employment opportunities in what was then a somewhat industrially underdeveloped economy, and through the export by air of industrial products with a high value added, give a new lease of life both to the airport and the national airline. Subsequent events proved the validity of this approach. In 1960, its first year of operation, the Shannon free trade zone saw the creation of 440 new industrial jobs, and by 1975 was employing over 3,800 people (with a peak of 4,750 in 1970). As for the airport itself, the total number of employees rose from 1,250 in 1960 to 2,200 in 1975.

Employment in these zones have grown from about 50,000 in 1970 to over 1.3 million in 1986. Global employment in EPZs grew by 9% between 1975 and 1986 and by 14% between 1986 and 1990. With the expansion in the number of EPZs spread all over the world, aggregate employment in these zones has hit the 3.5 million mark. This figure does not include China's "special economic zones" where between 14 and 40 million workers are employed.

International labour standards

The significance of international labour standards stem from the ILO's aims and purposes. By its constitution, the ILO is committed to seeking the realisation of certain normative objectives, with a view to ensuring that all human beings, irrespective of race, creed or sex, are able to pursue their material well being and their spiritual development in conditions of freedom and dignity, economic security and equality. All member states by virtue of their membership have a common responsibility to work towards the attainment of these goals.

International labour standards are central to the activities of the ILO. Over the years, the governments of member States and their employers' and workers' organisations have built up a system of international standards in all work-related matters, such as the abolition of forced labour, freedom of association, equality of treatment and

opportunity, employment promotion and vocational training, social security, conditions of work, prevention of work-related accidents, maternity protection, minimum age for entering the labour market, and protection of migrants and categories of workers such as seafarers, fishermen, nursing personnel or plantation workers.

In June of each year, after considerable preparatory work, representatives of governments and employers' and workers' organisations of all member countries meet in the International Labour Conference in Geneva to adopt or revise those standards which will become international labour Conventions or Recommendations. These international instruments, which deal with people and their work, are binding on countries which ratify them.

The international labour standards have been a source of guidance and inspiration for formulating labour and social policy in the various countries. There are also a series of resolutions, conclusions and codes of practice adopted by the International Labour Conference or technical meetings of ILO such as those of industrial committees or meetings of experts which serve as social policy guidelines and supplement the international labour standards.

Based on reports submitted to the ILO, the standards that are of special relevance to export processing zones include:

Freedom of Association and Protection of the Right to Organize Convention 87 (1948).

Establishes the right of all workers/employees to form and join organisations of their own choosing without prior authorization, and lays down a series of guarantees for the free functioning of organisations without interference by the public authorities.

Right to Organise and Collective Bargaining Convention No.98 (1949).

Provides for protection against anti-union discrimination, for protection of workers' and employers' organisations against acts of interference by each other, and for measures to promote collective bargaining.

Sets out the mechanism to secure the enforcement of the legal provisions relating to the conditions of work and the protection of workers while engaged in their work (including hours, safety, health and welfare).

Maternity Protection Convention 103 (1952)

Stipulates that at least 12 weeks' leave should be granted the concerned worker and also provides that an employer may not dismiss a woman while she is on maternity leave or give her notice of dismissal at such a time that it would expire while she is on leave.

Human Resources Development Convention 142 (1975)

Requires the adoption and development of comprehensive programmes of vocational guidance and training taking account of employment needs and the level of economic objectives. The programmes are to enable all persons without discrimination to develop and use their capabilities to work.

Ensuring compliance

Resolution 29, adopted by the Fourth Tripartite Technical Meeting for the Leather and Footwear Industry, called for the full application of ILO standards in EPZs to be ensured and for the promotion of the Tripartite Declaration of Principles concerning Multinational Enterprises and Social Policy. The Tripartite Declaration provides, among others, that all relevant international labour standards, notably Conventions 87 and 98 must be respected by multinational enterprises.

The implementation of these standards in EPZs are subject to constant supervision by the ILO. Each member country agrees to present periodically to the ILO a report on the measures taken to apply, in law and in practice, the relevant conventions which it has ratified. The government reports are examined by the Committee of Experts on the Application of Conventions and Recommendations, composed of some twenty independent, eminent figures in either the legal or social field and who are also specialists in labour matters. The committee submits an annual report to the International Labour Conference, which is

closely examined by a tripartite committee composed of government, employers and workers members.

In parallel with this mechanism of regular supervision, procedures written into the ILO Constitution also contribute to respecting the system of international labour standards. By virtue of its constitution, the ILO was established in particular to improve working conditions and to promote freedom of association in its member states. Consequently, the matters dealt with by the ILO in respect of working conditions and freedom of association can not be considered to be undue interference in the internal affairs of a sovereign state, since such issues fall within the mandate that the ILO received from its members.

Thus, when a state decides to become a member of the organisation, it accepts the fundamental principles embodied in the Constitution and the Declaration of Philadelphia, including the principles of Freedom of Association. This in effect means that all member States are expected to respect the minimum standards of trade union rights enshrined in Conventions 87 and 98, and other basic human rights, no matter the level of development of the country concerned.

Employers and workers' organisations can also lodge complaints with the International Labour Office on a member state's non-compliance with a Convention it has ratified. If the complaint is judged receivable by the ILO Governing Body, it appoints a tripartite committee to study the question. This committee, thereafter, submits a report conveying its conclusions and recommendations to the Governing Body.

Moreover, any member country can lodge a complaint with the Office against another member country which, in its own opinion, has not ensured in a satisfactory manner the implementation of a Convention which both of them have ratified. The Governing Body has the option to establish a Commission of Inquiry to study the question and present a report on the subject. This process may also be set in motion by the Governing Body itself or on the complaint of a delegate to the Conference.

The Commission of Inquiry formulates recommendations on measures to be taken, if necessary. The governments concerned then have three months to accept these recommendations. If they do not, they may submit the disagreement to the International Court of Justice.

If a member state does not comply with the recommendations of the Commission of Inquiry or with a decision of the International Court of Justice within the stipulated period, the Governing Body may "recommend to the Conference such action as it may deem wise and expedient to secure compliance there with".

In addition, the supervisory system of the ILO includes a standing tripartite committee of the Governing Body responsible for examining special complaints concerning freedom of association and the right to organise. Rights, which as earlier stated, have a central place in the ILO constitution.

Conclusion

This chapter has briefly looked at the emergence of EPZs and international labour standards that are of special significance to this sector based on the reports submitted to the Committee of Experts. The measures used for ensuring compliance with these standards have also been highlighted.

Unfortunately, the information provided to the Committee of Experts and the Freedom of Association Committee of the Governing Body have been very negligible. Trade unions do not seem to have free zones specialist capacities to provide expert inputs into EPZs. This may have resulted in the very limited use of the ILO supervisory mechanism to ensure that international labour standards are complied with in EPZs.

It has, however, been observed that as a result of the ILO's persistence in working towards the implementation of international labour standards in member states (including EPZs), EPZ legislations are becoming consistent with these standards. For example, the Ghana Free Zone legislation requires employers to "negotiate and establish contracts of

employment with employees that include wage scales, minimum working hours, employee suspension and dismissal, settlement of disputes... and other such terms of employment which shall be consistent with ILO conventions on workers' rights and conditions of service". Ghana still went a step further by ensuring the representation of Ghana Trade Union Congress on the Free Zones Board. The Board's Committee on Immigration and Labour is expected to "ensure compliance of zone developers and operators with ILO Conventions on workers rights, conditions of service as well as other labour requirements in the Free Zone Regulation 8161".

Unfortunately many member states have not been as protective of labour standards in the EPZs, infact some have denounced their ratification of ILO Conventions. Sri Lanka denounced its ratification of Convention 89 on Night Work in order to encourage foreign enterprises in the EPZs (this decision is further explained in chapter four).

There is, therefore, a lot of work that needs to be done to sensitize trade unions and other stakeholders on the challenges posed by export processing zones to trade unions. They should also be made aware that they can avail themselves of the supervisory machinery within the ILO to enhance the conditions operating within these enclaves. It is my hope that trade unions in Nigeria will transform themselves from being passive observers of the national EPZ scheme into pro-active players.

