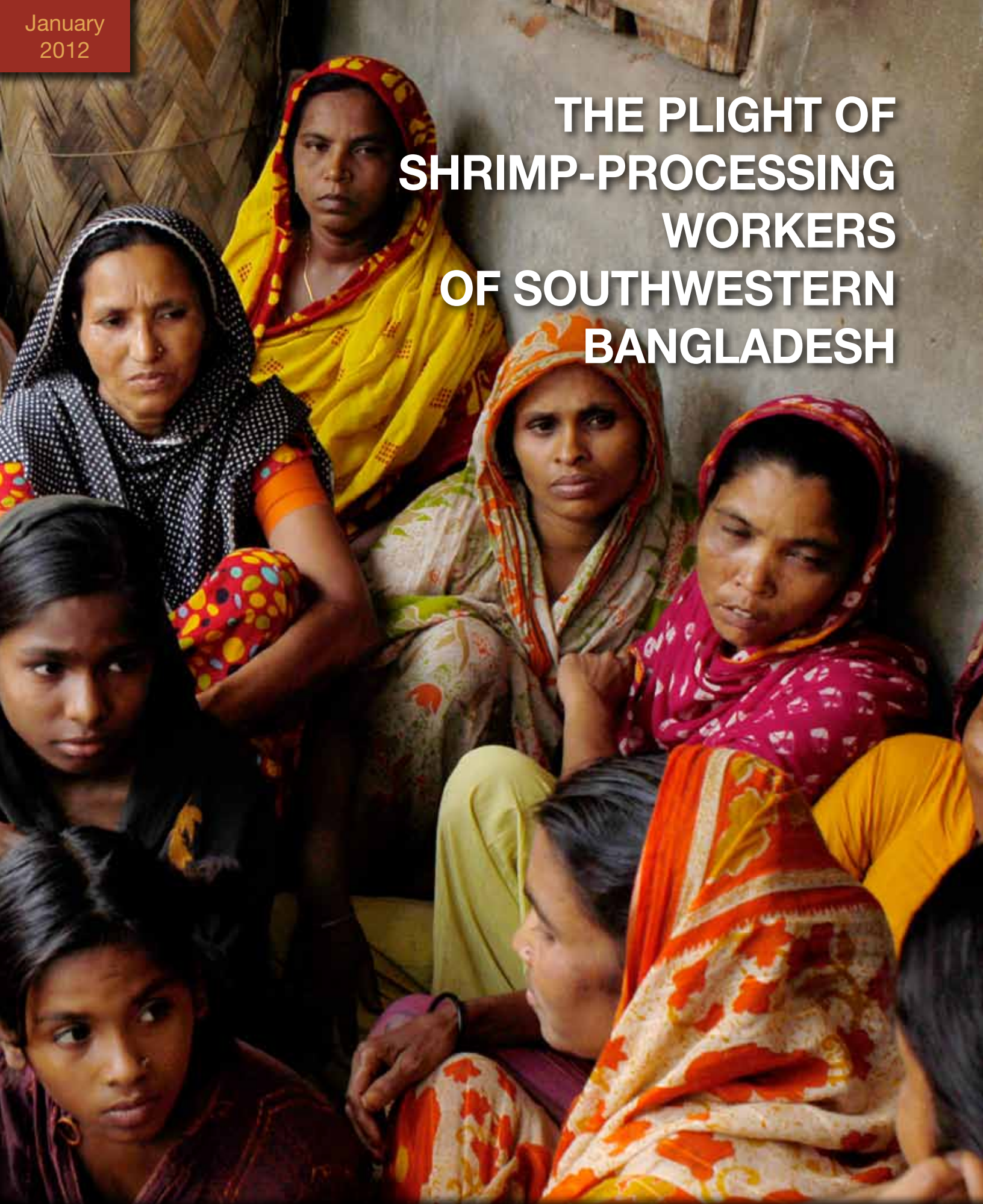


January
2012

THE PLIGHT OF SHRIMP-PROCESSING WORKERS OF SOUTHWESTERN BANGLADESH



The Solidarity Center and Social Activities For Environment (SAFE)

Contents

Foreword: Progress, Regression and Ongoing Struggle	3
Executive Summary	5
Chapter 1—Overview and Methodology	9
Chapter 2—The State of Worker Rights	13
Chapter 3—The Environment for Freedom of Association	21
Chapter 4—Conclusion and Recommendations	27
Appendix 1—International Labor Organization Conventions Ratified by Bangladesh	31
Appendix 2—Hierarchy of Work in a Shrimp-Processing Factory	32
Endnotes	34



Foreword: Progress, Regression and Ongoing Struggle

BANGLADESH'S SHRIMP INDUSTRY provides the country with an important source of export revenue, second after garments. The country is the sixth-largest aquaculture producer in the world.¹ The industry employs about 1 million people during peak season across the supply chain, the majority in the country's south, where good jobs are few and poverty is overwhelming.

As shrimp production and processing boomed over recent decades, substandard labor practices and labor rights violations also expanded. In 2005, the Solidarity Center, which partners with local trade unions and nongovernmental organizations (NGOs) to monitor labor conditions around the world, began working with Bangladeshi NGOs to look at ways to ensure the rights of shrimp workers are protected at the workplace. One of these partners, Social Activities For Environment (SAFE), has been advocating for improved worker rights in Bangladesh's shrimp sector since 2003.

Over the last six years, other labor organizations, news organizations, environmentalists and governments have analyzed challenges facing the industry and the sometimes extreme conditions endured by its workers.² A 2006 study, *"A Pro-Poor Analysis of the Shrimp Sector in Bangladesh,"*³ showed the overwhelmingly female workforce was not adequately sharing in the industry's gains. Other reports, including one by CNN,⁴ have looked at child labor in the industry and environmental degradation resulting from shrimp production and processing.

In 2007, the American Federation of Labor-Congress of Industrial Organizations (AFL-CIO) raised the issue of shrimp worker exploitation as part of a complaint it filed with the Office of the U.S. Trade Representative (USTR) seeking review of serious labor rights violations and



non-implementation of Bangladesh's labor laws. According to the complaint, "the labor conditions in the shrimp industry in Bangladesh are among the worst observed in Asia, including dangerous child labor. Living conditions also resemble the 'company towns' of coal miners in the U.S. in the late 19th century, including ownership of workers' hovels and debt-bondage of the local stores selling food to the workers."⁵ The complaint still is under review by the USTR. The Bangladesh government and the shrimp industry have issued denials.

The Solidarity Center's efforts to help shrimp-processing workers gain their rights resulted in a major report in 2008, *"The True Cost of Shrimp."*⁶ The report, which detailed the stories of vulnerable shrimp workers in Bangladesh and Thailand, was designed to increase awareness within a broad audience in the hope that employers, buyers and governments would do more to protect workers in the industry.

The release of the report had a dramatic and global impact, garnering media attention in the United States and around the world. In Bangladesh, after a period of denial, shrimp-processing plant owners, through their association, said they were committed to

improving conditions for shrimp workers. Later that year—now under pressure from the U.S. government, labor NGOs and some buyers—Bangladesh industry representatives committed to “adopting measures to ensure they (the country’s labor laws) are complied with at all levels of the industry.”⁷ And indeed, some progress was made. Employers used less child labor, allowed some workers to become formal (not contract) employees, improved safety and permitted some workers to form representative unions.

However, by August 2010, Bangladeshi shrimp workers saw progress made toward gaining their rights not only halted but, in some cases, reversed by shrimp-processing companies, which had begun to undercut nascent unions while failing to comply with wage and hour regulations.

This follow-up report, based on an in-depth survey in late 2010 and several interviews again in late 2011, is necessitated by worker reports that labor abuses continue to exist in Bangladesh’s shrimp-processing plants and evidence that the country’s laws continue to be violated. The lack of a well-functioning labor sector in Bangladesh and its inability to secure the labor rights of its citizens has important ramifications for people striving to earn a decent living as well as for the country’s overall development objectives.

The Solidarity Center hopes this report brings a renewed focus on an important industry in which mostly poor women struggle for dignity as they help ensure Bangladeshi shrimp makes it to the dinner and restaurant tables of the United States and Europe.



Executive Summary

THE PREDOMINANTLY FEMALE, LOW-INCOME AND LARGELY UNEDUCATED WORKFORCE employed by major shrimp processors in the southwestern region of Bangladesh faces inadequate safety and health protections, receives near slave (or no) wages and has nowhere to turn for assistance. Despite laws on the books, labor rights play little role in the lives of many of these workers, who toil long hours in often inhumane conditions.

This study specifically examines the working conditions of more than 700 permanent and contract workers at 36 seafood-processing plants in Khulna, Satkhira, Bagerhat and Jessore, in southwestern Bangladesh, who in late 2010 were interviewed about such issues as wages and how they are paid; hygiene, health and safety; labor laws and their enforcement; and working conditions. Background data were collected from different sources, such as the Bangladesh Labor Act 2006 (BLA 2006),⁸ the Bangladesh Frozen Foods Exporters Association (BFFEA),⁹ Social Activities For Environment (SAFE), International Labor Organization (ILO) conventions and various research reports.

Interviews with workers reveal that BLA 2006 is far from fully implemented. The majority of workers surveyed did not receive an appointment letter which, along with a photo identification card, serves as an employment contract.¹⁰ Both permanent and contract workers said management routinely keeps the letters and cards that are filled out for workers—depriving workers of important proof of work status. Likewise, the circumstances of wage amounts, wage payments and dates of payment, as reported by workers, are in violation of Bangladesh law, with nearly three-fourths (73 percent) of contract workers reporting they receive less than the nationally set minimum wage¹¹ and about half of permanent workers

reporting they receive their wages late.¹² Pay records themselves are nearly nonexistent.

The study also examines gender discrimination, working and overtime hours, wages, and holiday and leave situations with similarly grim findings. BLA 2006 clearly states rules concerning such conditions of work, but the reality reported by the frozen seafood industry workers in the southwestern part of the country looks very different. Respondents reported rampant discrimination and obvious violations of wage and hour laws.

Processing industry workers toil more hours each day than allowed under BLA 2006, and overtime pay is nonexistent. More than 73 percent of workers surveyed said they worked 26 to 30 days a month, despite BLA 2006 establishing that an adult worker employed in an industrial establishment shall be allowed one day off during each week worked.¹³

Meal breaks, rest breaks, days off during a weekly work period and annual leave are

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More than 96 percent of workers interviewed said there were children between the ages of 14 and 18 working in their factories.

mostly myths for workers surveyed, despite being legal entitlements. Finally, many workers have never seen an inspector examining the processing operations—and the majority said inspectors had filed no complaints against factory operators.

Women report earning less than men for the same work—as well as receiving substandard benefits, with irregular access to medical and child care.

The situation is particularly grim for contract workers, who make up 70 percent to 80 percent of the workforce at the processing plants during the peak work season.¹⁴ Contract workers said they received almost none of the benefits and rights to which they are entitled.

