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BANGLADESH

Bangladesh Labor Assessment

April 2014



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Executive Summary

As the country's largest exporting industry, Bangladesh's ready-made garment (RMG) sector is of enormous significance to the country's economic development. Recognizing the need for continued improvements in labor rights protections in the RMG sector, as well as the export-oriented shrimp sector, USAID has undertaken an assessment of stakeholder needs and is providing recommendations for strengthening existing programming. These recommendations will support the development of new programs to promote labor rights compliance.

A team consisting of staff from USAID/Washington, USAID/Bangladesh, the US Department of Labor (DOL), the US Department of State (DOS), and a Dhaka-based labor law specialist conducted the assessment. This report provides some options and recommendations that are useful to any current or future donors that are evaluating gaps and considering future programming. The primary purpose of the assessment is to inform USAID programming. While DOL and DOS contributed to the assessment, the recommendations do not necessarily represent the views of these agencies. The assessment team interviewed stakeholders including from the Government of Bangladesh (GOB) key ministries (Labor, Commerce, Foreign Affairs and Home Affairs), trade unions, employer associations, international donors, representatives of the International Labor Organization (ILO), and several non-governmental organizations (NGOs). The team observed three training programs facilitated by the Solidarity Center, and visited two apparel factories.

The report recommends three broad areas where additional labor programming could be effective. The first area is in strengthening the effectiveness of worker organizations. Recommendations focus on strengthening organizations' ability to represent, advocate, and deliver services to members. This initiative would support improved representation and protection of union organizers from discharge. Future labor programs should also foster collaboration and strategic planning among union federations. This approach should include support for union organizers in a Bangladesh labor college and use low-cost, high impact technical innovations such as text messaging and social media to better identify problems and solutions and empower workers. Reducing the costs of communicating with workers and rooting training programs in local institutions will increase the sustainability of future programming.

Second, the report recommends several measures to address gender-based violence and support empowerment of women workers. These recommendations seek to improve women's lives by enabling them to be safe in their communities and in the factories. Programs should include trainings and education for women workers, community organizing efforts and the creation of community spaces, and increased health services in worker communities. The report includes recommendations on linking the work of women's rights NGOs with worker rights organizations to promote improved conditions for women workers inside and outside the factory.

Promoting labor peace is the third broad area of focus. Programs that facilitate non-violent engagement of worker organizations, employers and the industrial police to resolve disputes would improve workers' quality of life and reduce business risk. Recommendations include trainings in the act of nonviolent protest, supporting protocols for the industrial police, and developing communications channels between worker organizations and the police.

In addition to these recommendations for the RMG sector, the report notes that USAID/Bangladesh's

Ecofish project, and Aquaculture program address workers' rights issues in the shrimp and aquaculture sector. Given significant new funding and programming directed toward the a sector with a relatively small number of workers and employers, there is a risk that sector is saturated with donor funding, and addition money is unlikely to produce positive results. Competing donor programs could create perverse incentives for government partners and program participants. Therefore, the assessment recommends observing the preliminary results of current programming, and revisiting the need for additional support if needs in the sector remain unaddressed.

Justification for Report

In April 2013, the dramatic collapse of a Bangladeshi apparel factory, Rana Plaza, and the tragic deaths of at least 1,134 workers galvanized widespread new attention to longstanding problems of inadequate labor protections in Bangladesh's apparel sector. With over 3,500 factories,¹ and an estimated 3.5 million workers,² the country has become one of the world's largest apparel producers. The sector is the most significant source of off-farm employment for the country's enormous and growing workforce, particularly for the country's young women. However, there are serious concerns regarding poor labor conditions.

In response to the need for improving labor rights protections, USAID has obligated \$1 million in new funding for the Global Labor Program in Bangladesh, to strengthen trade unions. USAID has also facilitated the release of an additional \$500,000 in funding to WorldFish and \$1 million in funding to the ILO for work to strengthen compliance with labor laws in the shrimp and aquaculture sector. USAID/Bangladesh was one of several bilateral and multilateral donors that have stepped forward in recent months with new activities that address labor rights and health and safety compliance in the apparel sector. The US Department of Labor (Bureau of International Labor Affairs) and US Department of State (Bureau of Democracy, Rights, and Labor) are also supporting new work in this area, detailed later in this report. All current USG activities and major donor initiatives are provided in Annex III.

In 2014 the United State Congress directed USAID to dedicate \$5 million of program funding to strengthening worker organizations to improve labor conditions in the garment, shrimp and fish sectors. USAID provides this assessment to guide future programming to promote labor rights compliance in Bangladesh. While all donor-funded initiatives have their limitations, programming that clearly addresses existing gaps and leverages efforts of existing activities may significantly contribute to improved labor conditions in Bangladesh.

This report provides a summary of the US and the GOB goals with respect to international labor standards, describes appropriate goals and objectives for labor programming, and provides detailed analysis of the labor relations framework in Bangladesh prior to setting forth a number of recommendations and options for future programming.

¹ ILO: Improving Working Conditions in the Ready-Made Garment Sector Programme in Bangladesh states that the new factory database will cover 3,497 export-oriented factories in the sector. However, a World Bank 2012 White Paper stated that there were 4,400 active factories in the RMG sector.