References

George Boagye: "Challenges posed by free trade zones to Trade Unions in Africa"
Paper presented at the ICFTU/GTUC Regional Conference on organising Workers in EPZs, Ghana 1996.

ILO/UNCTC: Economic & Social Effects of Multinational Enterprises in Export Processing Zones (1988).

ILO: Tripartite Declaration of Principles Concerning Multinational Enterprise

ILO Fact Sheet.

Chapter Three

Industrial Relations in the EPZ: Learning from the Experiences of other Countries

by

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Introduction

Fundamentally, the *raison d'être* for the creation of export processing zones (EPZs) cannot be over-emphasised, particularly as a viable mechanism for the desired acceleration of socio-economic development processes in underdeveloped countries and additionally for the objective of sustainable human development (SHD). For example, the Nigerian EPZ project that was initiated in 1991 was primarily a development strategy to attract necessary investment capital into the country through both foreign and local sources, and ultimately for the composite objectives, among others, of:

- *increasing the production of exportable goods, especially from the non-oil sector-which by implication, involves the strategic development and expansion of the production base of the agricultural and solid mineral export sector;*
- *creating labour employment; and*
- *generating foreign exchange (see Ikpi, 1994)*

To date, it is appealing that the vision(s) of a premier EPZ project at Calabar and the Onne Free Port are about to be realized.

Secondly, it is not an overstatement to explain here that the overall probability of success of the Nigerian EPZ Project is also closely associated with the status of industrial relations climate and organizational behaviour much as a battery of other critical success factors- such as the nature of macro-economic policies, the larger environment of politics and governance, strategic resource management, flexibility-have been identified in the literature relating to the subject-matter.

Background scenario of the international economic system and realities of globalization.

In spite of the relatively new and on-going dispensation of global order, (thanks to the positive developments of general globalization, such as the more rapid integration and greater openness and flexibility of a larger number of the national economies, as well as the implicit opportunities and challenges), the political and economic dimensions of these developments are hardly favourable to the African countries and, indeed the generality of underdeveloped countries. For example, while the unsustainable burden of external debt particularly necessitated the widespread adoption of market-oriented economic policies by the underdeveloped countries generally, and the greater trade, investment and technology flows, have also further unified cross-national markets, the development gap between sub-Saharan African countries and the industrial countries, has actually widened (see various issues of Human Development Report 1990-1996.)

Statistical corroboration for such a finding is further provided even by comparison with the parallel rates for the more faster-growing developing countries of East Asia. For instance, the real GDP per capita in sub-Saharan Africa was 2.1, 0.4 and - 1.2% respectively for the broad periods of 1965-1973-80 and 1980-89. Instead, the East Asian countries (e.g. Malaysia, Thailand and Korea) have been associated with figures of 5.3, 4.9. and 6.2% respectively for the same designated time period above. Granted that the East Asian countries have been able to achieve that appreciable growth rate of real GDP through their adoption of market-driven development strategy, it is a further evidence of the reality that the less developed

economies are far from being monolithic on accounts of their existing levels of development. It is also a general affirmation of the inherent inequalities in the emergent pattern of the new international economic order (The World Bank, 1995: 249; Fajana, 1996; Matanmi, 1996a).

In general terms, a downward trend had been associated with the growth of African economies since the 1970s. Moreover, the longitudinal trend for sub-Saharan Africa has generally declined, also specifically from 1980 to 1993 (see Table 1 below). As further depicted by the statistical table, the composite data on all low-income economies (excluding China and India), which indicate a modest positive average growth in the same period, have actually portrayed how worse off the African sub-region has been. The overall implications of that statistical showing are that the African countries (especially Sub-Sahara) are predominantly low-income economies; and the fall out of a general trend of economic deterioration has been the low standard of living and quality of life in the generality of these countries. It should be recognized that the present economic crises in Africa is attributable to a combination of internal and external factors that range from structural economic constraints and the mostly unfavourable terms of international trade, to the huge debt burden (Fashoyin&Matanmi,1996:42-43).

Table 1

Cross-country profile of annual average percentage growth of the GDP for Africa in the Low-income group as compared to global comparable group, 1970-1993.

| Country of Region | 1970 - 80 | 1980 - 93 |
|-----------------------------|-----------|-----------|
| 1. Benin | 2.2 | 2.7 |
| 2. Burkina Faso | 4.4 | 3.7 |
| 3. Burundi | 3.1 | 3.6 |
| 4. Central African Republic | 2.4 | 1.0 |
| 5. Cote d'Ivoire | 6.8 | 0.1 |
| 6. Gambia | 4.5 | 2.4 |
| 7. Ghana | -0.1 | 3.5 |
| 8. Guinea | | 3.7 |
| 9. Guinea Bissau | 2.4 | 4.8 |

| | | |
|--|------|------|
| 10. Kenya | 6.4 | 3.8 |
| 11. Lesotho | 8.6 | 5.5 |
| 12. Malawi | 5.8 | 3.0 |
| 13. Mali | 4.7 | 1.9 |
| 14. Niger | 0.6 | -0.6 |
| 15. Nigeria | 4.6 | 2.7 |
| 16. Sierra Leone | 1.6 | 1.1 |
| 17. Tanzania | 3.0 | 3.6 |
| 18. Togo | 4.0 | 0.7 |
| 19. Zambia | 1.4 | 0.9 |
| 20. Zimbabwe | 1.6 | 2.7 |
| 21. Sub-Saharan Africa (excluding South Africa) | 3.8w | 1.6w |
| 22. All low-income Economies excluding China and India | 4.3w | 5.7w |

Key:

w = weighted average

(Source: The World Bank, World Development Report 1995, Washington, DC.: Oxford University Press, 1995: 164-5).

In view of the above, the more feasible avenues for the achievement of economic recovery in the African countries appear to lie in the following:

- *the formulation and activation of sound macro economic policies;*
- *the pursuit of the development of good infrastructures which also have their multiplier effects across sectors in these countries;*
- *the attention to human resource dimensions of the active development of reliable and skilled labour; and again*
- *the absolute concern about the achievement of social and political stability.*

In particular, it has been argued that African countries have generally not benefitted much from the trend of economic globalization and the liberal international trade patterns because of the absence of the above

mentioned critical development agents or factors. More specifically, there is an urgent need for the African countries (or governments) to create favourable operating environments for the particular attraction of necessary investment capital and, equally, the reduction of capital flight. One parallel global development that further compounds the African predicament is the on-going economic reconstruction of former centrally planned economies (e.g. former Soviet Union) which has intensified the competition for direct foreign investment in Africa (Fajana, 1996).

Hence, the sharpening of existing apparatuses of production in the African countries, with all its implications in terms of the necessary creation of conducive climate for competitiveness and optimization are all necessary conditions, if the African countries are to benefit much, or at all, from the emergent open opportunities in the wake of the continuing global integration of trade and investment. But, it is observed that these countries are still a long shot from the model economies of the East Asian countries - which was alluded to earlier. The attribution for the latter's success story has been their ability to explore and utilize the various opportunities of the new international economic order. The structural reforms in their countries "have permitted the in-flow of capital to reinforce the effects of open trade still generally lacking in the majority of African countries, especially south of the Sahara but excluding South Africa. Instead, economic globalization and trade liberalization have actually increased their marginalization, unlike the greater economic integration of the East Asian countries in the global economy" (Fajana, 1996).

Therefore, by and large, the possibility of economic recovery in the African nations (especially including Nigeria) appears to generally hinge on the extent of institution-building, through capacity-building and enhancement, better natural resource processing and management (including the establishment of EPZs) and the complementary measures of promoting organizational performance and productivity. These also call for a regime of labour market and other institutional policies - such as the development of small-scale enterprises (SMEs) and a greater role by the business sector in economic activation - that are flexible

enough to further promote labour market and employment flexibility, which is pro-growth and pro-employment. For example, labour market flexibility tends to be more associated with faster growth of outputs and total employment growth (Rama), 1995: 247, 262-265; Matanmi, 1996b: 23-26).