Many workers said children younger than 14 are working in their factories—a violation of International Labor Organization Convention 182¹⁵ on child labor, ratified by Bangladesh in 2001. More than 96 percent of workers interviewed said there were children between the ages of 14 and 18 working in their factories. Bangladesh has not ratified ILO Convention 138 on minimum age, though portions of BLA 2006 address work by children and adolescents.¹⁶

The workers painted a grim—but possibly incomplete—picture of their jobs and workplaces. Some respondents indicated they were afraid of their employers and that if they told the truth about abusive working conditions, they might lose their jobs. Given that more than three-quarters of respondents—both permanent and contract workers—had nothing to say when asked about unfair labor practices in their workplaces, it is fair to assume these workers are intimidated into silence by their supervisors, factory managers and owners.

Labor plays a prominent role in the country's political and economic direction and is identified as one of the key policy areas in Bangladesh's Poverty Reduction Strategy Paper (PRSP). Bangladesh has struggled over the years to comply with a number of international labor rights standards and norms, most notably in the areas of freedom of association and child labor.

A voice on the job through a union might be a path to better, safer working conditions with all legal rights and privileges accorded the workforce. But unions have only a small presence in the southwestern Bangladesh fish- and shrimp-processing plants.¹⁷ Only six factories of the 36 surveyed—not quite 17



percent—had some type of a union presence. Approximately 75 percent of workers surveyed had no comment on unions, but those who did reported discriminatory behavior by management toward union members, which is confirmed by SAFE, the Solidarity Center and newspaper accounts. In the case of five of the nascent unions, employers quickly terminated union leaders or employed co-opting tactics, intimidation, harassment and even physical violence against them. Only one group of workers still functions as a true trade union, as opposed to a so-called “company” union.¹⁸

Some workers are not aware of their basic rights at work and have little understanding of what a voice on the job through forming a union could do to make their working conditions better and safer. Nearly 60 percent of workers said they never had received any kind of workplace rights training from nongovernmental organizations (NGOs). Roughly that same percentage either said they had no opinion when questioned about the possibility of starting a union in their workplace or said they did not want to form a union.

However, as is the case throughout the world, becoming union members provides the best opportunity for workers to have a say in their daily working lives—and make positive changes in their work, such as gaining wage security and access to safe working conditions, adequate leave and other benefits. This is particularly true for women in Bangladesh: Though they constitute about half of the country’s population, they have a much lower status than men, with limited access to education, training, skills development, health care and employment.

Those workers who had been given the opportunity to learn about unions tended to have a favorable view. About half of the workers with knowledge of unions said they thought a strong union would help them; 40 percent to 60 percent of such workers said they would start or join a union in their workplace.

Helping workers form a union in such an environment can be dangerous for organizers and, most especially, the workers. Given the



importance of shrimp and frozen fish exports to the country’s economy—second in terms of foreign exchange earnings¹⁹ for Bangladesh, after garments—government and industry leaders would not welcome any challenges to their multimillion-dollar operations.

The question remains how this workforce—primarily female, with little education, low literacy and high poverty rates—can overcome the fear of employers and overcome weakly enforced labor laws. Experience in Bangladesh, where a long struggle to empower free trade zone workers has yielded some positive results, teaches us a multipronged strategy that engages all the stakeholders must be employed. Such a strategy starts with educated workers who know their rights and feel empowered to change their work conditions.

History has shown that workers who understand their rights in the workplace will form and join unions because their collective voice builds power. The first step to helping these processing factory workers find their voice is in educating them regarding their rights, thus empowering them to stand up to management’s tactics of intimidation. This work can be done by labor unions, various

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NGOs and also the Bangladesh Frozen Foods Exporters Association (BFFEA), which could make strict implementation of BLA 2006 a condition of membership in the association.

Bangladesh policy makers also could focus on the particular situation of contract workers, who lack specific protections and are particularly vulnerable to exploitation. During the high season for processing, contract workers comprise nearly 80 percent of the processing factory workforce, and the vast majority—some 97 percent—work for only one employer. They are, in reality, permanent workers without even the few rights and protections currently accorded that class of workers.

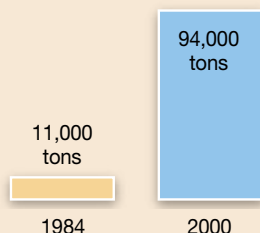
Finally, worldwide customers of the southwestern Bangladesh fish- and shrimp-processing factories have an opportunity to assist exploited workers by putting pressure on companies in their home countries. Specifically, educational campaigns that inform consumers of the sweatshop-like conditions workers endure to bring their shrimp and fish dinners to the table may encourage public pressure, in an economic form, to bring about change from the outside—change that could help workers on the inside gain the power and strength they need to organize and bargain for better wages and working conditions. In addition, the European Union and the United States—the two biggest importers of the factories' products²⁰—could use their trade and aid policies²¹ as a means to improve the workers' situation.



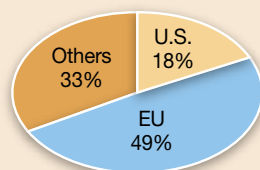
1

OVERVIEW AND METHODOLOGY

The frozen shrimp export market in Bangladesh is rapidly expanding



The United States and EU account for two-thirds of the Bangladesh frozen shrimp export market



Women comprise 80 percent of the workforce



THE SHRIMP SECTOR of Bangladesh is very important in economic terms to the country, as it contributes significantly to foreign exchange earnings and employment generation in rural areas. In 2009–2010, total export earnings from the shrimp- and fish-processing industry were more than \$437 million—\$348 million for shrimp (mainly saltwater shrimp) and \$89 million for fish. The industry has grown nearly fourfold since the 1980s, with the total production area estimated to have expanded by approximately 15 percent per annum in the last 15 years.²²

Tropical shrimp represents more than 70 percent of the total export earnings from all agro-based products of Bangladesh and is the second-largest export commodity, in terms of dollar sales, after the garment industry.²³ Bangladesh exports shrimp primarily to the European Union (49 percent) and the United States (18 percent), with other countries comprising the remaining 33 percent. Bangladesh ranks among the world's top 10 producers, accounting for roughly 3 percent of world sales. The shrimp industry in Bangladesh rapidly expanded during the global “shrimp boom,” with shrimp production increasing from 11,000 tons to 94,000 tons between 1984 and 2000.²⁴

Some 148 shore-based, exporting shrimp- and fish-processing plants have been set up in Bangladesh, in Dhaka, Chittagong, Khulna, Jessore, Satkhira, Bagerhat, Cox's Bazar, Chandpur, Kishorganj, Sylhet and Patuakhali, of which 88 are licensed by the Bangladeshi government. Out of these 88 plants, 74 plants are approved by the European Commission, 79 plants are registered by the U.S. Food and Drug Administration (FDA) and 59 plants have a U.S. FDA code.²⁵ This study interviewed workers at 36 plants in the southwestern part of Bangladesh that hold membership in the Bangladesh Frozen Foods Exporters Association (BFFEA). The majority of these plants have approval from the European Commission and the U.S. FDA, respectively. The plants were selected as they were in operation at the time of the study.²⁶

The shrimp- and fish-processing industry faces several challenges. Exports have increased over the years, but factories still have greater capacity than raw materials to process. Currently, the factories run at approximately 15 percent to 18 percent of their installed capacity. Also, processors must comply with the food safety standards of importing countries. In recent years, the European Union (EU) has rejected several shrimp consignments from Bangladesh because it found metabolites of banned nitrofurans and other hazardous chemical contaminants in the products. In addition, the industry has had difficulty meeting EU traceability standards.²⁷ The Bangladesh Labor Act of 2006 (BLA 2006) also sets a variety of conditions for factory operators.

Bangladesh's shrimp industry directly employs, across the entire value chain (breeding, raising, harvesting, transporting, processing and selling), about 1 million people, who support more than 3.5 million dependents. In the southwest part of the country examined by this study, the BFFEA estimates some 25,000 workers are employed in processing in Khulna, Bagerhat, Satkhira and Jessore during peak season.²⁸ Workers who were interviewed in late 2010 estimated there were closer to 7,200 workers in the 36 factories examined during the off-peak season, which runs from March to October.

While workforce numbers might differ throughout the year, its makeup does not. Most workers (roughly 80 percent) in the shrimp-processing industry are female. According to plant owners, 70 percent of workers are hired by labor contractors and 30 percent are directly employed. Other reports estimate that closer to 80 percent of workers are hired by labor contractors.²⁹ These workers have little to no standard education, little to no understanding of their rights as workers under BLA 2006 and little to no knowledge of how to ensure they receive these rights on the job.

As Table 1.1 shows, permanent workers identified job security, appointment letters and a weekly holiday as their top priorities.

Workers' Rights

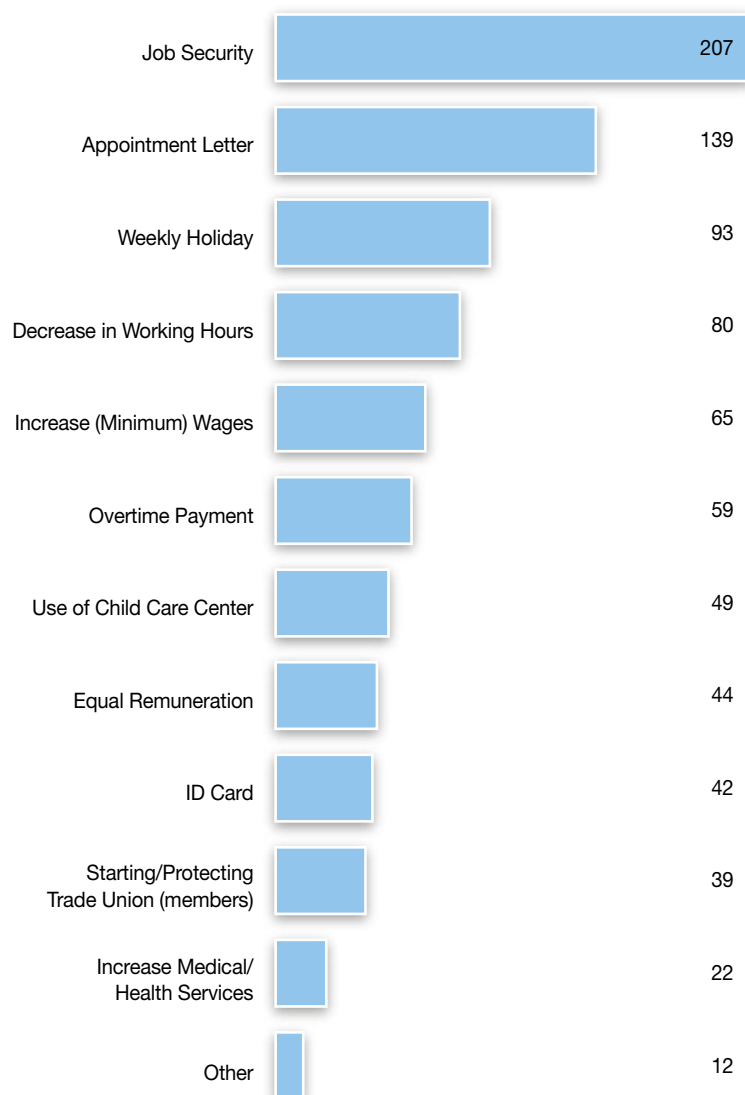
The government of Bangladesh has ratified 33 International Labor Organization (ILO) Conventions (see *Appendix 1*), including seven of the eight fundamental conventions found in the ILO Declaration on Fundamental Principles and Rights at Work, 1998, which covers freedom of association, the right to collective bargaining, the elimination of forced labor and elimination of discrimination with respect to employment and occupation.³⁰ The Bangladesh government has not yet ratified the ILO Minimum Age Convention (138) and has not established a uniform minimum age for admission to work.³¹

Bangladesh labor law is based on 21 labor and industrial laws; the Bangladesh Labor Act of 2006 (BLA 2006) constitutes the legal framework for workplaces in the shrimp-processing industry.³² BLA 2006, effective Oct. 11, 2006, combined and modified laws relating to employment of workers, the relationship between workers and employers, the determination of minimum wages, compensation for injuries arising out of and in the course of employment, the formation of trade unions, raising and resolving industrial disputes, health and safety, the welfare and employment environment of workers, apprenticeship and other related issues. The act has 21 chapters with 354 sections and five schedules.