² World Bank: Consolidating and Accelerating Exports in Bangladesh. June 2012

<http://www.worldbank.org/en/news/feature/2012/07/03/consolidating-accelerating-exports-bangladesh>

Methodology

The assessment team included: Labor Specialist, Bama Athreya, USAID Washington; Technical Specialist, Jeffrey Wheeler, J.D., US Department of Labor; Democracy and Governance Officer, Jeffrey Skarin, USAID/Bangladesh; Human Rights and Labor Assistant, Emelda Mullick, USAID/Bangladesh; Labor Officer, Mitchell Alva, US Department of State; and, Dhaka-based Labor Law Specialist, Jafrul Hasan. Given interagency participation in the assessment team, this report may be useful to other USG agencies and donors and that are considering future programming. However, the primary purpose of the assessment is to inform USAID/Bangladesh programming, and does not necessarily represent the views of the other contributing agencies.

The assessment was conducted in three stages. In the team's initial implementation planning, it compiled a list of resources for a desk review. These resources included a list of individuals and organizations to be interviewed, including both international stakeholders and stakeholders in Bangladesh; a list of programs to be observed during the assessment visit, and initial sets of interview questions. Local Law Specialist Hasan prepared separate briefing documents on labor law and labor relations in Bangladesh. The second stage consisted of consultations with international stakeholders, including within the US government (USG). The third stage consisted of stakeholder meetings, factory visits and observations of training programs in Bangladesh.

Despite a fairly short time frame for meetings and program observations, the assessment team interviewed several key stakeholders, including officials from the GOB key ministries (Labor, Commerce, Foreign Affairs and Home Affairs); trade unions, employer associations, international donors, representatives of the ILO, and several NGOs. The team observed three training programs that were facilitated by Solidarity Center, and the team visited two apparel factories. A full list of stakeholder meetings is attached as an annex to this report.

Some unforeseen factors affected the assessment. Political conditions in Jessore and Khulna made it impossible to travel to Khulna for meetings. In addition, limitations on the team's time precluded a visit to any of the export processing zones (EPZs). Changes in key ILO staff positions also limited the team's ability to observe ILO programs.

Roadmap for the Assessment

The purpose of this assessment is to provide recommendations for future programming on labor rights and improving working conditions in the garment, shrimp and fish sectors. To give context and information for evaluating recommendations, the assessment provides:

- An overview of the political and economic environment in Bangladesh and labor issues in the RMG sector;
- A summary of relevant US and Bangladesh governmental goals in promoting international labor standards to achieve labor-related goals and will support broader objectives on good governance and economic growth;
- An overview of a well-functioning labor relations system,³ with its key characteristics and desired results;

³ This is detailed further in Annex V

- An analysis of Bangladesh's labor relations framework, considering the legal framework and relevant administrative mechanisms;
- A practical description of how workers resolve complaints and how worker organizations engage in representation and provide advocacy and services;
- An analysis of the characteristics and roles of key ministries, the labor courts, and worker organizations;
- A summary of current USG and other donor efforts; and,
- Recommendations for immediate programming, and opportunities and options for future programming.

Bangladesh in 2014

Bangladesh is committed to becoming a middle-income country by 2021, by its 50th year of independence. USAID supports this goal by promoting democratic institutions and practices, economic opportunity, effective health and education services, food security activities, responsiveness to climate change, and preparedness and response to natural disasters.

As the eighth most populous country in the world and the third-largest Muslim majority nation, Bangladesh is an important partner for the United States on a broad range of issues, from security to economic growth. Bangladesh is one of the US Government's largest recipients of foreign assistance in South Asia and is a focal country for all three of the President's key development initiatives, which are Global Health, Global Climate Change, and Feed the Future. Domestic economic growth and international assistance has allowed the country's GDP to grow at an average of six percent for the last two decades. Situated between the growing economies of India and Burma, Bangladesh will play a key role in the Indo-Pacific Economic Corridor linking South and Southeast Asia. In April 2014, the United States held the first Trade and Investment Cooperation Forum Agreement (TICFA) meeting and third annual Security Dialogue, in Dhaka. A top contributor to UN peacekeeping operations, Bangladesh is also a regional and global security partner.

In spite of these successes, Bangladesh is going through a period of transition. After a year of violent hartals (nation-wide strikes) that cut economic output and severely disrupted daily life, Bangladesh held parliamentary elections on January 5 that the opposition party boycotted. Following the election, harassment of political leaders, independent media, and civil society continued. Many in the international community, including the United Nations, are working to help the main political parties engage in constructive dialogue so that they can find a way forward. Despite concerns about Bangladesh's democracy, the United States will maintain close ties with Bangladesh, which will help Bangladesh realize its potential as a prosperous regional partner that embraces democratic values and protects labor rights.

Between the late 1970s when the garment industry first began to develop until today, Bangladesh's poverty rate has declined from 70 percent to 31.5 percent according to national poverty statistics⁴. Despite these impressive gains, some 65 million people live in poverty, and 41 million live in acute poverty.⁵ Bangladesh's economy has benefitted significantly in recent decades from a thriving ready-made-garment sector, with estimated exports of \$21.5 billion in 2012-13. By some estimates, over 90

⁴ See <http://data.worldbank.org/country/bangladesh?display=default>

⁵ Ibid

percent of Bangladesh's exports to the US consist of garments and textile products.⁶ The industry is estimated to employ approximately 3.5 million people directly (and as many as 10 million indirectly⁷). Approximately 80 percent of workers are women, many of whom are migrants from poor households in rural districts.