The EPZ Concept/Industrial relations connectivity

As one of the critical inputs in the operation of EPZs is the labour resource, it is then obvious why industrial relations is crucial in the context of EPZs. It is also little wonder that the employment relationship is a matter of foremost concern in this discussion: for instance, the various dimensions of suitable workforce, working time (in terms of normative hours, overtime, leave, etc.), general working conditions, including fringe benefits, wages and other remuneration, and the sensitive issues of labour's right to organisation and collective bargaining.

EPZ profiles all over the world have tended to show practical variations and peculiarities: for example, most are intolerant of labour activism, while a few (e.g. Mauritius and Sri Lanka) actually encourage unionism as a check and balance. For specific illustration, the following cases are cited:

- a) Turkey - Workers are forbidden to strike during the first 10 years of operation of an EPZ; disagreements must be settled by binding arbitrations
- b) Bangladesh - The government suspended union activity in the Chittagong EPZ in 1985; national labour laws do not apply in the EPZs
- c) Pakistan - The government bans strikes in its EPZ in Karachi. In 1985, the government of Pakistan had told the ILO that the ban was adopted "to meet the condition laid down by multinational organisations before making investments in the country". That claim prompted a U.S Department of Labour delegate to the 1985 ILO Conference to call the strike ban a "deplorable situation", and to advise the Pakistani delegation that "governments have an obligation - to resist those kinds of pressures"

d) Korea - Until the democratization process of mid-1987, Korea legally restricted the right to form unions and bargain collectively in its two EPZs. Although these restrictions were lifted in 1987, and that country's largest EPZ became an active centre of union organisation and strike action, the Korean government in August 1989 re-introduced restrictions on strikes by ruling that EPZ firms are "public interest companies" - implying the restriction of labours' right to strike, and imposition of mandatory arbitration in almost all cases of industrial conflict (Source: US Department of Labour, Workers' rights in Export Processing Zones, Bureau of International Labour Affairs, P. 7, Washington DC, 1989 - 1990).

Be that as it may, the direct interface of EPZs and industrial relations is also manifested in the following areas:

(i) Productivity imperative and the multiplier

By simple calculus, greater marginal productivity in the EPZs should generate value-added output, and, thus create additional demand for labour.

(ii) Employment generation potential

The available data on the existing EPZs, particularly in Africa (Egypt, Ghana, Mauritius and Tunisia), Asia and the Pacific (China, Hong Kong, and Singapore), as well as Latin America and the Caribbean (Brazil, Dominican Republic, Mexico and Puerto Rico) obviate any further explanation about their employment effect (see ILO Multi Data Base in Imoisili, ed. 1994: 77-80). Thus, the quantitative or economic aspect of employment in EPZs is appealing and universally acknowledged. Rather, EPZs have often been criticized more than complimented for their employment effect particularly on the ground of the seemingly "exploitative" conditions of this employment (Dror, 1984:71).

(iii) Climate of industrial relations and governance (of the political environment)

A certain measure of labour market flexibility is often considered ideal for the successful operation of EPZs. This is also considered a general function of social and political stability, the absence of militant trade unions, or even, the opposition from unions to the establishment of EPZs, the availability of an abundant labour force that is adaptable to

the technological requirement, the possession of positive work ethic and industrial discipline, as well as willingness to accept the "going wage rates" (see Dror, 1984: 706).

International and comparative evidence on EPZs

1. Mauritius

The EPZ Project in Mauritius took off some 27 years ago, in 1970. The EPZ output in that country is outstanding, given a record of high ratio of industrial employment and of EPZ exports to total exports. But on the whole, there are no significant labour law differences between the Mauritanian EPZ and the rest of the country, concerning regulation of industrial relations or trade union activity (Dror, 1984: 708).

2. Pakistan

The practice here reflects one extreme, in which there is the absence of labour relations regulations (e.g. exemption), or the denial of minimum wage protection in the EPZ. Thus, labour matters that require collective action by nature (e.g. collective bargaining) cannot be accommodated in individual contracts of employment, and therefore are completely unregulated in Pakistan's EPZs (Dror, 1984: 709).

3. Philippines

This presents another extreme practice of comparable regulation, as opposed to the Pakistani model. That is, for a number of the labour laws, provisions are of general application and not confined to EPZ enterprises. For example, in the Bataan EPZ in that country, the trade unions are particularly strong (Dror, 1984: 709).

4. Sri Lanka

Here, the Greater Colombo Economic Commission (GCEC) is in control, similar to Nigeria's NEPZA (Nigerian Export Processing Zones Authority). In Sri Lanka, no provision is made for collective bargaining

or similar negotiations between employers and trade unions. Whenever trade disputes arise, they are resolved by the Commission, leaving no room for a bipartite settlement or collective relations (Dror, 194: 712-3).

Lessons for the Nigeria EPZ

1. There is a need for some semblance of democratic machinery for the achievement (or pursuit) of synergetic collective relations whether by the mechanism of works councils or other appropriate apparatuses.
2. While EPZs should be empowered or enabled to pursue their intended objectives, part of this enabling environment should be the guarantee of baseline standards in conformity with accepted norms and international standards of humanistic working conditions and the quality of working life (QWL).
3. There is need for utmost caution not to promote the "sacred cow" or "special class" syndrome in a way that the labour employed in the Nigeria EPZs are treated specifically or differently from other labour groups or sectors. The Nigerian labour organisation must not be balkanised, such that segments from different sectors are pitted against one another, simply on the basis of differential regulation, etc.
4. For now, it appears we can only conjecture about what working life and industrial relations in the EPZs of Nigeria may look like. However, in the short to medium term, when observable patterns will coagulate, the local EPZs will constitute good grounds for formative research on the emerging trends in industrial relations, not only in terms of employment policies and practices, but also the contour of the associated labour markets, wage profile comparisons, the dynamics of aggregate sectoral employment, as well as the scope of human resource development and institution-building.

References

- Fajana, Olufemi (1996): "Global Economic Environment and the New World Economic Order". Paper delivered at the Seminar on the theme: Labour - management Relations under Economic Recession, organised by the University of Lagos, 14-15 November.

- Fashoyin, Tayo & Matanmi, Segun (1996): "Democracy, Labour and Development: transforming industrial relations in Africa", *Industrial Relations Journal: (The European Journal of Analysis, Policy and Practice)*, vol. 27 No. 1, March '96. 38-49.
- Ikpi, A. (1994) "The Export Processing Zones Scheme in Nigeria", in Imoisili, I.C. (ed.) *Industrial Relations in the EPZ*, Lagos: NECA, pp. 35-43.
- Matanmi, Segun (1996a): "Industrial Relations in Developing Countries", in Warner, Malcolm, (ed.) *International Encyclopedia of Business and Management*, London: Routledge.
- Matanmi, Segun (1996b): "A review of State Role in Productive Employment Generation in a Transitional Economy", in Fajonyomi, Banji (ed.), *Topical Issues in Nigerian Public Administration*, Lagos: Olu-Akin Publishers, pp. 17-30.
- Rama, Martin (1995): "Do labour market policies and institutions matter?: The Adjustment Experience in Latin America and the Caribbean, Labour (Review of Labour Economics and Industrial Relations Special Issue, pp. 243-268.
- US Department of Labour: *Workers rights in EPZs* Bureau of International Labour Affairs, Washington DC, 1989-90.

Chapter Four

Industrial Relations in Export Processing Zones:

The Experience of Sri Lanka

by

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Introduction

The concept of Export Processing Zones (EPZs) originated in Ireland in 1959 with the setting up of the Shannon Free Trade Zone. The concept was concerned with employment and the development of the manufacturing exports and was designed to attract a portion of the flow of international investment into the country (Kelleher, 1976).

EPZs have been defined as well organized enclaves with sophisticated infrastructure and other facilities, which are ready for occupation by investors. These enclaves provide the flexibility necessary for the enterprises to link worldwide production facilities to their global markets.