The Bangladesh Labor Act of 2006 applies to both permanent workers and workers employed through a contractor. Under the act, a contractor who employs workers is treated as an employer and is liable for implementing the provisions of the law for the workers he or she employs. In the act, however, contract workers are not defined as a category of workers (Section 4: Classification of workers and period of probation). The act does mention temporary and casual workers, but the nature of employment of most non-permanent workers in the shrimp- and fish-processing factories does not match the definitions of these categories.

Labor plays a prominent role in the country's political and economic direction and is identified as one of the key policy areas in Bangladesh's Poverty Reduction Strategy Paper (PRSP). Bangladesh has struggled over the years to comply with a number of international labor rights standards and norms, most notably in the areas of freedom of association and child labor. It also has suffered from weak industrial relations machinery and poor enforcement of its labor laws. Accordingly, Bangladesh's

Table 1.1 PRIORITY ISSUES FOR PERMANENT WORKERS



Source: Field Survey, December 2010

The Bangladesh Labor Act of 2006 applies to both permanent workers and workers employed through a contractor.

industrial sectors have been affected over the years by worker unrest and industrial instability. The lack of a well-functioning labor sector in Bangladesh and its inability to secure the labor rights of its citizens has important ramifications,

not only for the intrinsic development objective of protecting workers' rights and well-being, but also for achieving Bangladesh's overall development objectives, because economic gains are poorly distributed.

Methodology

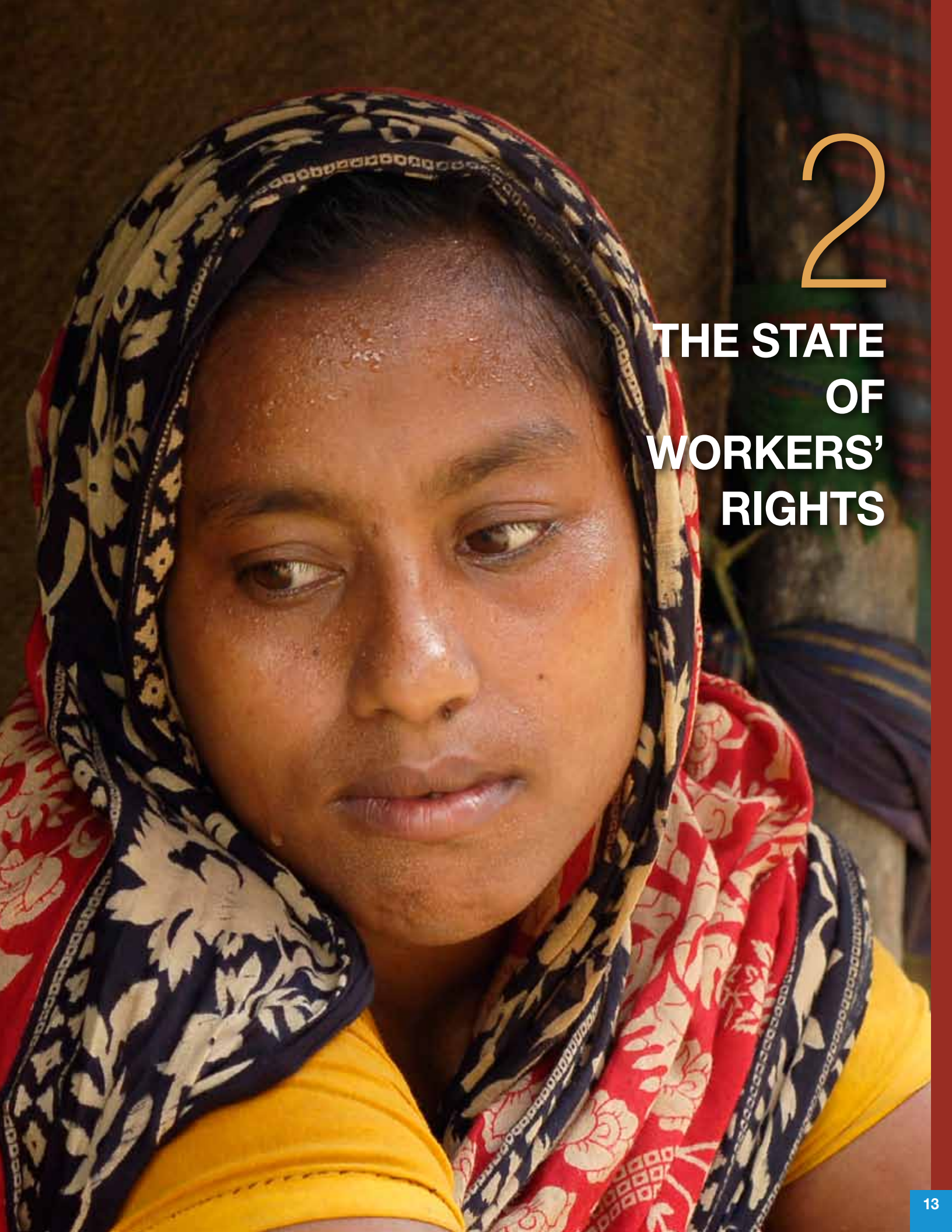
Both quantitative and qualitative methods were used to summarize the findings. Thirty-six shrimp-processing factories (chosen because they were in operation at the time) in Khulna (31), Jessore (1), Satkhira (2) and Bagerhat (2), out of a total of 53 registered factories, were identified. Based on estimates by workers, 7,206 people worked in the identified factories—3,479 permanent workers and 3,727 contract workers. Data were collected from approximately 10 percent (both permanent and contract workers) of this total estimated population. Though a larger sample size ensures more representative study findings, this sample size was selected after consideration of the available time, manpower and funds.

Two well-defined and structured questionnaires were prepared, one for permanent workers and one for contract workers. A pilot survey was conducted with five contract workers and five permanent workers using the draft questionnaires before the actual survey. On the basis of the pilot survey, researchers changed the questionnaires before finalizing them.

The primary data for this report were collected during one-on-one interviews with a total of 721 workers using the questionnaires about the workers' rights situation in the shrimp-processing factories. Secondary data were culled from different sources, such as the BLA 2006, the BFFEA, Social Activities For Environment (SAFE), ILO Conventions and research reports. The survey was conducted from November to December 2010.

Researchers found some limitations in conducting the research:

- Workers were fearful they would be fired if owners found out they had participated; consequently, it was difficult to get some workers to consent to an interview.
- The narrow timeframe meant workers were interviewed during the off-season; a comparison of findings based on interviews conducted during the peak processing season might yield different information and/or conclusions.
- The off-season timing of this research yielded a smaller pool of available workers to interview. The number of contract workers, in particular, was relatively low in comparison with their percentage of the peak-season workforce.



2

THE STATE OF WORKERS' RIGHTS

Some 73 percent of respondents work 26 to 30 days a month, while about 17 percent report working 21 to 25 days a month and the rest work less than 20 days a month.

THE SNAPSHOT OF WORKING CONDITIONS generated by this survey reveals that the economically important shrimp-processing industry in Bangladesh rests on the backs of a primarily female, largely uneducated workforce. Their contribution to the production of food for the export market is delivered in sweatshop-like factories where labor law largely goes unenforced.

Researchers interviewed more than 700 shrimp-processing industry workers in 36 of the 53 plants across southwestern Bangladesh—348 permanent workers and 373 contract workers. Among the permanent workers, 77 percent (268) were women; more than 97 percent of contract workers interviewed were women (363). Contract workers enter the workplace on a temporary basis and do not receive the same benefits as permanent staff.

The majority of the contract workers interviewed work for just one contractor; about 5 percent worked for two, while one respondent reported working for three contractors and three respondents reported working for four contractors. About the same percentages of workers reported working in one factory

through their labor contractor or multiple factories for their contractors.

Of the 373 contract workers, some 22 percent said they worked through temporary labor arrangements because of the higher salary level; nearly the same percentage said it was because it was easier to find a job. The majority (57 percent), however, reported they worked as contractors because they could not find a permanent job.

The majority of the factories—31—are in the Khulna region, so it follows that most of the workers interviewed are from that region.

Labor Law and Its Enforcement

Letter of Appointment/Identity Card

Under the Bangladesh Labor Act 2006 (BLA 2006), workers are to receive a *letter of appointment* and an *identity card* with a photograph by the employer before starting work. Among all workers interviewed, approximately 86 percent reported they had not been provided appointment letters. The situation was markedly worse for contract workers, with almost 100 percent not receiving a letter, compared with 72

Bangladesh Labor Act 2006, Section 100—Daily working hours:

No adult worker shall ordinarily be required or allowed to work in an establishment for more than eight hours in any day: Provided that, subject to the provisions of Section 108, any such worker may work in an establishment not exceeding ten hours in any day.

Bangladesh Labor Act 2006, Section 102—Weekly hours:

- (1) No adult worker shall ordinarily be required or allowed to work in an establishment for more than forty-eight hours in any week.
- (2) Subject to the provisions of section 108, an adult worker may work for more than forty-eight hours in a week:

Provided that the total hours of work of an adult worker shall not exceed sixty hours in any week and on the average fifty-six hours per week in any year.

Bangladesh Labor Act 2006, Section 108—Extra allowance for overtime:

- (1) Where a worker works in an establishment on any day or week for more than the hours fixed under this Act, he shall, in respect of overtime work, be entitled to allowance at the rate of twice his ordinary rate of basic wage and dearness allowance and ad-hoc or interim pay, if any.
- (2) Where any worker in an establishment is paid on a piece rate basis the employer, in consultation with the representatives of the workers, may, for the purposes of this section, fix time rates as nearly as possible equivalent to the average rates of earnings of those workers, and the rates so fixed shall be deemed to be the ordinary rates of wages of those workers.
- (3) The government may prescribe registers to be maintained in an establishment for the purpose of securing compliance with the provisions of this section.

percent of the permanent workers who lacked such a letter. Of the relatively few who had received a letter, 28 percent were permanent workers while only one—of 373—contract workers received a letter.