Although the garment sector provides a unique opportunity to lift Bangladeshis out of poverty, there are serious concerns that poor labor conditions will hinder the sector's ability to be a driver of development. Routine violations reported by news media and USG reports include forced overtime, intimidation of union organizers and failure to pay legally mandated wages. Low wages and poor working conditions have led to frequent unrest in the sector. These labor problems have been the focus of human rights campaigns and of reviews by the USG (chaired by the Office of the US Trade Representative) regarding the country's Generalized System of Preferences (GSP) benefits beginning in 2007.⁸ They have also affected the overall productivity and stability of the sector, detracting from its investment appeal. Large fires at factories at Hameem Group in late 2011 and Tazreen Group in late 2012, and the Rana Plaza building collapse in 2013, raised international concerns and added weight to the ultimate suspension of US trade privileges and increased perception of risk by global brands and buyers. The risk of such incidents may hamper future growth of the RMG sector, if not addressed in a sustainable and credible manner.

While there have been ongoing programmatic efforts to address these problems in Bangladesh's apparel sector, the recent tragedies have underscored a critique of past approaches. There has been widespread recognition that existing compliance programs — many of which were developed in the wake of child labor exposés in the early 1990s — have been unable to galvanize further progress. Recent investigative reports on factory monitoring have put a spotlight on the limitations of current private, voluntary monitoring initiatives that attempt to deal with endemic compliance issues.⁹ While these programs may succeed through regular audits in finding violations, they have had less success in overseeing sustained remediation or systemic improvements in the sector. Brands that source from Bangladesh are recognizing increasingly that a go-it-alone approach to monitoring compliance in their supplier factories has limitations and poses significant challenges, in part due to the enormous size of the sector and its particular importance to the Bangladesh economy. Brands are now seeking new ways to work together to use their shared leverage to influence the industry and promote improvements in overall working conditions, not just in their own supplier factories but also throughout the industry.

The increased levels of international attention by companies, consumers and governments, and recognition of weakness in existing labor programs, have created a moment of opportunity for new approaches to promoting labor rights. The enabling environment for labor programming has changed, with major stakeholders demonstrating some willingness to support innovative new approaches. The GOB's increased interest in improving labor rights has increased pressure on employers to engage with worker organizations, and an increased number of registered worker organizations offers new opportunities for progress.

⁶ Asia Society 2011 report

⁷ World Bank: Consolidating and Accelerating Exports in Bangladesh. June 2012

<http://www.worldbank.org/en/news/feature/2012/07/03/consolidating-accelerating-exports-bangladesh>

⁸ Two prior GSP reviews from the 1990s focused on labor rights and conditions in the EPZs.

⁹ NYT December 7, 2012, p A1 "Recalling Fire's Horror and Exposing Global Brands' Safety Gap," NYT December 8, 2012 p A1 "Certified Safe, Karachi Factory Quickly Burned," also AFL-CIO Responsibility Outsourced report.

Targeted new programming may improve the safety record, stability, productivity and potential for growth for the RMG sector in Bangladesh. Over time, this will enable Bangladesh to create more wealth and jobs for its people and at the same time ensure the safety and economic well-being of its workers.

US Government and Government of Bangladesh Goals

Both the governments of the United States and Bangladesh have expressed support for the promotion of international labor standards as a pillar of successful development.

Primary US foreign assistance goals include the promotion of good governance with respect for universal values, a robust civil society ensuring democratic accountability, and a sustainable and inclusive economic growth. These goals are set forth in the President's National Security Strategy (2010) (NSS), the Foreign Assistance Act (FAA), and the Quadrennial Diplomacy and Development Review (QDDR), among others.¹⁰

USAID has explicitly identified several objectives related to increasing citizen confidence in governance institutions, and USAID has linked these objectives to the promotion of inclusive economic growth. USAID supports rule of law programs to help establish a more conducive legal framework for business development and protection of workers' rights. Civil society strengthening initiatives promote the contribution of grassroots, community-based organizations, including trade unions, to develop national policies, including employment policy.¹¹

USAID specific objectives relevant to the promotion of international labor standards include:

- Providing technical assistance to select public institutions, and enhancing the GOB implementation for fully integrated transparency measures;
- Promoting understanding of Bangladesh's legal and regulatory framework and bring key stakeholders and decision-makers together to develop proposals for further reforms;
- Support for legal advocacy initiatives and promoting increased access to formal legal systems; and,
- Support for activities to raise public awareness of human rights, including labor rights.

The US Department of Labor (USDOL) supports objectives on good governance, inclusive economic growth, civil society, human rights and the rule of law. These objectives fall under USDOL's Strategic Plan (FY 2014-2018), including Strategic Goal 1 to "prepare workers for better jobs," supported by Strategic Objective 1.3 to "advance workers' rights, acceptable work conditions, and livelihoods, particularly for the world's vulnerable populations." USDOL's Bureau of International Labor Affairs (ILAB) ensures that workers around the world are treated fairly and are able to share in the benefits of the global economy. ILAB's mission is to improve global working conditions, raise living standards, protect workers' ability to exercise their rights, and address the workplace exploitation of children and other

¹⁰ The NSS promotes "balanced and sustainable growth" and the FAA identifies a principle goal as "helping developing countries to achieve self-sustaining economic growth with equitable distribution of benefits," 22 U.S.C. §2151. The USG seeks to help low income countries grow prosperous economies governed by "capable, democratic, and accountable state institutions" with mobilized civil society and business addressing common problems (QDDR). Available at www.usaid.gov/qddr.