A study carried out by the International Labour Office (ILO) and the United Nations Centre on Transnational Corporations (UNCTC) in 1986 reveals that there are around 19 different terms in use in the English language to describe these economic enclaves. Some of the more popular terms are Export Processing Zone, Free Trade Zone, Investment Promotions Zone, Export Free Zone, Industrial Free Zone and Special Economic Zone (ILO, 1988).

EPZs have multiplied rapidly during the last 30 years. According to the World Export Processing Zone Association's (WEPZA) International Directory, there are 526 EPZs and FTZs in the world and 67 national government authorities regulating such EPZs and FTZs. The developed

countries have adopted the EPZ concept to increase their production facilities and markets while the developing countries have looked unto the idea to diversify their economies and to find employment opportunities for the large number of unemployed in their countries.

The case for EPZs in Sri Lanka

In Sri Lanka successive governments have invested heavily in human capital. Free education is provided from the kindergarten through the university level. Technical education is provided through a network of technical colleges and skills development centres. The island has maintained a high literacy rate over the last two decades as shown in Table 1.

Table 1
Adult Literacy Rate (1953 - 1995)

| Year | Percentage |
|------|------------|
| 1953 | 69.0 |
| 1963 | 77.0 |
| 1971 | 78.5 |
| 1981 | 87.2 |
| 1990 | 88.0 |
| 1995 | 89.3 |

(Source: Department of Census and Statistics)

However, due to the mismatch between educational attainments and the job opportunities available, unemployment had increased during the period 1963 to 1973. The unemployment rate had more than doubled during this period as shown in Table 2.

Table 2
Unemployment Figures 1963 - 1973

| | Males | Females | Total | Percentage |
|-----------------------------|---------|---------|---------|------------|
| Census 1963 | 199,490 | 65,480 | 264,970 | 7.7 |
| Labour force survey 1968 | 312,000 | 152,800 | 464,299 | 13.4 |
| Census 1971 | 474,065 | 197,917 | 671,982 | 15.6 |
| Labour Force Survey 1973 | 446,929 | 346,071 | 793,000 | 18.3 |

(Source - Department of Census & Statistics)

By 1973 unemployment had become a major issue in the country and the government had to take meaningful steps to arrest the increasing trend of unemployment. Therefore, in 1978 the Government of Sri Lanka changed its economic strategy towards liberalization and free market enterprise with the sole objective of attracting Foreign Direct Investment (FDI) into the country to generate the much needed employment opportunities for the labour force and embraced the concept of EPZs as a means to achieve this objective (Annual Reports, Central Bank of Sri Lanka).

A statutory body named the Greater Colombo Economic Commission (GCEC) was established for the purpose of promoting and facilitating foreign investments in the private sector of Sri Lanka. In 1992 this statutory authority was elevated to the status of the Board of Investment of Sri Lanka (BOI) and it now promotes, approves and facilitates industrial and commercial enterprises, both foreign and local in the EPZs and also outside the EPZs with the primary objective of creating employment opportunities for the large number of unemployed entering the labour market every year. Statistics reveal that in Sri Lanka around 75,000 school leavers enter the labour market every year (Annual Reports, Central Bank of Sri Lanka).

Sri Lanka now has four Export Processing Zones in operation. The first EPZ was established in 1978 at Katunayake (KEPZ) just opposite the premier airport in the country and the second EPZ at Biyagama (BEPZ) in 1985. The Koggala EPZ (KGEPZ) was established in the Southern Region in 1990 and the fourth at Kandy (KIP) in the Central Region in 1993. There are 151 enterprises set up by investors from around 30 countries in the four EPZs employing a workforce of 86,182 as at December 1996 (Board of Investment of Sri Lanka). In addition to the traditional EPZs most countries allow the establishment of EPZ structures outside the zones. These are known as licensed enterprises or non-zone enterprises and they also enjoy the same package of benefits as the EPZ enterprises. In Sri Lanka there are 686 such enterprises employing a workforce of 155,788. These include 163 enterprises which come under a special Garment Factory Programme which employs 76,821 workers. Thus, there are 837 enterprises employing 241,970 workers (as at the end of 1996) under the purview of the Board of Investment of Sri Lanka which administers the EPZs. The employment opportunities created by the Sri Lanka EPZs and outside the zone licensed enterprises are shown in Table 3.

Table 3

Employment by Location /Sex in EPZs - Sri Lanka as at 31.12. 1996

| Location | No of Projects | No. of Employees | | Total | Percentage |
|-----------------------------|----------------|------------------|---------|--------|------------|
| | | Males | Females | | |
| Katunayake | | | | | |
| EPZ (KEPZ) | 92 | 9526 | 48782 | 58308 | 24% |
| Biyagama | | | | | |
| KPZ (BEPZ) | 48 | 5002 | 17158 | 22160 | 9% |
| Koggala EPZ (KGEPZ) | 11 | 499 | 5215 | 5715 | 2% |
| Kandy Industrial Park (KIP) | | | | | |
| Licensed Ent. | 523 | 33539 | 45428 | 78967 | 33% |
| Garment Factory Program | | | | | |
| | 163 | 8022 | 68799 | 76821 | 32% |
| | 837 | 56588 | 185382 | 241970 | |

(Source - Board of Investment of Sri Lanka)

The Industrial relations system and employment in EPZs

An industrial relations system is largely influenced by the employment situation prevailing in the country. Traditionally the industrial relations systems came into existence as there was the need to safeguard the workers from the excesses and abuses committed by the employers. However, labour relations have developed to such a degree over time, that the present day objective of an industrial relations system is to create and maintain industrial peace for the benefit of both social partners - the employer and the employee. Hence, in outlining the industrial relations system in EPZs, the structure of employment in EPZs has to be considered first.

In Sri Lanka the creation of EPZs resulted in bringing down the unemployment rate considerably. It came down from 18.7% in 1973 to 13.8% in 1991 and to 11.3% in the first quarter of 1996 according

to the Labour Force Survey carried out by the Department of Census and Statistics. The most striking feature visible in the structure of EPZ employment is the rapid increase in the female participation rate. Case studies in 18 countries prepared by the ILO - UNCTC Project (1986) have shown that the rate of participation of women in labour force in EPZ industries exceeds the rate of participation in the outside EPZ manufacturing sector as indicated in Table 4. In five (5) out of eighteen (18) countries the participation has exceeded 84% and it is only in two countries that the rate had been below 50%.

Table 4

Age of EPZ workers, and share of women in EPZ workforce and in non-EPZ manufacturing industries (early 1980s)

| Country or area | Age of EPZ workers | Share of women in EPZ industries (%) | Share of women in non-EPZ manufacturing industries (%) |
|---------------------|-----------------------|--------------------------------------|--|
| Mexico | 78.5% below age 27 | 77 | 24.5 |
| Singapore | " | 60 | 44.3 |
| Republic of Korea | 85% between 20 and 30 | 75 | 37.5 |
| Hong Kong | 85% between 20 and 30 | 60 | 49.3 |
| Malaysia | Average age 21.7 yrs | 85 | 32.9 |
| Brazil | Average age 21.7 | 48 | 24.8 |
| Macau | 88% below age 29 | 74 | 48.1 |
| Mauritius | 70% below age 25 | 79 | 10.0 |
| Tunisia | 70% below age 25 | 90 | 48.1 |
| Philippines | 88% below age 29 | 74 | 48.1 |
| Dominican Republic | 83% below age 26 | 68 | 17.6 |
| Sri Lanka | 83% below age 26 | 88 | 17.1 |
| Egypt | 83% below age 26 | 68 | 16.5 |
| India | 83% below age 26 | 80 | 9.5 |
| Indonesia | 83% below age 26 | 90 | 47.9 |
| Jamaica | Average age early 20s | 95 | 19.0 |
| Trinidad and Tobago | Average age early 20s | 10 | 28.1 |
| Barbados | Average age early 20s | 90 | 12 |

(Source - Economic Social Effects of MNEs in EPZs - ILO 1988).