Interestingly, nearly half (48 percent) of permanent workers who had received an appointment letter reported that management kept it in the office—which would make it hard for the workers to prove employment, the very reason for the letter in the first place.

More workers—some 45 percent of all those interviewed—reported receiving identity cards from their employer. This was skewed definitively toward permanent workers, with 85 percent of respondents receiving ID cards. The majority of those who had received a card (86 percent) said they had it in their possession, while the employer kept the ID card for the remaining permanent workers who had received one.

Contract workers, however, fared much worse. Despite the BLA 2006 mandate concerning ID cards, slightly more than 8 percent of contract workers said they had been issued an ID by their employer.

Hours and Leave

Once on the job, contract workers truly are on the job. They report working far longer hours and for many more days per month than the timeframes specified by BLA 2006. Some 73 percent of respondents work 26 to 30 days a month, while about 17 percent report working 21 to 25 days a month and the rest (more than 9 percent) work less than 20 days a month.

BLA 2006, Section 100 establishes a maximum *eight-hour work day*, which may be extended to 10 hours provided the worker is paid overtime in accordance with Section 108. With one day off per week, the work week for an adult worker is 48 hours which, with overtime, may be extended to 60 hours. However, the weekly hours cannot exceed an average of 56 hours per week in any year.

If contract workers are working eight hours a day nearly every day—and as stated above,

nearly three-fourths report working 26 to 30 days a month—it is easy to see how the daily and weekly hours limitations routinely could be exceeded. In fact, workers report that is the case.

For permanent workers, one-third report having an eight-hour workday; some 4 percent report working eight to 10 hours daily, while nearly two-thirds (63.5 percent) report working more than 10 hours a day. An astounding 88 percent of contract workers—327 of 373 surveyed—report working more than 10 hours each day, while some 3 percent said they worked an eight-hour day and the remaining 9 percent said they worked eight to 10 hours daily.

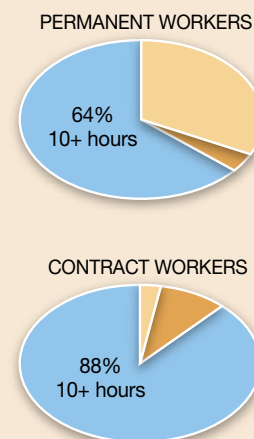
As noted, the majority of permanent and contract workers report working 26 to 30 days a month, 10 hours or more a day. Yet BLA 2006, Section 103 states *an adult worker shall be allowed one day a week as a holiday*. Obviously this is not the case for those workers who do work every day of the month, and the workers' responses bear this out. More than 88 percent of permanent workers (308 workers) and 99 percent of contract workers (372 workers) reported they did not receive a weekly holiday as provided for under Section 103.

Regarding *casual leave*, the BLA 2006, Section 115 states every worker is entitled to such leave with full wages for 10 days each calendar year, with no carryover to the following year. This presents another situation in which permanently employed workers fared markedly better than contract workers, with more than two-thirds receiving such leave.

The situation is much worse for the average worker expecting to receive *annual leave* with wages as provided in the BLA 2006, Section 117. Under those rules, factory workers who have completed one year of continuous service are entitled to one day of paid leave for every 18 days of work. Very few workers reported receiving the leave to which they were entitled—2 percent of permanent workers and 3 percent of contract workers.

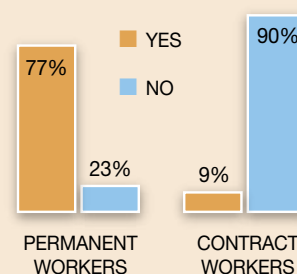
Of the eight permanent workers who said they did enjoy annual leave, five said they

A majority of workers work more than 10 hours a day with no overtime pay



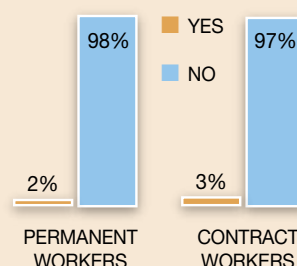
Source: Field Survey, December 2010

A majority of contract workers do not receive casual leave



Source: Field Survey, December 2010

A majority of workers do not receive annual leave with pay



Source: Field Survey, December 2010



Sunob Mollik In 1998, after my parents died, I began working at a seafood processing plant as an assistant operator in the machine room. We produced ice for fish, fueled equipment and kept the machines clean to keep them free of bacteria. I also repaired and maintained the machines to keep them in good condition.

Within a year I got a promotion, taking my wages from 1,400 taka (\$19.44) a month to 2,400 taka (\$33.33) a month. I worked in this factory until February 2004, when I joined another shrimp-exporting company as a senior operator with the same responsibilities. Then my monthly salary was 3,000 taka (\$41.67). Later, I was promoted and received 4,600 taka (\$63.89). I got married the same year; my wife was working at another processing plant.

At my new job, we had an eight-hour workday. Sometimes we had to work overtime, but my overtime wages were not double my regular wage, as it should be per the labor law. And mechanical workers were the only ones who got overtime pay.

I never thought the workers would be able to form a union here, but I knew the workers had the legal right for it and I wished sometimes to inform them about this right. I realized it was unjust to deceive these poor workers. I saw the management terminating lots of workers without any reason.

I encouraged my co-workers to go to the NGOs to receive training and learn about workers' rights. In mid-2010, around 50 of my co-workers were trying to form a union and they asked me to be president.

After submission of the union application to the local office of the government labor department, management started creating pressure on the workers. When I refused to sign papers for them, I was transferred to the ice mill. I was alone and assigned to do the work of four to six people, with a guard who watched me and reported to management what I did. Later I was terminated along with others associated with the union. I filed a case and the local labor office tried to reinstate me, but that effort failed.

I tried to get jobs in other factories but faced nothing but incidents of humiliation. In some cases, the management said, "Look, the famous leader has come."

Later, I decided to take my termination benefits and started a fish business for the domestic market. When I think what I used to do and what I do now, my tears come out. My family members do not see the union as a bad thing. They know this is necessary for the workers, but they wanted me not to get involved in any problematic situation. Sometimes I ask myself whether I committed any crime or whether I was greedy. I never wanted to harm anybody; so I did not realize I would have to face so much distress.

had received 1–20 days for which they were paid; three said they had received 20–24 days (though two of them reported receiving no pay for those days). Of these eight respondents, six took annual leave with wages and two without. Among contract workers, three enjoyed one day of leave with wages and seven had 5–10 days' annual leave without wages.

Other Types of Leave

The BLA 2006, Section 46 provides for payment of a *maternity leave*—for eight weeks before and eight weeks after the expected day of delivery—provided the woman has worked for the employer at least six months before the day of delivery. This benefit is not available to women who already have two living children but, in that circumstance, she can take the other leave to which she is entitled.

The situation is mixed for permanent workers, and the benefit is virtually nonexistent for contract workers, despite the fact contractors are responsible for providing such benefits as their employers. Nearly 48 percent of female permanent workers interviewed—128 of 269—said there was a possibility of receiving the maternity leave benefit. Of the four female respondents who actually took maternity leave, one enjoyed two months' leave, one took three months' leave and two respondents enjoyed the full four months of leave.

Their co-workers employed as contract workers told a different story. Nearly 97 percent of female contract workers—351 of 363—said there was no possibility of using maternity leave.

The news is a bit better regarding festival holidays. The law provides for 11 paid festival holidays annually. Nearly all of the permanent workers—345 of 348 respondents—reported they had received such holidays, while almost half—167 of 373—of the contract workers said they had received festival holidays.

However, the law is flouted in this instance, too. Of the permanent workers who had received some festival leave, most enjoyed only about a third of the 11 days to which they were legally entitled. Sixty-six respondents enjoyed one day,

137 received two days, 128 respondents got three to four days and the rest (14 respondents) enjoyed more than four days of festival leave. The same was true of contract workers—those lucky enough to receive festival leave only enjoyed one to four days.

The BLA 2006 clearly states festival leave is *paid* leave—yet most respondents (more than 68 percent) would not comment when asked whether they received their salary on festival leave days. Only a few—some 9 percent—said they had received their wages, while 22 percent said their festival leave was unpaid.

Wages

As noted previously, the BLA 2006 sets *minimum wages*. The law's Section 148 holds that wages declared under Section 140 are binding on all employers, and every worker is entitled to the minimum wages. In November 2009—one full year before this study was conducted—the government set minimum wages for workers in the shrimp-processing industry at 2,645 taka per month (\$38.50).

Based on their monthly wages, the respondents were classified into four categories. In the case of permanent workers, monthly wages ranged from 1,800–5,500 taka (\$24.37 to \$74.45), while for contract workers, monthly wages ranged from 1,500–4,000 taka (\$20.30 to \$54.15).

As the graph at right shows, nearly one-quarter of permanent workers—and nearly three quarters of contract workers—are not receiving the minimum wage set by the government. The majority of the rest are receiving either the exact minimum wage or a slightly higher wage, with a few, less than 9 percent, receiving wages notably above the minimum wage.

The survey shows employers and contractors routinely and repeatedly violate other laws concerning wages; specifically, the laws covering wage periods, dates of payment and pay slips.

BLA 2006, in Sections 121 and 122, also sets forth the intervals in which wages are to be paid, with no wage period to exceed one month. Employers are responsible for

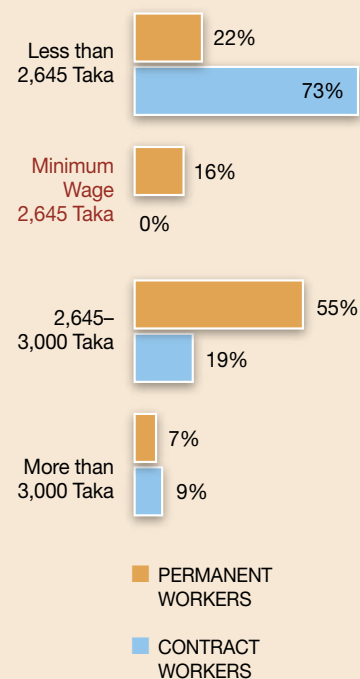
payment, while in the case of contract workers, that responsibility lies with the chief executive officer, manager or supervisors in control of the workplace. When wages are not paid by the contractor, the employer is responsible for paying workers and then making adjustments to the contract.

All of the permanent workers interviewed reported receiving their salary once a month (as specified by the law)—but the majority of contract workers are paid much more frequently. One-tenth of contract worker respondents reported receiving their pay once a month, while about the same percentage is paid twice a month. More than 28 percent reported being paid three times a month, and almost half—49 percent—reported being paid weekly.