¹¹ Bangladesh CDCS 2011 - 2016

vulnerable populations.¹²

The GOB has identified similar goals in its 2012 National Labor Policy (NLP), which includes basic objectives to safeguard workers' rights, establish a decent work environment with healthy labor relations, and increase productivity and efficiency. A related goal is to "ensure balanced economic development" to improve the standard of living with a "positive, realistic and equitable" approach with respect for the rights and interests of workers and employers (NLP, pp. 2-3, 6-11). The GOB is committed to implementing the ILO Declaration on Fundamental Principles and Rights at Work¹³ and the GOB will support the roles of unions and worker welfare associations (pp. 3, 11-12). The NLP further notes that it will take special measures to eliminate discrimination against women and create safe and healthy workplaces (pp. 13-14).

Bangladesh's commitments are further exemplified in its ratification of the ILO's Fundamental and Governance (Priority) Conventions, including those on Forced Labor (29 & 105), Freedom of Association, the Right to Organize and Collective Bargaining (87 & 98), Equal Remuneration (100), Discrimination (111), the Worst Forms of Child Labor (182), Labor Inspections (81), and Tripartite Consultation (144). Many of these commitments have been adapted into law, including the newly amended BLA. However, the ILO has identified gaps in the new law and the GOB has drafted implementing regulations to address some of the BLA's perceived deficiencies.¹⁴ Labor rights groups and international partners have expressed concerns about inconsistent application of the law, including inadequate protection of labor organizers, workplace health and safety issues, and lack of enforcement of accurate and timely payment of wages, provision of leave, and legally-mandated social services and profit sharing.

Promoting Well-functioning Labor Relations Systems

Formal factory workplaces and industrial relations emerged during the Industrial Revolution in the late 1800s. Unregulated workplaces in the United States and Europe, where child labor, exploitative and unsafe working conditions were rife, led to widespread social unrest. Eventually, governments developed formal systems to regulate labor relations in order to both promote labor peace and protect labor rights. The field of industrial relations provides a deep well of theoretical and practical knowledge to promote international labor standards. Many people enjoy the benefits of such systems in their daily lives, without realizing they are part of a labor relations system. Employees may enjoy the benefit of a relationship with their employer within which they are able to negotiate the terms and conditions of their employment.

A well-functioning labor relations system serves as a pillar for improved governance and sustainable, inclusive growth. Such a system has an economic component (aiming to improve worker livelihoods and business growth) and it has a governance component (aiming to improve labor administration and democratic governance with active worker and employer organizations). Worker organizations are "cross-cutting" in the sense that they address economic and social issues and give voice to civil society.¹⁵ Collective bargaining may serve as "an essential component of political democracy" because a free

¹² See <http://www.dol.gov/ilab>.

¹³ See <http://www.ilo.org/declaration/lang--en/index.htm>.

¹⁴ ILO DG Report Governing Body 320th Session March 2014 "Third Supplementary Report: Situation of Trade Union Rights in Bangladesh"

¹⁵ For a discussion of the role of labor systems in supporting these goals, see "The Labor Sector and US Foreign Assistance Goals (Technical Paper)," and country papers posted on www.glasai.com.

society is one in which society members “are free to assert their individual interests collectively.”¹⁶

Labor relations systems promote balance between employment policy goals for efficiency and equity. Worker interests are fairly represented in a tripartite system (workers, employers and government). With an established role for worker organizations, labor relations systems facilitate dispute resolution through collective bargaining and dialogue regarding “rights” (in law) and “interests” (beyond the law’s minimum requirements).¹⁷ An effective system uses a combination of negative incentives (sanctions and penalties that discourage violations) and positive incentives (rewards, support and recognition).

The “social partners” (worker organizations, employer organizations, and government) participate in *social dialogue*. Social dialogue is a process for developing consensus on matters of mutual interest, such as the adoption of new labor laws and policies. By building consensus on such matters as, for example, the establishment of a minimum wage, social dialogue ensures stakeholder support and helps prevent conflict.

A well-functioning labor relations system must contain the following components with their key characteristics:¹⁸

Labor laws and regulations that protect fundamental rights provide for appropriate remedies and penalties and that establishes institutional roles and responsibilities with public reporting requirements.

Efficient and effective labor administration that educates about the labor law and what is required for compliance, enforces the laws and verifies compliance, and promotes constructive labor relations to promote common interests and resolve disputes of rights and interests.¹⁹

Efficient and effective dispute resolution that uses a system of adjudication, that employs respected professional judges and members that apply the rule of law principles with due process in a user-friendly manner, and applies appropriate penalties in a reasonably timely manner.²⁰ This system can be supported by an alternative dispute resolution (mediation, conciliation and arbitration) to improve the speed and quality and reduce the cost of dispute resolution procedures.

*Worker organizations*²¹ that efficiently and effectively: collectively represent workers; advocate for

¹⁶ *An Introduction to Collective Bargaining & Industrial Relations*, Harry C. Katz, Thomas A. Kochan, Alexander J.S. Colvin, 4th ed. 2008, McGraw Hill, NYC, NY, p. 61.

¹⁷ For an analysis of the factors leading to conflict with a particular focus on worker behavior, see *Industrial Conflict: An Integrated Theory*, Hoyt N. Wheeler, Univ. of South Carolina Press, Columbia, SC, 1985.