The situation in Sri Lanka EPZs also corresponds to this phenomenon. According to the ILO study the share of women in EPZ industries in Sri Lanka was 88% as compared to 17.1% in Non-EPZ manufacturing industries. Statistics reveal that between 1971 and 1981 male employment in Sri Lanka rose by 14.4%. Between 1981 and 1991 the increase in male employment was only 12.2% while female employment increased by 68% (Department of Census and Statistics). This steady rise in the female participation rate is attributed to the opening up of EPZs and licensed enterprises under the Investment Programme.

The female participation in EPZ labour force in Sri Lanka as at December 1996 is shown in Table 5. In the Sri Lankan experience the reason for this increase is the higher level of manual dexterity associated with the female employees and their ability to adjust themselves to the assembly line production system. At the Katunayake EPZ six enterprises who experimented found that the workers dropped out after a period of 5 to 6 months. At least in Sri Lanka wages did not play a vital role in increasing female participation as both men and women get equal wages for equal work.

Table 5

Female participation in Labour Force EPZZ - Sri Lanka

| December 1996 | Total | Female | % |
|---------------|-------|--------|-------|
| KEPZ (92) | 58308 | 48782 | 83.7 |
| BEPZ (48) | 22160 | 17158 | 77.6 |
| KGEPPZ (11) | 5714 | 5215 | 90.8 |
| Grand Total | 86182 | 71155 | 82.5% |

(Source - BOI Sri Lanka)

The high rate of female participation in EPZ industries also mean a low rate of male participation. The non-availability of adequate job opportunities in the EPZs for male job seekers has had an adverse effect on the industrial relations system in the EPZs of Sri Lanka. The tendency for unrest to grow upward among male workers had been observed. Discontentment among male workers due to the nature of jobs available for them also has contributed to this situation.

Another eminent feature in the labour relations scenario of EPZs is the relatively low age of workers employed in EPZ industries. The ILO - UNCTC study (Table 4) has confirmed this finding in regard to many EPZs in the world. A sample survey carried out by the Asian Regional Team for Employment Promotion (ARTEP) in 1985 has revealed that in Phillipines 88% of EPZ workers were under the age of 29 years while in Sri Lanka 83% of EPZ workers were below 26 years of age.

In Sri Lanka, majority of workers in EPZ industries have migrated from rural areas and therefore are in employment for a span of 5 - 7 years when they leave for marriage or for better prospects or for employment in the State sector. It is also found that the majority of job seekers in EPZ industries are the young school leavers who do not proceed with higher studies. A sample survey carried out in EPZs by the Board of Investment of Sri Lanka in 1990 revealed that 78% of EPZ employees belonged to the age group of 18 - 28 years. This also corresponds to the high rate of participation of workers in age groups of 20 - 29 years in the National Labour Force as indicated in Table 6.

Table 6

Sri Lanka Labour Force Participation Rate by Age & Sex

| Age | Total | Male | Female |
|----------------|-------|------|--------|
| All age groups | 49.2 | 65.3 | 65.3 |
| 10 - 14 Yrs. | 2.0 | 2.0 | 2.0 |
| 15 - 19 Yrs. | 28.0 | 33.7 | 22.4 |
| 20 - 24 Yrs. | 70.9 | 83.5 | 58.9 |
| 25 - 29 Yrs. | 72.5 | 93.9 | 52.5 |
| 30 - 34 Yrs. | 70.2 | 95.3 | 46.3 |
| 35 - 39 Yrs. | 72.0 | 97.0 | 48.8 |
| 40 - 44 Yrs. | 68.6 | 96.6 | 40.4 |
| 45 - 49 Yrs. | 66.3 | 92.0 | 41.9 |
| 50 - 54 Yrs. | 59.4 | 86.2 | 32.3 |
| 55 - 59 Yrs. | 49.1 | 73.0 | 27.2 |
| 60 + Yrs. | 22.4 | 36.6 | 9.0 |

(Source - Labour Force Survey, 1996, Department of Census & Statistics)

Sri Lanka has taken cognizance of these inherent characteristics of the labour force in moulding its industrial relations system in the EPZs.

Factors contributing to effective industrial relations in EPZs.

Sri Lanka experience

Industrial relations system in the EPZs has necessarily to be designed to achieve the goals of both social partners in production - employees and employers.

Operations in EPZs industries are directed towards the global market. The trend towards globalization will promote more competition and quality becomes a pre-requisite. Hence, the performance of the employee becomes a crucial factor. It is only through an effective and participative industrial relations system that the employee's performance can be developed to meet the needs of an export oriented industry catering to the global market and dependent heavily on production schedules for target delivery dates. Employee involvement would contribute to higher morale, greater commitment and increased productivity. Hence, good human relations respecting the fundamental rights of the worker should be promoted so that he and his family are able to lead a contented life. Thus the industrial relations system in EPZs should serve two purposes - achieve the well-being of the employee on the one hand and facilitate industries to satisfy its market requirements on the other hand.

Status of labour legislation in EPZs

The status of EPZs industries relating to the application or exemption from national labour laws is a key feature in the industrial relations system in the EPZ. Available data indicate that in many countries the EPZs industries have been exempted from the operation of normal labour laws. Being economic enclaves the EPZs are designed to operate without intervention from national agencies so that such climate would provide an incentive for the attraction of FDI.

In Sri Lanka the national labour laws in the country are applicable to all EPZs industries as well. The guidelines on labour relations issued to investors by the Board of Investment of Sri Lanka which administers the EPZs clearly state this position. There are around 13 main

enactments on labour applicable to the industrial sector designed to regulate the employer - employee relations for achieving industrial peace. Appendix (1) lists out these enactments and their objectives. The Department of Labour supervises the enforcement of the provisions of these statutes and any worker in EPZ has the right to seek redress for the violation of any of these provisions. Arbitrary termination of services is regulated by the Termination of Employment of Workmen (Special Provisions) Act. Labour Tribunals established under the Industrial Disputes Act also adjudicate on wrongful termination of services.

The Board of Investment of Sri Lanka which administers the EPZs also has its own administrative machinery to advise and assist the EPZs enterprises in regard to compliance with national labour laws.

An effective machinery to monitor labour relations in EPZs

An effective machinery to monitor all aspects of labour relations is a prime requirement for the success of industrial relations in EPZs. The coverage of employees' interest under national labour laws, presence of managements from different countries and the dependence of the EPZ industries on tight production schedules for global markets all lead to the fact that the industrial relations system should function very smoothly. On-coming problems have to be identified and corrective action taken in advance. The endeavour should be to pre-empt problems and not to wait until they crop up. Such early action could be taken only if the industrial relations activities in EPZs are monitored very closely. The Sri Lankan EPZ authority (BOI) has its own administrative machinery to monitor the labour relations aspects in EPZs. The Industrial Relations Department consisting of officers with experience in industrial and human relations attend to this task. This administrative outfit works in very close liason with both managements and employees of EPZ enterprises and facilitate both parties to achieve industrial harmony.

The main functions of the Industrial Relations Department are:

1. to advise investors/enterprises on all aspects of industrial relations especially the statutory obligations of employers under the Sri

Lankan labour laws. Such advice is provided through interviews, meetings, seminars and providing documented guidelines on labour relations to the enterprises.

2. to monitor the compliance with labour laws regulations and practices by enterprises and provide advice to rectify any shortcomings found. Periodic inspections are carried out on labour relations activities of enterprises for this purpose.
3. attend to grievances of workers and help employees and managements to resolve their disputes.
4. promote effective labour management relations between the two social partners through dialogue and consultative practices vis-à-vis, Employees Councils established in enterprises.
5. to promote employee welfare and safety.