Being paid more frequently has some advantages. It allows contract workers to better manage their income and cover household needs on a weekly basis as they emerge, rather than relying on a lump sum at the end of the month. This is particularly important for contract workers who may only work 17–20 days a month. Hence, if there is a large supply of shrimp to be processed—as is the case during the peak season—contract workers have the potential to earn higher incomes as they get paid according to the amount of shrimp they process within a given time. While this would appear positive in some respects, it is important to remember this masks a number of inequalities in comparison with the permanent workers. Not only are contract workers paid a lower salary on average, they also are dependent upon the supply of shrimp to process. So, during the off-peak season, contract workers may have limited work and sometimes no work, compared with permanent workers who always are guaranteed a wage no matter the amount of shrimp to be processed.

Regarding *dates of payment*, BLA 2006, Section 123 mandates wages should be paid by the seventh working day after the last wage period ends, including for workers whose employment is terminated. The stipulation for terminated workers' payment is defined by Section 30, which calls for payment within 30

Many workers work for less than the federally mandated minimum wage



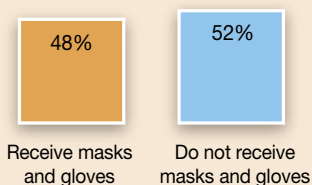
Source: Field Survey, December 2010

Percentage of workers earning overtime pay



Source: Field Survey, December 2010

Health and safety violations are rampant—more than half of contract workers are on the job without government-mandated masks and gloves



Source: Field Survey, December 2010

working days. Therefore, it is difficult to quantify violations of this type.

About half of permanent workers interviewed said they were paid in the first week of the month, with about half paid in the second week of the month—a violation of BLA 2006. The remaining 7 percent said they were paid at no particular time.

Bangladeshi law regarding minimum wages requires every employer to issue a *wage slip* along with the wages that includes working days and working hours. None of the permanent workers interviewed said they received a wage slip from their employer, while nearly 88 percent of contract workers indicated the same was true for them. Slightly more than 12 percent of contract workers did say they received a wage slip—but none of these workers indicated that slip contained the number of working days and working hours.

Overtime and Bonuses

BLA 2006, Section 108 states that workers employed on any day or week “for more than the hours fixed under this Act” are to be paid twice his or her ordinary rate of pay. However, not one of the permanent or contract workers reported receiving the mandated overtime allowance.

That is, 345 of 348 permanent workers and 371 of 373 contract workers said in interviews they had not been paid the proper allowance for overtime work. Three permanent workers and two contract workers declined to answer the question.

Workers also are legally entitled to an allowance equal to basic wages for their two religious festivals. In the case of permanent workers, most (97 percent) respondents reported receiving their *festival bonus*, while the opposite was true for contract workers; nearly 80 percent of those respondents said they did not receive their festival bonus.

Wage Discrimination

BLA 2006, Section 345, states that “the principle of *equal wages* for male and female workers for work of equal nature of value shall be followed and no discrimination shall be made in this respect on the ground of sex.”

Once again, respondents reported extensive violations of the BLA 2006 and, once again, the situation is markedly worse for contract workers than for permanent workers. In both cases, a majority of workers reported unequal wages.

For female permanent workers, nearly 65 percent reported they thought they were paid less than their male counterparts; 35 percent thought they did receive equal pay, while one worker did not comment. Of the female respondents who thought they were paid less, one-fourth said they were paid 500–1,000 taka (\$6.77 to \$13.54) less than their male counterparts, while the rest thought they were paid 500 taka less than their male counterparts.

More than 54 percent of female contract workers said they thought they received less pay than their male counterparts, while nearly 20 percent said they thought they did receive equal pay. Strikingly, some 26 percent of female contract workers—94 of 363 respondents—would not comment on the question. Among the 53 percent who thought they were paid less, more than half said they received 800 taka (\$10.83) less than their male counterparts, while the rest of the respondents (47 percent) did not know what the difference in pay was.

Health and Safety Issues

In the case of both permanent and contract workers, the respondents answered that *toilets and washroom facilities* were available in their factories, and that the toilets had water available at all times. Some 83 percent of the permanent workers said the toilets were clean, while nearly 80 percent of the contract workers said the same thing.

BLA 2006, Section 101 cites specific instances for *rest and meal breaks* depending on the number of hours worked in a given day. This area, like overtime pay, is one of those most likely to be violated by employers, according to both permanent and contract workers.

In the case of permanent workers, most (92 percent) of the respondents answered that they do not receive meal and rest breaks as laid out in BLA 2006. Only 8 percent of the respondents did enjoy the interval for rest and a meal. The

situation is slightly worse for contract workers; nearly 97 percent reported violations of the meal and rest breaks regulations, while slightly greater than 3 percent said they did get proper rest and meal intervals.

Regulations likewise require factory management to provide workers with *masks and gloves* to comply with international food safety standards.³³ In this regard, permanent workers fare far better than contract workers, who only have about a 50–50 chance of being issued proper equipment.

Some 92 percent of permanent employees reported being given masks and gloves, while only 48 percent of contract workers said that was the case for them. Therefore, 52 percent of contract employees—194 of 373—reported not being provided masks and gloves.

Interestingly, four permanent workers would not comment on the question at all, while 18 reported they had received such equipment, but only during an audit period.

The majority of both permanent and contract workers characterized their *supervisors' behavior* as “bad” or “very bad,” but some 48 percent of permanent workers and 40 percent of contract workers also said their supervisors' behavior was “good.” Two permanent workers characterized their supervisors as “very good.” The workers' opinions of their supervisors were strongly held, as indicated by the fact that not one single worker among the 721 surveyed chose to describe their supervisor as “satisfactory.” Another indication was that all of the contract workers chose either “good” or “bad” and bypassed the other choices of “very good,” “satisfactory” and “very bad.”

Child Labor

As is the case in many areas of the world, Bangladesh has strictly worded statutes prohibiting child labor. Unfortunately, as is also the case all too often, enforcement does not match the language.

BLA 2006, Section 34 establishes that, “no child shall be employed or permitted to work in any occupation or establishment.” It goes

My name is “A.”*

I started working when I was 10, with my only thought to work and help support my family. For the first three years, I was under a contractor. I had to wash shrimp after it was de-headed. My wage was calculated on a daily basis and my average wage per month was 2,000–2,500 taka (\$27.77–\$34.72).

After three years, the company closed down the washing work, so I took a job in the panning section as a permanent worker under a contractor. My job was to pack the shrimp before it was frozen. Then my wage was 1,500 taka (\$20.83) per month. My earnings decreased as it was a fixed-wage job.

After four years where I stayed home, I started working again at a factory in 2009, as a de-header, taking off the shrimp's head and taking out the vein and brain. I earn 500 taka (\$6.94) per day sometimes during the peak season and 80 to 100 taka (\$1.11–\$1.38) per day in the off-peak season. And I earn 3,000–4,000 taka (\$41.66–\$55.55) in a month on average.

Our wage is calculated by a “guti” (token) system. We are given a guti per lot we complete. This year, we stuck together and convinced the contractor to increase our wage from 5 taka per guti to 9 taka per guti—the highest rate among factories in this area.

Our supervisors and guards used to treat us badly and use offensive language with the contract workers, but after we protested, the supervisors were warned, and their behavior changed a lot. And our contractor himself now ensures the security of the female workers who leave the factory at midnight by escorting them up to their neighborhood.

I am part of the “Keya Group” (named after the Bengali name of a flower), one of the subgroups under the Khulna Shrimp Industry Workers Welfare Association, an informal and non-registered association of shrimp workers in Khulna, formed with the assistance of SAFE. I always believe that if all 50 of us workers are united at the workplace, one or two management staff cannot harm us. I get paid by working. I am not garbage that can be thrown out. As a worker and as a female worker, I wish to exercise our rights fully.

*Name withheld per worker's request.



on to describe the exceptions to this, including adolescents (ages 14 to 18) with a “certificate of fitness.” Section 44 notes that children 12 and older who are employed in “such light work as not to endanger his health and development or interfere with his education” are permitted to work.

Bangladesh ratified International Labor Organization Convention 182³⁴ on child labor in 2001, which covers employment of children younger than 18 and calls for a ban on children performing work which, by its nature or circumstance, is likely to harm their health and safety. Bangladesh has not, however, ratified ILO Convention 138, the minimum age convention.

When queried regarding the presence of children younger than 14 in their factories, 43 percent of permanent workers and nearly 59 percent of contract workers said such children were working in their factories. Regarding child workers ages 14 to 18, nearly all—96 percent of both types of workers—said such children were working in their establishments.

Enforcement

Employers are required to keep records to show compliance with the BLA 2006 and to produce such records for inspectors.³⁵

However, one-quarter of permanent workers reported they had never seen an inspector in their factory, nearly 29 percent said they had seen an inspector once a quarter, almost 20 percent said an inspector visited every four to six months and another quarter of permanent workers said an inspector came just once a year.

In the case of contract workers, the majority—nearly 60 percent—said they had never seen an inspector in their factory. Just 3 percent said an inspector visited once a quarter, 11 percent said an inspector visited every four to six months and 25 percent said an inspector came just once a year.

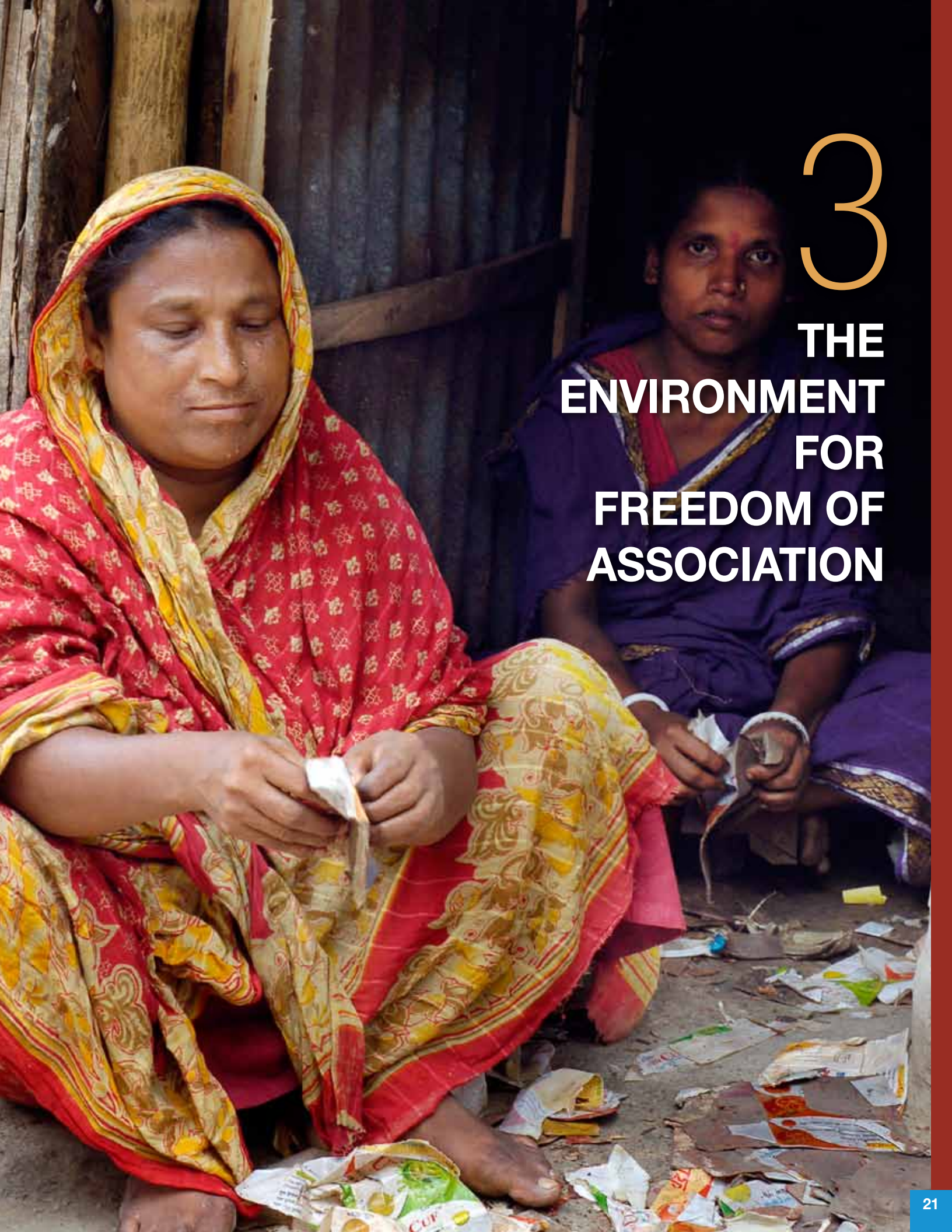
When in the factory, inspectors speak to few workers about their working conditions, pay and benefits. About 22 percent of permanent workers—and only 12 percent of contract workers—said they had spoken with an inspector during his visit. Nearly 65 percent of permanent workers and 60 percent of contract workers said they had not been given such an opportunity, and the remaining workers did not comment.