¹⁸ For a more complete discussion of these factors, see “The Labor Sector and US Foreign Assistance Goals (Technical Paper),” Lynn Salinger and Jeffrey Wheeler, prepared for USAID by ARD, July 2010, available at www.glasai.com.

¹⁹ For a detailed explanation of the criteria for effective labor administration and labor inspections, see “Assessment of Ethiopia’s Labor Inspection System,” USDOL, 2013, available at www.dol.gov/ilab/reports/pdf/2013AssessmentEthiopiaLaborInspection.pdf

²⁰ The likelihood that an employer (or any party) will comply with the law depends of these factors: chances of being of caught; strength of penalty; and speed of adjudicatory process. Where compliance is in the employers’ financial interest, compliance depends on their knowledge of the law and ability to comply with it.

²¹ “Worker organizations” herein includes trade unions, worker associations, worker NGOs and other NGOs advancing workers’ rights.

workers' rights and interests; and provide appropriate services, such as legal representation.²²

Employer organizations that operate in good faith within the framework, also accommodating their interests in improving productivity, quality, and delivery and reducing risk, including disruptions caused by labor unrest.

What might this system look like in Bangladesh? Bangladesh's labor laws would be in compliance with ILO standards and it would be clear to workers which government institutions should be approached for any particular type of violation. Bangladesh's labor enforcement authorities would be able to identify violations and in a timely manner remediate non-compliance, sanction violators, verify compliance, and provide for restitution to affected workers. Workers would have the resources and ability to access dispute resolution mechanisms to resolve conflicts with their employers. Finally, all parties would have confidence that resolution mechanisms were fair and enforced.

Bangladesh's Labor Relations Framework

Bangladesh's labor relations legal framework consists of labor laws and regulations, the government administration system (labor, commerce and police), bipartite and tripartite processes, courts, worker organizations (including unions and worker NGOs) and employers (including employer organizations and factory owners). This framework includes the actual processes and practices that the stakeholders use, in addition to the formal structure as established in law and policy. The discussion below focuses on the most salient aspects of the labor relations framework, including the legal framework, the labor administration system (applied by various ministries), how workers and their organizations resolve grievances (including courts), and the role of worker organizations.

The Legal Framework

Bangladesh's labor law is rooted in Colonial British India and its Factories Act of 1881, which protected British textile interests and fostered appalling factory working conditions, particularly for women and children. As in Great Britain and the US, Bangladesh applies the employment-at-will doctrine, which means that employers may discharge workers for any reason except for those expressly prohibited by law. Over the past one-hundred years, numerous laws have passed in a piecemeal fashion, including the Trade Union Act of 1926, which provided for union registration and allowed multiple unions in the workplace.²³

In 2006, Bangladesh's approximately 50 labor-related Acts and Ordinances were extensively revised and consolidated under the Bangladesh Labor Act (BLA). The BLA introduced improvements for workers including overtime, limited working hours, labor inspection responsibilities, protection of union leaders (no discharge without cause), workers' compensation, and workers' right to self-defense for disciplinary

²² Detailed trade union indicators have been developed by various union federations and research services including the LO-TCO (Sweden), FNV (the Netherlands), Union Network International (UNI), and South Africa's Labor Research Service. See "Moving Beyond the Rhetoric: Trade Union Development Indicators for South African Trade Unions," Sarah Ryklief, Labor Research Service, 2007, which addresses these characteristics: effective member representation; with democratic worker-controlled organizations; working in solidarity with other unions; and actively advancing workers interests broader than workplace matters.

²³ USAID 2008 Bangladesh Labor Sector Assessment, p.15.

matters and termination or “notice” pay for workers.²⁴ The ILO and other observers noted the BLA’s shortcomings, particularly in for the freedom of association, as well as weak and inconsistent implementation.²⁵

After extensive tripartite discussions and intense external pressure, the BLA was amended in 2013. While numerous amendments were made, few amendments addressed freedom of association, and unions contested some of the provisions that were ultimately adopted. The amended 2013 BLA’s improvements included mandating personal safety equipment, modestly increasing penalties for law violations, and defining the unions’ role in wage and overtime determinations. The 2013 BLA continues to protect the right of workers to form and join unions of their choosing, and the right of workers and employers’ organizations to form their own federations (sec. 176). The 2013 BLA also requires that 20 percent or more of the factory workforce and at least 10 percent of the union executive board be female (sec. 176).

Five key sets of provisions present challenges to workers’ ability to exercise their rights of freedom of association, organizing, and collective bargaining:

Union Registration: The BLA sets forth a detailed list of requirements for union registration, including the manner of officer elections (no term longer than two years), the union’s purpose in its constitution, its source of funding, and its plan for the safe custody of funds with auditing requirements, among others (sec. 179). While the BLA no longer requires MoLE to provide the employer with a copy of the union registration petition and worker representative names, it does not prohibit MoLE from doing so, it has no penalty for turning them over, and it does not define a process to ensure that the petition and names are kept confidential.

Non-Factory Worker Union Representation: Individuals working in an establishment in which a union has not formed are disqualified from serving as a union officers or even as members (sec. 180) (except for State-owned enterprises). A practical problem for factory-level workers is that low level workers are vulnerable to reprisals; union officers discharged by their employers can no longer serve. Moreover, union representation takes time that many factory-level workers do not have (particularly if it requires them foregoing pay) and skills that they may not possess, such as bargaining and grievance handling.