Practices in the host country

Ideally, the industrial relations system in practice in the host country should be adhered to by the EPZ industries. Foreign enterprises should not be allowed to "import" their own rules and regulations in labour relations if they come into conflict with the practices in the host country. Expatriate staff sometimes are not able to understand the type of life styles of workers in the host country and as a result conflicts in work culture will arise. Further, social limitations in the host country have to be accommodated within the labour relations system at least to some degree. Adjustments in cultural conflicts have to be streamlined through evolving practices acceptable to both social partners. Sri Lanka during the early stages of EPZ development has experienced such problems and made adjustments for the benefit of good industrial relations. The shift system and night work are two such crucial areas. In 1983 Sri Lanka denounced its ratification of ILO convention No. 89 on night work for female employees to facilitate continuous production for EPZ industries. However, night work for female employees have been allowed only subject to stipulated conditions and strict supervision aimed at protecting the health, welfare and social obligations of female employees.

These conditions are listed below.

Night work:

Employment of female workers on night work from 10.00 pm to 6.00 am on the following conditions.

- (1) written consent of the worker to be available.
- (2) the employer to obtain prior approval for night work.
- (3) payment of 1.5 times the daily rate of wages for the normal night shift.
- (4) maximum of ten days night work per female worker in any one month.
- (5) a worker employed between 6.00 am and 6.00 pm not to be employed on night shift on same day.
- (6) a worker employed on night work to be allowed an adequate period of rest after such work.
- (7) matron/female supervisors to be present during the shift.
- (8) canteen, medical and rest room facilities to be made available.
- (9) transport facilities to be made available for use in an emergency.

(source - Guidelines on labours standards and relations - BOI/Sri Lanka).

Human resource development policy

The concept of human resource development (HRD) is based on the dual conception that while the human factor plays a decisive role in the economic and social progress the people are also the intended beneficiaries of development. Hence, an integrated frame work for examining the HRD resources in EPZs including manpower development, science and technology, quality of work life dimension has to be established. The highly literate and easily trainable workforce is one of Sri Lanka's great assets. The EPZ authority (BOI) assists the enterprises in the recruitment of employees through its Employment Placement Centres which facilitates the enterprises to improve employment relations.

Training of employees is an integrated part of the HRD plan included in the industrial relations system of EPZs. Majority of recruits to EPZ enterprises are school leavers and therefore new comers to their jobs. The (ARTEP) sample survey of 1985 has revealed that 72% of EPZ workers in Sri Lanka, 52% in Malaysia and 64% in Philippines were new recruits. In view of this situation it becomes incumbent on the enterprises to provide them with skills and methodology required for

the particular industry. Hence, every EPZ enterprise has its own in-house training centre to cater to this situation. Training programmes at EPZs are based at the following levels:

- a) In-plant training:- Training inputs at plant level are provided by the local and expatriate technical staff.
- b) Skills based training given at Skills Development Centres throughout the country. These centres are organized on a regional basis and are managed by the National Industrial Training Authority, The Vocational Training Authority and the Department of Labour.
- (c) Network of Technical Colleges where training at Certificate and Diploma levels are conducted.
- (d) Professional institutes such as Institute of Engineers, Institute of Chartered Accounts, National Institute of Business Management, Textile Technology Training Institute.

Upgrading of skills and career development are common features in EPZ industries. Around 65% of middle management posts are through promotion of employees from lower levels and there are also personnel who have remained in the trade to achieve top management posts especially in the production field.

Settlement of disputes

Conflict is the consequences of disagreement. Employer-employee conflict in industry will remain as long as there are employees and employers. When industrial conflict gets out of control it does not help both social partners. An effective strategy for preventing and resolving conflicts depend largely on consultation and collective bargaining. Creating industrial harmony in EPZs will lead to investor confidence and employee well-being.

In Sri Lanka the Industrial Disputes Act provides the machinery for settlement of industrial disputes through-

1. Conciliation by the Commissioner of Labour.
2. Voluntary arbitration.
3. Compulsory arbitration.

4. Industrial Courts

The EPZ industries are a part of the national system and the dispute settlement machinery operates in the enterprises. The EPZ authority also assists the employees and managements to arrive at amicable settlement of their problems.

Quality of life

Improvement of quality of life of employees is vital in any strategy for the revitalization and development of the economy. Conditions affecting the employee both at his working environment and the socio-economic conditions outside the work place have to be improved so that the industry will have a contented group of employees.

Standards relating to working conditions in EPZ enterprises are stipulated in Sri Lanka. Construction of factories are allowed only when it conforms to the statutory requirements laid down in the Factories Ordinance in relation to provision of welfare facilities to workers such as meal room, sanitary conveniences, changing rooms, adequate work space, ventilation, temperature, medical facilities, safety measures and environmental norms and standard remuneration package. Working conditions, industrial safety and health are subject to strict supervision by the relevant authorities and endeavours are made to promote them in EPZ industries. Enterprises also offer numerous fringe benefits to the workers. Incentives for production performance, good attendance, free breakfast, free or subsidized meals, free medical attention, annual bonus, distress loans and funeral assistance are some of the popular fringe benefits offered to employees by enterprises. Health and counselling services are provided by the medical centres of the EPZs. These include out-door and in-door treatment, specialist services, pre-and post-natal maternity care, nutrition and family health.

Quality of life outside the workplace depends mainly on the socio-economic conditions in the country. Infrastructure in regard to common amenities for the large concentration of industrial workers have to be provided.

Suitable and adequate living accommodation in the periphery area of the Katunayake EPZ which provides employment to around 60,000 workers has become a crucial problem to the EPZ authorities. A survey carried out revealed that around 60% of the worker population live out of their homes in boarding houses within a radius of 20 kilometres from the zone. Hence, steps have been taken to improve and increase the accommodation facilities in the area by the relevant government authorities and also to non-government organizations. However much has to be done in this field as the periphery area has a high concentration of workers.

Transport facilities in the area also have to be improved to cater for the needs of the increasing workforce. There are enterprises who provide transport to their own workers. However, the worker population as well as the civilian population of the area has increased and therefore further improvements in transport are necessary.

Trade unions

Trade unions had been the traditional form of organizing labour. Studies by ILO - UNCTC in EPZs have indicated a low rate of unionization in many EPZs. Although comprehensive information is not available, the surveys have shown the following rates for some countries.

| | |
|-------------|-----|
| Malaysia | 3% |
| Philippines | 45% |
| India | 10% |
| China | 20% |

In Sri Lanka, approximately 30% of the formal sector is unionized and of these members the majority consists of the plantation and public sector workers. Majority of unions are affiliated to political parties in the country and therefore unionization and politics go together. Under the provisions of the Trade Union Ordinance, any 7 employees can get together and form a trade union.

In the EPZs, there are no legal restrictions against forming trade unions. The managements had not shown a favourable response to unionization in the present context. They have shown agreement to in-

house unions without office bearers from outside the industry. However, it has been observed that unions are gaining ground even though the process is quite slow.

EPZs are national projects based on economic and social requirements of the host country. Hence, it is necessary for trade unions to act with utmost responsibility and follow a constructive approach to activities in EPZs. Commitment and co-operation of both social partners is an essential feature for the success of industrial relations in EPZs.

Formation of Employee Councils as a consultative process also has been promoted in Sri Lanka EPZ enterprises. Members of the councils are elected by the employees through secret ballot. The councils take up any issues affecting the workers with the management. The EPZ authority assist the councils and managements to resolve their problems amicably.

Commitment of Employers

Commitment and co-operation of employers to ensure the well being of workers is also essential for the success of industrial relations in EPZs.

EPZ authority in Sri Lanka takes numerous steps to create awareness on industrial relations with the EPZ employers. Meetings and seminars on HRD are held for this purpose. Guidelines on these obligations on labour relations and labour standards are issued to them even before the enterprises are set up to help them to get involved in the industrial relations process. The summary of contents of such guidelines is at Appendix 2. A continuous dialogue is maintained with the employers to get their commitment to look after the employees in their enterprises. The EPZ Employers Association also advise their members on the need to be model employers.

Conclusion

In conclusion, it has to be stated that the success of industrial relations in Export Processing Zones depend on the commitment and the co-operation extended by the social partners - the employee and employer and the effectiveness of the monitoring machinery followed to implement the system of industrial relations in EPZs.