When the inspector actually arrives at the workplace, he has the power to seize any records necessary to enforce the law. The chief inspector or his designee may lodge a court complaint for a violation of BLA 2006 or “any rules, regulations or schemes.”³⁶

As has been the case with many provisions of the BLA 2006, the shrimp-processing workers interviewed indicated these provisions, too, are not enforced. Despite their ability to catalog multiple violations, the majority of permanent workers—nearly 73 percent—said the Inspection Department had never filed a complaint against factory management, while the rest had no comment. Likewise, a majority of contract workers (nearly 57 percent) said the Inspection Department had never filed a complaint against factory management, with the rest having no comment due to their concern over retribution.

3

THE ENVIRONMENT FOR FREEDOM OF ASSOCIATION





The December 2010 survey of 721 workers paints a bleak picture regarding existing unions and reveals the lack of enforcement infrastructure to help workers quickly and strongly form a representative trade union, not a so-called company union dominated, if not controlled outright, by the employer.

TRADE UNION FEDERATIONS in South Asia historically have been led by philanthropists and non-rank-and-file leaders. Over the decades, the number of trade union federations grew, and they were actively involved with the independence struggle in the late 1960s, developing links with other such activist groups as the student movement. During this time, many trade union centers also became more explicitly aligned with specific political parties, resulting in more trade union fragmentation and greater politicization of trade unions.

Overall, experts assert the labor union movement in Bangladesh is relatively weak in the private sector. One reason for its weakness has been the closure of state-owned enterprises over recent years, and unions still are campaigning actively against privatization. The other reason is the capture of the union movement by political parties. Another key constraint is the lack of social protections in the informal labor sector. The vast informal sector has encompassed a pool of unskilled labor that helps keep the costs of labor down and challenges attempts by representative unions to organize workers.

The question remains: What can shrimp-processing workers do to gain for themselves a stronger voice in the workplace and an ability to ensure employers follow the law?

It seems clear workers cannot expect to see overnight change in the weak enforcement of laws on the books. While BLA 2006 brought sweeping change to the legal framework governing workplaces, the ensuing five years

have not brought noticeably improved working conditions.

In the absence of strong enforcement, workers can choose to join together in a trade union to speak with one voice.

Article 38 of the Constitution of Bangladesh provides basic legal authority regarding formation of organizations by workers. This authority is spelled out in Bangladesh law under BLA 2006, Sections 175 to 208, which cover trade unions and industrial relations in the country's workplaces. Section 176 extends the right to its workforce to form and join trade unions of their own choosing; as well, the law extends that same right to employers.

In addition, ILO Conventions 87 and 98 also recognize the rights of workers to form and join unions; Bangladesh has ratified both conventions.

It is clear workers have the right to join a union and speak with one voice on such issues as wages, wage periods, equal pay, proper equipment, etc.—those same issues that workers, both permanent and contract, report are egregiously and routinely violated as outlined in Chapter 2.

But is this a true option for the shrimp-processing industry workers in southwestern Bangladesh? The December 2010 survey of 721 workers paints a bleak picture regarding existing unions and reveals the lack of enforcement infrastructure to help workers quickly and strongly form a representative trade union, not a so-called company union dominated, if not controlled outright, by the employer.

Workers said only five independent unions functioned in the 36 factories where the research was conducted. Given that nearly 84 percent of surveyed factories did not have a union presence, it is no surprise that the majority of workers—nearly 80 percent of both permanent and contract workers—would not comment on whether workers in unions were discriminated against. Among those who did comment, 16 percent of permanent workers

and 19 percent of contract workers said managers did display discriminatory behavior toward union members in the factory, despite the provisions of BLA 2006, Section 195.

These findings indicate that in the factories where a trade union is present, management behaves in a discriminatory manner toward its members. Documentation gathered by SAFE and the Solidarity Center on the formation of trade unions in the shrimp- and fish-processing industry in the southwestern part of Bangladesh confirms discriminatory behavior of management toward trade unions,³⁷ as do published newspaper articles.³⁸

From May to August 2010, five independent trade unions received a registration from the local labor department in Khulna. Within three months, most of the executive members of those trade unions were fired. Besides termination, executive members were subject to intimidation, harassment, physical assault and, in some cases, co-optation by management. As a result, only one of those five trade unions is operating. The other trade unions are not active anymore or are led by management.³⁹

So despite many protections written into law and apparently espoused by the Bangladesh government, the reality is that it is dangerous, difficult work to even attempt to form a union.

Bangladesh Labor Act 2006, Section 176: Trade unions of workers and employers

Subject to the provisions of this Chapter:

- (a) Workers, without distinction whatsoever, shall have the right to form trade unions primarily for the purpose of regulating the relations between workers and employers or workers and workers and, subject to the constitution of the union concerned, to join a trade union of their own choosing;
- (b) Employers, without distinction whatsoever, shall have the right to form trade unions primarily for the purpose of regulating the relations between employers and workers or employers and employers and, subject to the constitution of the union concerned, to join a trade union of their own choosing.

Bangladesh Labor Act 2006, Section 195: Unfair labor practices on the part of employers

No employer or trade union of employers and no respondents acting on their behalf shall

- (a) impose any condition in a contract of employment seeking to restrain the right of a respondent who is a party to such contract to join a trade union or continue his membership of a trade union; or
- (b) refuse to employ or refuse to continue to employ any respondents on the ground that such respondent is, or is not, a member or officer of a trade union; or
- (c) discriminate against any respondents in regard to any employment, promotion, condition of employment or working condition on the ground that such respondent is, or is not, a member or officer of a trade union; or
- (d) dismiss, discharge, remove from employment or threaten to dismiss, discharge or remove from employment a worker or injure or threaten to injure him in respect of his employment by reason that the worker is or proposes to become, or seeks to persuade any other respondents to become, a member or officer of a trade union, or participates in the promotion, formation or activities of a trade union; or
- (e) induce any respondents to refrain from becoming, or to cease to be a member or officer of a trade union, by conferring or offering to confer any advantage on, or by procuring or offering to procure any advantage for such respondents or any other respondents.

CASE STUDY: TRADE UNION FORMATION IN BANGLADESH

Trade Union “X” got its registration in 2010. Two months after the registration, all executive members of the trade union were fired.

The fired union leaders requested the joint director of labor (JDL)—the local Labor Department representative responsible for trade union matters, including the organization of management-worker meetings during labor disputes—organize a reconciliation meeting. The meeting was planned, but factory management did not appear. Instead, it requested a 25-day postponement, to which the JDL did not agree. Management then told the JDL the fired union leaders would be reinstated in one or two days.

When the workers arrived at the factory gate, management did not allow them to enter. Management representatives participated in a second meeting, but they refused to reinstate the fired workers. One last time, the JDL tried to solve the dispute through a third meeting. Management did not show up.

Because the reconciliation process did not work, the trade union leaders had to use other means to claim their right to organize a union. First, they submitted a memorandum to the state minister of labor explaining their situation. Second, they held a press conference at the Khulna Press Club, which was attended by 40 trade union members from other factories. Finally, they filed two cases at labor court, one under BLA 2006, Section 195, which states trade union leaders cannot be fired (a criminal case). The other, under Section 33 of the act, gives fired workers the right to a grievance procedure.

Each of these attempts of the trade union leaders to plead their cause only made their lives worse. Factory management tried everything to quash this union. They reinstated three members of the executive committee, who then owed their livelihoods to management. They took over the executive committee, which began working for the interests of the employer.

At first, filing a criminal case at labor court seemed to have an impact, because four fired trade union leaders were reinstated. But appearances are deceptive. They were subjected to intimidation and harassment at work. One of the trade union leaders was beaten up, and family members of the trade union leaders were harassed. In November the four reinstated trade union leaders were falsely accused of theft of shrimp, and local “muscle men” harassed them.

The intimidation campaign was designed to force the union leaders to withdraw their case at labor court, especially the criminal case, because this can have serious consequences for factory management. Unfortunately, it worked. In the end, the trade union leaders stayed home from work. Because they did not show up at work for 10 days, factory management could and did legally fire them. A few months after, they were called in for a meeting with factory management. The fired workers were offered termination benefits within one month if they would withdraw their cases. If they won in court, they also would get termination benefits, but this might take a year or longer because of the lengthy judicial process. The trade union leaders accepted the offer and withdrew their cases.

Source: Current Status of Trade Unions in Shrimp Processing Industry, SAFE and Solidarity Center, February 2011

Participation Committees

In addition to trade unions, Bangladesh law provides for a labor-management cooperation entity called a *participation committee*. Under Section 205 of BLA 2006, such committees are formed in establishments with 50 or more workers. The workers choose their own committee members, and the number of worker representatives on the committee cannot be less than the number of employer representatives.

This is again a case of something that sounds good on paper but functions far differently in reality. In the case of permanent workers, almost all of the respondents answered that no participation committee is present in their factory. Only one respondent answered that such a committee existed in her factory.

In the case of contract workers, again almost all of the respondents answered that there was no participation committee in their factory. According to 10 of 373 respondents, a participation committee is present in their factory.

According to the local labor department in Khulna, there is no participation committee present in the shrimp-processing factories in southwestern Bangladesh.

Worker Opinion of Trade Unions

Indicative of the level of intimidation present concerning forming and joining unions, half of permanent workers asked about starting a union declined to comment on the prospect. Nearly 41 percent said they did want to start a union, while 10 percent said they did not.