The Threshold for Union Formation: The law provides that at least 30 percent of the workers in an establishment must join a union in order for the Ministry of Labor and Employment (MoLE) to register it. This is a difficult threshold for unions to reach in large factories, which employ thousands of workers.²⁶ Unlike many other countries (including the US), workers may not form bargaining units of a certain category of workers (e.g., electricians) but are required to organize the entire factory workforce.

²⁴ GTZ Working Paper No. 2. These laws spanned British rule (15), the Pakistan regime (23), and those passed after Bangladesh’s independence (12). P.1

²⁵ See ILO Report of the Committee of Experts on the Application of Conventions and Recommendations, ILC 96th Session, 2007 available at <http://www.ilo.org/public/libdoc/ilo/P/09661/09661%282007%291A.pdf>.

²⁶ The ILO has noted that the 30 percent threshold is excessive for union registration. For bargaining power and effective representation, however, unions should aim for membership higher than 50 percent of the factory workers.

Determination of Collective Bargaining Agency: If more than one union (but no more than three) (sec. 179) is registered for an establishment, then either the unions themselves or the Director of Labor of the Ministry of Labor and Employment shall arrange an election to determine which union will represent all the workers (sec. 202).²⁷ However, this election process has not been tested. Challenges may include distinguishing employer-dominated union petitions from worker led petitions and resolving disputes over which workers are the representatives of a union.

Bipartite Participation Committees: The 2013 BLA required factories to form bipartite participation committees in enterprises of 50 or more workers, with an equal number of representative appointed by the employer and elected by workers. These committees are intended to provide worker voice in the absence of a union, although it appears that employer representatives dominate many of the committees.²⁸ The 2013 BLA further provides that the employer may not transfer a worker representative without his or her consent and may not retaliate against a worker representative for acts taken in “good faith” while performing committee-related duties.

The Ministry of Labor and Employment (MoLE)

Until 1970s there was no bureaucratic structure in the GOB to enforce labor laws. The MoLE now holds this responsibility, with two divisions: Labor and Institutional Management. Consistent with the ILO Labor Inspection Convention (No. 81), MoLE’s goals are to enforce the BLA and to provide information and advice to employers and workers on how to comply with it. In response to the recent tragedies and intense pressure, MoLE has committed to significantly increasing the number of inspectors, and has begun the hiring process. For more detail on MoLE’s history and current operations, see Annex IV.

The Labor Division has two parts:

The Inspector General (IG), which enforces the BLA through labor inspections, advises employers and workers on how to comply with regulations and identifies gaps in the law. The IG oversees the Joint Inspector General (JIG in Dhaka) and the Deputy Inspectors General (DIG) (4 in HQ, 1 in each of the 23 district office), the Assistant Inspectors General (AIG) (1 in each district office), and Labor Inspectors, which are classified as “general” (242 staff), “safety” (58) and “health” (58)²⁹. The IG is empowered under BLA sec. 319 (“powers of chief inspector”):

- Inspect at any reasonable time a working premise;
- Require the production of records kept pursuant to the BLA’s requirements;
- Interview witnesses; and,
- Demand an explanation from an employer about their records.

The Joint Directorate of Labor (JDL) administers and enforces the BLA’s provisions on union formation,

²⁷ Many countries make a distinction between union registration and the collective bargaining representation. In most, it is relatively easy to register a union but it generally does not have the authority to collectively bargain unless they show majority support through a card-check or election, which generally means that it is an exclusive representative of all bargaining unit workers.

²⁸ One worker representative with extensive experience suggested an estimate that roughly 20 percent of the WPC’s have “real” worker committee members (chosen by workers).

²⁹ According to MoLE officials

collective bargaining, and participation committees. The current structure of includes the Labor Director and Additional Labor Director (ALD), who oversee the Joint Labor Directors in each of the four divisional offices and other officials in 52 offices, with a total of 586 staff. The JDL also oversees four Industrial Relations Institutes (IRI). These institutes have a positive reputation of providing useful training to union representatives on the labor law, though, the training provided has decreased in recent years. Revitalizing these training programs would be a useful part of future programming.

Under the BLA sec. 317, the JDL is empowered to:

- Register unions;
- File complaints in Labor Courts for unfair labor practices or other violations(e.g., retaliation against organizers while registration petition is pending);
- Determine whether and which union is entitled to be certified as the collective bargaining agent;
- Supervise the election of union leaders;
- Conciliate industrial disputes; and,
- Supervise the functioning of the participation committees.

To date the JDL has not established procedures to handle union registrations, administer conciliation, or prosecute ULPs. The BLA Labor rules will provide basic procedures and an extensive range of forms, that could be used for administrative action. There is some concern however with JDLs ability to manage new administrative burdens that additional union registration and addressing labor violations will create. JDL reports that it is in the process of setting up a website with information on the union registration petitions and their status. Similarly, the IG has not had effective procedures with appropriate data fields and public transparency in reporting. Both the IG and the JDL have lacked procedures with appropriate forms for receiving, processing and reporting on complaints.