References

Central Bank of Sri Lanka, Annual Reports -

"Economic & Social Effects of Multinational Enterprises in EPZs" - ILO (1988)

"Employment and Multinationals in Asian EPZs" (ARTEP) ILO 1985. Legislative Enactments of Sri Lanka.

Kelleher, Thomas (1976) "Hand Book on EPZ"

Labour Force Surveys - Department of Census & Statistics Sri Lanka

Statistics & Information - Board of Investment of Sri Lanka.

"World Export Processing Zones Association" (WEPZA) International Directory.

Appendix 1

Main enactments on labour, industrial sector in Sri Lanka.

1. Factories Ordinance
Provide for the safety and welfare of workers in factories
(a) Health & welfare facilities (b) Industrial Safety (c) Accident Procedure.
2. Shop & Office Employees Act
Provide for the regulation of employment, hours of work remuneration and connected matters of employees in offices and shops: (a) Wages (b) Others terms and conditions (c) Holidays.
3. Employment of Women, Young Persons and Children Act.
Regulate the employment of women, young persons and children (a) Employment of children (b) Night work for female workers.
4. Industrial Dispute Act
Provide for the prevention, investigation and settlement of industrial disputes and matters connected. (a) Conciliation of disputes (b) Arbitration on disputes (c) Labour Tribunals (d) Collective Bargaining.
5. Termination of Employment of Workmen Act
Make special provisions in respect of the termination of the services of workmen for non-disciplinary reasons. (a) Termination or Closure (b) Retrenchment (c) Lay-off.
6. Employees Holidays Act

Provide for holidays to the Public Sector and Private Sector employees.

7. Maternity Benefits Ordinance

Provide for granting maternity leave, making payments (a) Maternity Leave (b) Payments (c) Nursing intervals.

8. Workmens' Compensation Ordinance

Payment of compensation to workmen for injury in the course of employment. (a) Accident Leave (b) Compensation for injury (c) Occupational diseases.

9. Wages Boards Ordinance

Regulation of wages and other emoluments of persons engaged in various trades (a) Terms & Conditions of Employment (b) Establishment of Wages Boards.

10. Trade Unions Ordinance

Provide for the establishment and functioning of trade unions. (a) Formation (b) Registration (c) Entry to enterprises.

11. Employees Provident Fund Act

Provide contributory social Security benefits. (a) 8% of total earnings by employees (b) 12% of total earnings by employer.

12. Employees Trust Fund Act

Provides non-contributory social security benefits. (a) 3% of total earnings by employer (b) No contribution from employee.

13. Payment of Gratuity Act

(a) Half month's salary for every year of service for 5 years and above.

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|------|-----------------------------|----|
| (8) | Health & Welfare | 8 |
| (9) | Industrial Safety | 9 |
| (10) | Employment Injury | 10 |
| (11) | Termination of Services | 10 |
| (12) | Industrial Disputes | 11 |
| (13) | Joint Consultative Councils | 11 |
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Appendix 2

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| (2) | Normal Working Day and Night Work | 2 |
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Protecting Workers' Rights in the Export Processing Zones (EPZs):
Challenges for the Labour Movement

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Introduction

Since the establishment of the first Free Trade Zone (Export Processing Zone) by the Irish in 1959 around the Shannon International Airport (ILO, 1988), the idea has spread worldwide, especially among developing countries who were made to believe that this option is a quick-fix to the development problem. In actual fact, in the developing world the EPZ model is viewed as the key instrument of export-oriented or driven industrialization, a development strategy that was embraced in place of the import-substitution model that was adopted soon after the attainment of political independence.

One major feature of the EPZ scheme is that the development of such a zone is intimately dependent upon, and perhaps, is conditioned by the presence of foreign firms (ILO, 1988:2). As a matter of fact, it would appear that EPZs are set up to attract the subsidiaries of foreign multinational enterprises with the hope that such firms would generate a large number of new jobs and contribute significantly to increasing the host countries exports of manufactured goods. In order to achieve these objectives, host countries usually bend over backwards to offer juicy incentives such as (in the case of Nigeria); total foreign ownership of enterprise, tax holiday, unrestricted remittance of profits and dividends, among others to attract foreign investors. It is largely based on this over-indulgence of foreign investors that workers and their allies have expressed fears about the social conditions in the

EPZs. This is especially so given the very peculiar nature of EPZ industries and notably their physical insulation from the rest of the local economy and their legally conceded immunity vis-à-vis customs laws, foreign exchange regulations (ILO, 1988) and conventional labour practices and legislations.

In Nigeria, for instance, one of the conditions of employment drawn up by the Nigerian Export Processing Zone Authority (NEPZA) is that "workers employed by companies operating in the EPZ would not go on strike". This is apart from the moratorium of 10 years placed on the formation of trade unions. In the absence of trade unions and the right to strike, how would workers protect their interests in the employment situation? More importantly, why should workers' rights be circumscribed in the name of export promotion or economic development which may only benefit a few members of society?

These questions become germane given the experience of workers within the larger economy in which they are exposed to myriads of abuses and deprivations, in spite of the existence of protective legislations, both domestic and international. It is against this backdrop that this chapter explores what can be done to protect workers' rights in the EPZ enclaves. It is the contention of this author that the rights of employees must be respected in the world of work no matter the temptation to do otherwise and in the peculiar circumstance of the EPZs members of the labour movement and the human rights community should empower workers in these enclaves to insist on the observance of basic rights as well as be ready to take some affirmative actions in this direction. However, before examining these in detail, it is necessary to highlight what constitutes workers' rights.

Components of workers' rights.

Over the years through a combination of struggles and appeals to the conscience of the civilized world workers, acting largely through their organizations, have been able to secure for themselves a body of rights. These rights are complemented by some constitutional provisions which confer certain rights on workers as citizens of given nation states.

In a most general sense workers and trade union rights are those legal provisions which are meant to protect workers not just as producers of national wealth, but also as free citizens. Such rights are conferred on workers and their organizations taking into consideration their special role and the need to protect them from extreme abuse and exploitation in the hands of profit-conscious employers.

In the course of this century both national and international instruments have been devised to give effect to the various provisions on workers' rights and to compel national governments and individual employers to respect these rights. Since its establishment in 1919, the International Labour Organization (ILO) has played a major role in ensuring that workers, individually and collectively, enjoy certain minimum rights. These have come in the forms of Conventions and Recommendations which member countries are expected to comply with. While some of the ILO Conventions have prompted national governments to enact similar legislations, it is important to stress that workers' struggles, based on the need to secure certain measures of dignity for workers, have also assisted in conceding some rights to workers. The need for these rights were also reinforced by Article 23 of the United Nations Universal Declaration of Human Rights of 1948. It says:

Everybody has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment. Everyone, without discriminations, has the right to equal pay for equal work. Everyone who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented if necessary by other means of social protection. Everyone has the right to form and join trade unions for the protection of rights (cited in CDHR 1996, Annual Report: 113).

It is just enough to say for now that workers' struggles revolve around the need to enforce these rights. From the foregoing, it can be argued that workers and union rights are encapsulated in a number of bilateral, multi-lateral and general agreements which extend throughout the world and predicated on a few universal principles of social philosophy and justice.

A number of international instruments which are meant to protect workers in the employment relationship have been discussed in chapter

2. Two of these, Conventions 87 and 98 will be further highlighted here. Along with a number of local legislations and constitutional provisions, they constitute part of workers' rights.

Convention 87 addresses the issue of freedom of association while Convention 98 focuses on the right to organise and collective bargaining. Some specific provisions of these conventions are worth highlighting. Article 11 of Convention 87 provides that "each member of the ILO for which this Convention is in force undertakes to take all necessary and appropriate measures to ensure that workers and employers may exercise freely the right to organise".

Article 1 of Convention 98 provides that "workers shall enjoy adequate protection against acts of entire union discrimination in respect of their employment". Article 4 insists that:

measures appropriate to national conditions shall be taken where necessary to encourage and promote the full development and utilization of machinery for voluntary negotiation between employers or employers' organisations and employees with a view to the regulation of terms and conditions of employment by means of collective agreements.