However, when asked whether they thought a powerful trade union could help improve their working conditions, nearly 63 percent of permanent workers said they did. An additional 36 percent declined to comment on the question, while less than 1 percent stated they did not think a strong trade union would help in their workplace.

More contract workers were willing to discuss the issues—whether there should be a union specifically for contract workers, whether they would join such a union and whether they thought a union would help. Some 61 percent of contract worker respondents thought there should be a union specifically for contract workers, nearly 6 percent thought there was no need for such a union and the remaining 33.5 percent had no comment.

About the same percentage of respondents—62.5 percent—said they would join a trade union for contract workers should one be formed, 8.5 percent said they would not join such an entity and 29 percent had no comment.



Trade unions for contract workers?

61%

Contract workers need a union specifically for them.

62%

They would join it.

51%

A powerful trade union can improve working conditions.

Contract workers are particularly marginalized when it comes to trade union formation for a number of reasons.

Finally, a slight majority of contract workers—51.5 percent—said they thought a powerful trade union could improve their situation in the factory. A minor percentage, (3.5 percent) said they thought a union would not make a difference. The remaining 45 percent of contract worker respondents had no opinion.

Worker Rights

Respondents were asked whether they had received *training in workers' rights* from non-governmental organizations (NGOs). Some 41 percent of permanent workers answered this affirmatively, while the remaining 59 percent had not received labor rights training. These percentages were roughly the same for contract workers.

In addition, the workers were asked about their understanding of procedures available to them to address problems and violations in their workplaces. The BLA 2006, Section 33 does enumerate a grievance procedure available to workers, including those removed from employment by any means. Under this section, workers have 30 days to submit a grievance to his or her employer, who then has 15 days to respond.

More than three-fourths—nearly 78 percent—of permanent workers said they never had filed a complaint against factory management at the inspection department. A few respondents—nearly 7 percent—did file a complaint against factory management. The rest of the permanent workers had no comment.

In the case of contract workers, the majority of the respondents—nearly 69 percent—had never filed a complaint against factory management at the inspection department. The rest had no comment.

Overcoming Organizing Challenges for Contract Workers

Contract workers are particularly marginalized when it comes to trade union formation for a number of reasons. The law states that, in order to set up a union, 30 percent of membership must be permanent workers. However, it is difficult to find permanent workers in factories, because the majority are contract workers who rarely receive appointment letters or ID cards to prove employment at a factory. Without letters or ID cards, employers can take advantage of a gap in the trade union law which states that, for a union to be legally recognized, the workers must have either a letter or an ID card.

A photograph of a woman and a young girl in a rural setting. The woman, on the left, is wearing a colorful striped shawl over a yellow top and has a nose ring. The girl, on the right, is wearing a yellow patterned top and also has a nose ring. They are both looking directly at the camera. The background shows a rustic wooden structure.

4

CONCLUSION AND RECOMMENDATIONS

Not one of the researched provisions of the act has been implemented fully for either permanent or contract workers.

THE BANGLADESH LABOR ACT 2006 (BLA 2006) provides workers in the shrimp-processing industry with a clear set of labor rights, though the act does not comply with ILO Conventions 87 and 98 (covering the freedom of association, the right to organize and the right to collective bargaining), according to the ILO Committee of Experts.⁴⁰ As this report demonstrates, however, the problem is not a lack of rights but a lack of implementation and enforcement of the law. Not one of the researched provisions of the act has been implemented fully for either permanent or contract workers.

Factory management is unwilling to meet the 2006 law's provisions. Bangladesh oversight agencies are weak and apparently unwilling to enforce the act. Therefore, united and organized workers, willing and capable of claiming and negotiating their rights, are a prerequisite for improving the shrimp industry workers' situation. In order to do this, the freedom of association, the right to organize and the right to collective bargaining have to be secured—which is clearly not the case currently for these workers. If there is a trade union in a factory, trade union members often are discriminated against by factory management. Executive members of nascent unions have been fired, co-opted, intimidated, harassed and even physically assaulted.

Findings Regarding the Implementation of the BLA 2006

Contract Labor

Though this survey shows that implementation and enforcement of the Bangladesh Labor Act 2006 is poor in general, the situation of contract workers is particularly distressing. They hardly enjoy any of the rights to which they are entitled under the act. This is especially alarming because of the high number of contract workers in processing factories. During the research period (off season), about 50 percent of the workers were contract workers. During peak season, the percentage of contract workers might rise to 70 percent or 80 percent of workers.⁴¹ Moreover, the results in this research report indicate that most contract workers are permanent workers in practice. Most of

them work for only one factory (93 percent), through one labor contractor (94 percent), for 26 to 30 days a month (73 percent). It seems the employment of contract workers is not temporary or informal by nature, as it should be based on the Bangladesh Labor Act 2006, Section 4: Classification of workers and period of probation.

Child Labor

Child labor still exists in the shrimp- and fish-processing industry in southwestern Bangladesh. According to 43 percent of respondents among permanent workers and 59 percent among contract workers, children younger than 14 are working in their factories. This is a clear violation of ILO Convention 138 regarding the minimum age of workers, which has not yet been ratified by the Bangladesh government. But such a circumstance is a violation of the BLA 2006, Sections 34 and 44, and no doubt violates codes of conduct of purchasing firms.⁴²

Gender

Most of the workers in the Bangladesh shrimp- and fish-processing industry are women (77 percent of the permanent workforce and 97 percent of the contract workers). For these workers, equal remuneration, the possibility to enjoy maternity leave and the availability of rooms for children in the factories are very important. This report shows the majority of the women (65 percent of permanent workers and 54 percent of contract workers) do not think they are being paid an equal wage compared with their male counterparts. About half of the permanent workers (52 percent) and nearly all of the contract workers (97 percent) do not have the possibility to take maternity leave. Finally, though almost all factories (96 percent) have a room for the children of workers (BLA 2006, Section 94), factory management does not open the rooms throughout the year.

Appointment Letter

Of all the researched provisions of BLA 2006, the appointment letter deserves special attention. Together with an identity card, it serves as a contract. If workers want to claim their rights, they must prove they are working in the factory or for the labor contractor. Yet this

most basic right is extended only to 28 percent of permanent workers surveyed (and of them, only half have it in their own possession) and almost none of the contract workers in the study. This lack of an appointment letter severely weakens workers' position toward factory management or the labor contractor in case of a dispute.

Organizing Workers in the Industry

Based on BLA 2006, Section 179, a trade union has to organize at least 30 percent of permanent workers in an establishment to get a registration from the local labor department. Among permanent workers surveyed, some 41 percent of respondents want to start a trade union. Only 10 percent do not want a union in their factory. About half of the respondents (49 percent) refrained from comment. Based on the grassroots experience of the Solidarity Center, SAFE and other NGOs, intimidation and retribution serve to quiet people and are likely the reason for the large number of workers who did not provide an opinion. The majority of the permanent workers (63 percent) think a powerful trade union can improve their working conditions.

Membership and participation in a trade union is restricted to those workers who currently are employed in an establishment or group of establishments (BLA 2006, Section 180).⁴³ In practice, this excludes contract workers from joining a basic trade union in a factory. That is why contract workers were asked whether there should be a trade union specifically for contract workers and whether they would join. The majority of the contract workers surveyed (61 percent) said they thought there should be such a trade union, and 62 percent said they would join it. About half of the respondents (51 percent) said they thought a powerful trade union could improve their working conditions.

Based on this overall picture for the 36 researched factories, opportunities to organize workers in the shrimp-processing industry in southwestern Bangladesh exist, even though almost half of respondents (permanent and contract workers) did not have any comments,

possibly indicating a lot of the surveyed workers remain unaware of what a trade union is and does. On the other hand, this research clearly shows that overcoming the resistance of factory management is a very big challenge for the emerging trade union movement. Of the five independent trade unions that attempted to get off the ground—and whose leaders faced discrimination and intimidation by factory management—only one is operating at the moment. The rest are inactive or run by management.⁴⁴

Recommendations

The only people who can effectively improve the worker rights situation in the factories are the workers themselves. In Bangladesh, as is the case throughout the world, becoming union members provides the best opportunity for people to have a say in their daily working lives. However, to create the political space necessary so workers can organize, other stakeholders must play a role, including labor unions, governments of purchasing countries, importing companies, consumers and human rights NGOs.

Nongovernmental Agencies

Programs focusing on increasing knowledge and skills of workers regarding their rights and on supporting leadership development are necessary. The majority of workers (about 59 percent) said they had not received any labor rights training.



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Bangladesh Frozen Foods Exporters Association (BFEEA)

The BFEEA should act as a catalyst for improving the implementation of the BLA 2006 in the shrimp- and fish-processing industry. Labor rights are becoming increasingly important as a compliance issue because of the worldwide campaign by the International Labor Organization and the International Trade Union Confederation for a “decent work agenda.” Therefore, implementation of the act will be highly necessary to increase business and exports in years to come. Implementation of the BLA 2006, for both permanent and contract workers in the factories, should be a requirement for BFEEA membership.

Law Enforcement Agencies

Enforcement of BLA 2006 by the Ministry of Labor and Employment, via the local Labor Department, must be improved. In particular, the Inspection Department has to take effective measures to ensure implementation of the act. As mentioned by the ILO Committee of Experts, “the ineffectiveness of the Inspection Offices in Bangladesh can largely be attributed to insufficient budgetary allocation, lack of adequate inspectors in charge of enforcement, lack of logistic support, inadequate punishment for negligence in performing duty and lack of training of inspectors.”⁴⁵ But despite the limited resources, the Inspection Department could improve the worker rights situation in the shrimp- and fish-processing industry in southwestern Bangladesh if it would just set a few examples. Moreover, if limited resources force priority-setting, focusing on child labor, contract labor and appointment letters would be an important start.

Policy Makers

The Bangladesh Labor Act 2006 should be amended to include a specific provision for working through contract labor. In the act, contract workers are not defined as a category of workers (Section 4: Classification of workers and period of probation). The act does mention temporary and casual workers, but the nature of employment of most contract workers in the

shrimp- and fish-processing factories does not match the definitions of these categories. One could argue contract workers are permanent workers of the labor contractors who employ them in the factories, but this survey shows clearly that labor contractors do not behave like employers at all. On the contrary, they behave like subcontractors whose only interest is to make money by providing workers to the factories. The amended provision should clarify the legal status of contract workers by defining the responsibilities of the labor contractor and factory management. It is apparent from interviews with workers that both lack responsibility at the moment, hence the distressing situation of contract workers.