Labor Courts

As provided for in the BLA, the labor courts are the primary adjudicators of alleged labor law violations. These courts, which are separate from the general judiciary system, have judges known as “chairmen,” who are appointed from sitting judges, and two additional “members” who are representing workers and employers.³⁰ Cases are appealed to the Labor Appellate Tribunal in Dhaka.³¹ Industrial and wage disputes are filed as civil cases with judges following the Civil Procedure Code. Judges following the Criminal Procedure Code treat violations of labor court orders and laws related to child labor, failure to pay minimum wage, and unfair labor practices as criminal matters.

Worker representatives interviewed for this labor assessment noted that the Labor Court’s primary weaknesses are that the court judicial process is too slow, it takes considerable resources to bring a case to trial, and the remedies are weak and have little to no effect. These views are consistent with various papers and surveys finding that lengthy procedures and the high cost of legal representation are major hurdles. In addition, awareness is low: one survey (2010) found that 68.4 percent of surveyed workers were unaware of this legal avenue.³² Workers interviewed in that survey stated that the court always favors employers; however, several worker representatives interviewed for this assessment stated that

³⁰ It has been alleged that the government has traditionally chosen worker representatives.

³¹ USAID 2008 Bangladesh Labor Sector Assessment, p.21.

³² “Decent Work and Bangladesh Labour Law: Provisions, Status, and Future Directions,” Jakir Hossain, Mostafiz Ahmed and Afroza Akter, BILS, Dhaka, December 2010, pp. 92-93.

they generally win cases in Labor Courts when they meet their burden of proof.

This result may provide a relatively bright spot for adjudication in comparison to the traditional Bangladesh court system where Transparency International found that the justice system and law enforcement sectors are regarded as the most corrupt sectors in Bangladesh (2010).³³ Many interviewees report, however, that none of the courts are women-friendly – there are few or no women judges and the environment is not conducive to their needs or circumstances.

Ministry of Home Affairs (MHA): the Industrial Police and Regular Police

The antiquated Police Act of 1861 (adopted by the British Parliament) and the Police Regulations of Bengal (PRB) govern the current Bangladeshi police. There appears to be no additional guiding law or regulations for the Industrial Police (IP), which was created in 2010. The stated purpose of the IP according to a document provided by the MHA is “to control law and order in industrial areas and ensure an industrial friendly environment.” Its operational activities include ensuring safety and security, “softly handling of labor unrest,” and “dispute resolution regarding salary, allowances, etc.”

Representatives of the MHA and the IP assert that the number of industrial disputes has dropped in the past year or two, they use minimal force procedures, and their training has, to some degree, included labor rights and gender awareness components.³⁴ They stated that they collect data on the numbers of protests and the numbers of incidents that result in destruction or violence; however, they declined to provide it. There have also been reports that Industrial Police fail to fill out reports when complaints of unfair labor practices are brought to them, making a later JDL investigation impossible. Workers’ experience with the regular police is similarly difficult; worker representatives interviewed gave examples where they attempted to file complaints with the police but were refused unless they paid a bribe. In other instances, however, they are able to file cases without a bribe, creating a mixed account of response by police.

Ministry of Commerce

The Ministry of Commerce has also asserted a role in labor relations in export sectors. The Ministry of Commerce convenes a Social Compliance Forum comprised of several ministries, including the MoLE, the MHA, employer organizations, international organizations, and civil society representatives. The forum provides guidance on compliance with labor standards. The Ministry of Commerce also intervenes on an ad-hoc basis regarding cases of labor rights violations; recently, the Ministry of Commerce convened a group of 19 employers accused of engaging in unfair labor practices to urge them to resolve their cases expeditiously.

Ministry of Fisheries and Livestock (MoFL)

The MoFL also has a role in labor monitoring in the shrimp sector. Export licenses for shrimp processing facilities are formally linked to labor compliance. This is part of an overall compliance checklist administered by the MoFL to ensure export quality of products; the checklist also includes health and safety, and sanitary and phytosanitary standards.

³³ See “Overview of corruption within the justice sector and law enforcement agencies in Bangladesh,” Transparency International, available at http://www.transparency.org/country#BGD_DataResearch_Reports.

³⁴ Labor assessment team meeting with MHA and IP in March 2014

Bangladesh Export Processing Zone Authority (BEPZA)

The BEPZA is another government entity that has significant labor governance responsibilities, which include administering a parallel labor administration structure in the EPZs. Labor relations in the EPZs are built around a system of councilors who promote dialogue and mediation of disputes. The EPZ Workers Welfare Society and Industrial Relations Act of 2010 covers the EPZ workforce. It does not allow workers to join and form unions; rather, it allows them to form “Worker Welfare Societies” and register them with BEPZA.

Worker Organizations

Worker organizations include unions, worker NGOs and other NGOs that advance workers’ rights. In Bangladesh, unions engage in representation and provide advocacy and service delivery. NGOs incubate the formation of unions, provide advocacy, and service delivery. Some NGOs provide service to workers outside of the workplace for example, legal representation of women workers for various non-work related purposes.

Unions

The union movement has in some circumstances succeeded in advancing workers’ interests. Increases in minimum wages over the past decade, and the 2006 reforms to the BLA, are in part due to advocacy by the union movement. However, unions’ longstanding ties to major political parties affect perceptions of their credibility and efficacy.³⁵ The 2008 Bangladesh Labor Assessment for USAID noted that other civil society organizations in Bangladesh, working with their international counterparts, have been able to approach labor issues from different angles such as women’s rights or poverty reduction in a way that recasts the role of labor in Bangladesh’s political economy. Foreign entities, including governments, donors, buyers and consumer groups have influenced the dynamics of labor relations in Bangladesh.