As mentioned earlier some local (Nigerian) legislations confer certain rights on workers. The Trade Union Act of 1973, The Labour Act of 1974 and the Wages Board and Industrial Councils Act of 1973 variously recognise the right to organise, the right to collective bargaining as well as the right of unions to act on behalf of their members. Added to these are The Factories Act and Workmen's Compensation Act, both of 1987, which seek to protect workers from work-related hazards and diseases as well as making provisions for compensation for injuries or disabilities suffered in the course of employment. Section 37 of the 1979 Constitution (which is presently in force) recognises the freedom of association by Nigerian citizens while the constitution recognises the right to life (a position that can be invoked against employers who endanger the lives of workers under their employment).

The provisions of all the instruments mentioned above can be invoked to ensure that workers in the EPZ enclave are protected from abuse by their employers. It also follows that all efforts to circumvent workers'

rights on the altar of economic development expediency have no basis in law and morality. The international community that came up with all these standards recognise them as the very minimum required to ensure humane and decent work environment for workers. The question that follows is what can be done to protect workers' rights in EPZs. It is this question that is addressed in the next section.

Protecting Workers' rights in EPZs. A task for all

It would appear that those who clamour for an abridgement of workers' rights proceed from the wrong premise that "indulging" workers would impede production activities, and in turn slow down economic development (see Panford, 1994 for an elaboration of such views). Counterposed against this view is the position of scholars like Claire (1977) that workers' rights were not only compatible with, but also necessary for, sustained social progress (see Panford, 1994:9). Along this line, our point of departure is that given the exploitative character of capitalist work relations, all hand must be on deck to protect the worker from extreme abuses and mitigate the adverse consequences of the employment relationship. This is certainly a task for all. Consequently, the government, workers themselves, trade unions and non-governmental organizations (especially those interested in human rights) should work towards ensuring the observance and protection of human rights in the EPZs.

Government is generally touted as the custodian of public good and are such, irrespective of the sphere of national life in which they are, government has a basic duty to protect, and ensure for the citizenry a humane existence. If the Nigerian government must live up to this expectation, it must do everything possible to ensure that employers in the EPZs observe basic minimum standards and working conditions, with or without union presence in the various work establishments. This can be done through increased labour inspection services. The ILO had argued in respect of its conventions that:

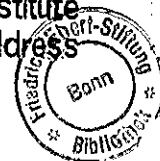
making work more humane and promoting conditions in which work respects the worker's life and health, requires creating a machinery to oversee and supervise implementation of Conventions adopted in the first instance to humanise work (ILO, 1984: 24).

A similar machinery can be set up by government in respect of various labour legislations subsisting in the country. If this machinery is properly put into use it will go a long way in curbing the excesses of employers who are mainly driven by the profit-motive.

Leaving the protection of workers' rights to government alone, especially in a capitalist society, amounts to a lack of interest in protecting such rights in the first place. Given the philosophy behind the establishment of EPZs and the commitment of the state to private property, and going by what obtains within the polity, the Nigerian state only pays lip-service to the protection of basic rights, including those of workers. As such, other groups of people should be interested in protecting workers' rights. One of such groups is the collectivity of workers.

Workers themselves have an important role to play in defending their own rights. Labour history all over the world shows that rights and concessions are not won on a platter of gold. Experience has also shown that the capitalist state is not too willing to grant basic rights to workers. In light of this, workers (because they bear the consequences of breaches of workers' rights) should be ready to fight for the observance of their rights. They should fight acts of employers that are in contravention of both local legislations and international labour standards. The absence of trade unions should not be a deterrent in this regard. This is moreso given the fact that some of these legislations recognise the right of workers as individual employees. If it becomes difficult to seek enforcement of workers' rights under the existing labour legislations, workers can institute civil actions against their employers in order to seek restitution. Workers can, informally support aggrieved individuals in doing this. The fact of common employment and a common predicament should make this attractive.

In spite of the individual remedial measures suggested above, workers should still insist on their right to freedom of association. There is no one-to-one relationship between the denial of the right of association and the idea of EPZ. As an interim measure, workers can constitute themselves into committees or other informal structures to address



specific issues as they relate to the rights and interests of workers. Links should also be established with groups outside the work places that are interested in addressing workers' plight.

In order to realise some of the options suggested above, workers in the EPZs should enjoy the support of the trade unions and the various human rights groups in the country. The trade unions should insist on their right to organise workers irrespective of the sector of the economy in which they find themselves. If this struggle fails, they (unions) should establish informal links with EPZ workers in their respective industries, with a view to assisting them in their struggles for fair and humane working conditions. This position recognises the present sorry state of the unions in Nigeria but it is hoped that sooner than later, the unions will overcome their predicament and become more relevant to the aspirations of Nigerian workers.

With respect to the NGOs, it is heartwarming to note that already some of them, notably; the Committee for the Defence of Human Rights (CDHR), the National Association of Democratic Lawyers (NADL) and the Civil Liberties Organization (CLO) have started addressing the issue of workers' rights. This is being done both at the level of advocacy, litigation and human rights education. It can only be added that these should be extended to workers in the EPZs, especially given the absence of unions. The role of human rights groups in promoting workers' rights is quite important given the wide networks of contacts and support enjoyed by them which makes it possible for them to draw the attention of local and international communities to the violation of workers' rights. Organisations of the labour movement should equally be involved in addressing the question of workers' rights. They should readily fill the vacuum created by the absence of trade unions in the EPZ enclave. For the NGOs to succeed in the task being imposed on them, workers themselves, it must be stressed, should be willing to co-operate with the NGOs in protecting and defending their rights. They should report cases of infringements of rights to the NGOs and be prepared to go the distance in seeking restitution. Without the preparedness of workers to do this, there is a limit to what the NGOs alone can do.

In all these, education has role to play in the protection and defence of workers' rights. Workers need to be aware of the various rights of workers and their well-being as workers. This calls for a constant programme of education for workers. It is only when workers are aware of these rights that they can rise up to their defence. Workers should bear it in mind that both education and political activity are necessary to ensure compliance with workers' rights.

Conclusion

The dictates of capitalist political economy mean that employers and the state would be ready to trample on the rights of workers as this would further engender the exploitation of the labouring class. In view of this, the task of defending workers and trade union rights cannot be left on the shoulders of workers and their unions alone. Public spirited organizations such as NGOs that are interested in widening the scope of human rights should be involved. This is particularly so given the prevailing circumstances in which Nigerian workers and trade unions find themselves today. We have gone past the stage at which the state and private employers appeal to some base 'national' sentiments as justifications for abridgement of workers' rights. If the society truly values the contribution of workers to the economic development process, such should be acknowledged by according them basic human dignity and adequate compensation for their efforts in generating the commonwealth. This should be reflected in a regime of humane and fair conditions of work and terms of employment. Anything short of this amounts to begging the issue.

References

- Committee for the Defence of Human Rights (1996) Annual Reports on the Human Rights Situation in Nigeria, Lagos: CDHR.
- Federal Government of Nigeria, (1973) Trade Union Act, Lagos: Federal Government Press.
- _____, (1973). Wages Board and Industrial Councils Act, Lagos: Federal Government Press.
- _____, (1974). Labour Act, Lagos: Federal Government Press.
- _____, (1987). Factories Act, Lagos: Federal Government Press.

- _____, (1987). Workmen's Compensation Act, Lagos: Federal Government Press.
- International Labour Organisation, (1948) Convention 87, Freedom of Association and Protection of the Right to Organise, Geneva: ILO.
- _____, (1949). Convention 98, Right to organise and Collective Bargaining, Geneva: ILO.
- _____, (1984). The ILO and The World of Work, Geneva: ILO.
- _____, and United Nations Centre on Transnational Corporations (1988). Economic and Social Effects of Multi-national Enterprises in the Export Processing Zones, Geneva: ILO.
- Panford, K., (1994). African Labour Relations and Workers Rights. Assessing the Role of the International Labour Organization, Connecticut & London Greenwood Press.