Importing Countries

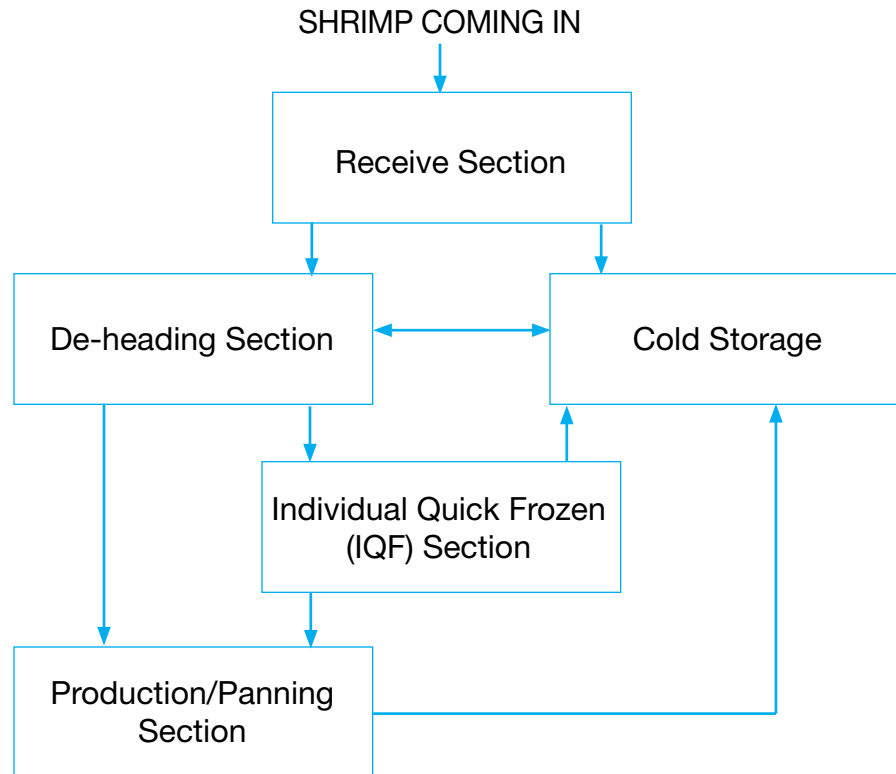
The European Union (EU) and the United States of America are the biggest importers of shrimp and fish from Bangladesh (49 percent and 18 percent, respectively).⁴⁶ If they used their trade and aid policy as a means to improve the workers’ situation in the shrimp- and fish-processing industry, this would have a definite impact. The Office of the U.S. Trade Representative already is using its trade⁴⁷ policy for improving the workers’ situation because a series of petitions by the American Federation of Labor–Congress of Industrial Organizations (AFL-CIO) have challenged Bangladesh’s eligibility for duty-free export due to workers’ rights violations, among other issues. Therefore, Bangladesh has been under review. The trade policy of the EU in Bangladesh is based on the Everything but Arms (EBA) arrangement, which is unfortunately unconditional. Compliance with core labor standards is not a condition for enjoying duty-free export to the European Union. The aid given to the shrimp and fish sector in Bangladesh by both the EU and United States mainly focuses on increasing competitiveness and exports and compliance with international food safety standards.⁴⁸ Incorporating specific objectives with regard to core labor standards in existing programs, or a specific program for that matter, would be a great contribution to the improvement of the workers’ situation.

Appendix 1: International Labor Organization Conventions Ratified by Bangladesh

Convention	Ratification Date
C1 Hours of Work (Industry) Convention, 1919	22:06:1972
C4 Night Work (Women) Convention, 1919	22:06:1972
C6 Night Work of Young Persons (Industry) Convention, 1919	22:06:1972
C11 Right of Association (Agriculture) Convention, 1921	22:06:1972
C14 Weekly Rest (Industry) Convention, 1921	22:06:1972
C15 Minimum Age (Trimmers and Stokers) Convention, 1921	22:06:1972
C16 Medical Examination of Young Persons (Sea) Convention, 1921	22:06:1972
C18 Workmen's Compensation (Occupational Diseases) Convention, 1925	22:06:1972
C19 Equality of Treatment (Accident Compensation) Convention, 1925	22:06:1972
C21 Inspection of Emigrants Convention, 1926	22:06:1972
C22 Seamen's Articles of Agreement Convention, 1926	22:06:1972
C27 Marking of Weight (Packages Transported by Vessels) Convention, 1929	22:06:1972
C29 Forced Labour Convention, 1930	22:06:1972
C32 Protection against Accidents (Dockers) Convention (Revised), 1932	22:06:1972
C45 Underground Work (Women) Convention, 1935	22:06:1972
C59 Minimum Age (Industry) Convention (Revised), 1937	22:06:1972
C80 Final Articles Revision Convention, 1946	22:06:1972
C81 Labour Inspection Convention, 1947	22:06:1972
C87 Freedom of Association and Protection of the Right to Organise Convention, 1948	22:06:1972
C89 Night Work (Women) Convention (Revised), 1948	22:06:1972
C90 Night Work of Young Persons (Industry) Convention (Revised), 1948	22:06:1972
C96 Fee-Charging Employment Agencies Convention (Revised), 1949	22:06:1972
C98 Right to Organise and Collective Bargaining Convention, 1949	22:06:1972
C100 Equal Remuneration Convention, 1951	28:01:1998
C105 Abolition of Forced Labour Convention, 1957	22:06:1972
C106 Weekly Rest (Commerce and Offices) Convention, 1957	22:06:1972
C107 Indigenous and Tribal Populations Convention, 1957	22:06:1972
C111 Discrimination (Employment and Occupation) Convention, 1958	22:06:1972
C116 Final Articles Revision Convention, 1961	22:06:1972
C118 Equality of Treatment (Social Security) Convention, 1962	22:06:1972
C144 Tripartite Consultation (International Labour Standards) Convention, 1976	17:04:1979
C149 Nursing Personnel Convention, 1977	17:04:1979
C182 Worst Forms of Child Labour Convention, 1999	12:03:2001

Source: ILOLEX, February 2011

Appendix 2: Hierarchy of Work in a Shrimp-Processing Factory



Receive Section

Raw shrimp arrives at company's Receive Section. When immediate export is not scheduled, shrimp are kept in cold storage at first and later de-headed.

Senior Grader and Receive Grader: Receive shrimp and weigh it and grade it on the basis of size and put separately in the basket.

Casual Worker: Sprays water forcefully through large water pipes onto the baskets to wash out loose debris; takes baskets to Cold Storage or De-heading Section, depending on export needs.

De-heading Section

All shrimp are not de-headed; some are exported with heads on. But all shrimp go through the deveining and peeling process.

De-heading Man (Contract): De-heads the shrimp, deveins the shrimp, peels the headless shrimp, then weighs and puts it in a separate basket. Works full time with water and/or ice.

NOTE: These contract workers work on a daily basis and are paid in accordance with the quantity of shrimp they de-head/devein/peel. They do not have any specific working hours; they work until their work is finished. For some workers, the contractor allows flexible working time and hours considering her personal problems/situation. In a month, some skilled workers earn much more, even double, than a permanent worker—so some skilled workers intentionally do not try to get a permanent job. On average, in most factories the permanent workers get 3,000 taka per month for a 12-hour workday (U.S. \$1 = 72 taka). But a skilled contract worker can earn 4,000–5,000 taka per month.

Casual (Permanent): Takes baskets from cold storage, carries ice, breaks ice blocks and performs all other hard work that requires physical strength.

Checker (Permanent): Checks whether all the work is performed accurately. Dry work compared with all others.

Scale Man (Permanent): Weighs shrimp; works with less water and less ice.

Cleaner (Permanent): Cleans the area, shrimp, baskets, etc. Works full time with water and/or ice.

Production/Panning Section

Wash Man (Permanent): Washes shrimp with water, treats it with medicines and drains water from shrimp using sieves. It is a long and time-consuming process. The entire job is done with water.

Cleaner (Permanent): Performs all cleaning jobs, like washing the panning area, spraying water, washing the baskets, etc. Works with water.

Scale Man (Permanent): Weighs and separates shrimp according to size. Works with less water and less ice.

Panner (Permanent): Places shrimp on steel blocks covered by a poly-bag, 2 to 2.5 kilograms of shrimp per block; puts chilled water on the shrimp and places three to six blocks on a steel tray. Trays are placed in the freezer; after three hours, the blocks are ready. Blocks are taken out and frozen shrimp are removed from them. Blocks are put in cartons kept in Cold Storage. Works with less water, but more ice.

Casual (Permanent): Takes baskets from Cold Storage, carries ice, breaks ice blocks and performs all other hard work that requires physical strength. They do not have specific work every day. Still, they work with less water and less ice.

Production Supervisor (Permanent): In some factories, production supervisors are treated as workers and in others, they are treated as administrative staff. Their work is dry compared with all others.

Individual Quick Frozen (IQF) Section

In the Individual Quick Frozen Section a belt carrying shrimp runs through the IQF machine and each shrimp is frozen individually and separately in the machine. No water or ice block is used in this system. After freezing, the belt carries the shrimp to the packing side.

Casual Worker and IQF Belt Man (Permanent): Wash shrimp with water, treat it with medicines and drain water from shrimp using sieves. It is a long and time-consuming process, with the entire job working with water. Shrimp then are placed separately on the IQF belt. IQF belt men look after the process. Casual workers do all types of other heavy work that requires physical strength.

Scale Man (Permanent): Weighs and separates shrimp according to size. Works with less water and less ice.

Packet Man (Permanent): Pack the frozen shrimp per requirements of the importer.

Cleaner (Permanent): Performs all cleaning jobs like washing floor area, spraying water, washing the baskets, etc.

Cold Storage

Cold Storage Worker (Permanent): Prepares cartons, keeps processed and unprocessed shrimp separate and moves shrimp as required.

NOTE: In the De-heading, Production/ Panning, IQF and Cold Storage sections, all permanent workers are paid equally, except that the casual workers, who are all men, get 200–300 taka more than others per month.

Machine Room

Machine Room-In-Charge (Permanent)/ Senior Operator (Permanent), Operator (Permanent), Helper (Permanent): Keeps the generators and icing machines and other production machines operating, fuels machines, keeps production machines free from bacteria and performs all other maintenance-related works.

NOTE: Senior Operators and Operators receive the highest wages among all workers.

Administration

Gateman: Guards the gates and checks workers entering and exiting the factory.

Peon: Carries papers, documents and files from one place to another and assists administrative staff.

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The Solidarity Center is a non-profit organization established to help workers build democratic and independent unions around the world. Working with trade unions, nongovernmental organizations, community organizations and governments, the Solidarity Center supports programs and projects to advance worker rights and promote broad-based, sustainable economic development in about 60 countries. The Solidarity Center was created in 1997 as the American Center for International Labor Solidarity through the consolidation of four regional AFL-CIO institutes.

In addition to extensive work with trade unions and community organizations in Bangladesh, the Solidarity Center began in 2007–2008 to document worker rights abuses and provide assistance to workers employed in Asian shrimp-processing plants.

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SAFE (Social Activities For Environment) is a nongovernmental, nonprofit, voluntary development organization that has been working in Bangladesh since 1998 on a range of environmental and social issues. Since 2003, it has focused on advancing worker rights in the shrimp sector in southwestern Bangladesh and is one of the few local NGOs working on this issue. Its goal is to spread awareness among workers of their legal rights, lobby for better implementation of Bangladesh labor law and raise awareness of the current working conditions of shrimp workers.

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