After a long period of stagnation in union registration, 159 new unions have been registered since January 2013. Despite the recent dramatic surge in union registrations, unions themselves have pointed out continued problems with harassment and intimidation. Union organizers have reported they routinely experience threats by management soon after unions are organized, and often before they can register. After registration, union organizers report that factory-level union leaders continue to experience retaliatory firings, physical and other harassment and intimidation, and harassment of their families. Moreover, the challenges to organizing unions remain significant. Many workers in Bangladesh, in the RMG sector and elsewhere, are not familiar with unions and do not understand their role in workplace representation. Nor do most workers in the RMG sector have any broader understanding of a labor relations framework. The majority of RMG workers are women, many of them young women who are recent migrants from rural areas. As they have left behind familiar social ties and networks, they may not be aware of structures of support in their current communities.

Key hurdles to union organizing in Bangladesh include employers who force an early end to organizing campaigns by discharging union organizers. While worker organizations have had occasional success in having organizers reinstated, the available approaches are inefficient or unsustainable for regularly ensuring that organizers are not discharged for union activity and, if they are, to ensure they are quickly

³⁵ USAID 2008 Bangladesh Labor Assessment.

reinstated. Worker organizations appear to have the greatest success when they appeal directly to the buyers or request intervention by other international actors such as the US Embassy. However, these approaches only address a limited number of violations and are unsustainable.

Worker organizations report that when they request intervention by the JDL they are sometimes successful.³⁶ However, their success is sporadic, limited in numbers, and dependent on the particular Ministry officials' time and interest. Moreover, the legal process is far too slow. As a result, worker organizations will not use the legal process or, if they do, organizers generally take a settlement of back pay without reinstatement. While this may be sufficient for the individual worker, the result chills the rights of all workers in the factory because the organizing campaign has effectively ended.

Summary of Current USG and Other Donor Efforts

The USG has been supporting labor rights activities in Bangladesh since the 1970s, initially in the tea and jute sectors. With the rise of ready-made garments as the main export sector since the 1990s, USAID's support shifted to ready-made garments, along with shrimp and frozen fish, which is the second largest export earner.

The USG's cornerstone labor program in Bangladesh is USAID's Global Labor Program. The program has supported work implemented by the Solidarity Center in Bangladesh for many years. The most recent five-year program cycle began in February 2011. This \$3.8 million, multi-year program in Bangladesh strengthens freedom of association in the ready-made garment and shrimp and frozen fish sectors by enabling workers to organize unions and representatives that advocate for their interests through collective bargaining. The program also works in EPZs to increase worker's voices through worker welfare committees, and to advocate for legal reforms that would allow union organizing rights in the EPZs. The Global Labor Program provides extensive training to union federation leaders and worker leaders on union formation, registration procedures, union elections, organizational management, and collective bargaining. It also has directly supported more than 60 organizers to work through union federations to form new unions and strengthen existing ones. At the national level, the program advocates for improved labor legislation that conforms to international labor standards. USAID's funding for the Solidarity Center is supplemented by the State Department's Bureau of Democracy, Human Rights, and Labor; this funding is unique in Bangladesh in providing direct support to enable grassroots civil society organizations to advocate for labor rights protections.

In addition, the State Department, through its Office to Monitor and Combat Trafficking in Persons, supports activities that combat human trafficking.

The USDOL has contributed nearly \$5 million since 2011 to prepare for an ILO Better Work program, and to support fire and building safety efforts. Better Work is a global program to promote labor standards implementation in the apparel sector in select developing countries. In the other countries where it operates, Better Work provides participating factories with assessment, advisory and training services to promote sustainable improvements in legal compliance, greater workplace cooperation, and enhanced productivity. The Better Work program also works with participation committees in factories to improve communication and cooperation between workers and employers, as well as training for union

³⁶ During the pendency of a union registration petition, a worker organization may file with the JDL. ULPs may also be filed with the Labor Inspectorate.

organizers to improve their effectiveness. The USDOL's support for fire and building safety is divided between the Solidarity Center and the ILO, and supports workers' ability to engage constructively in safety efforts, and the GOB capacity to engage workers and monitor compliance.

In the shrimp and frozen fish sectors, USAID and the GOB have jointly programmed \$1.6 million in local currency, through the organization WorldFish, to the ILO and the Solidarity Center. These activities will assess and improve the environment for labor compliance and sound production practices, and establish an alternative dispute resolution process to provide an objective and peaceful solutions to grievances between workers and management.

The USG is one of several bilateral and multilateral donors who have stepped-up to expand funding to address labor rights and health and safety compliance in the Bangladesh garment sector. With funding from Canada, the Netherlands and the United Kingdom, the ILO has launched a program on "Improving Working Conditions in the Ready-Made Garment Sector." This program supports the interventions identified in the National Tripartite Plan of Action on Fire Safety & Building Integrity. Inspections include building and fire safety assessments; strengthening labor, fire and building inspections; building occupational safety and health awareness, capacity and systems; rehabilitation and skills training for victims; and implementing the Better Work program in Bangladesh.

The European Union, Norwegian development organization, Germany's donor organization GIZ, and the UN Industrial Development Organization (UNIDO) are collaborating on the Better Work and Standards (BEST) program³⁷. Among other activities, this program provides audit, advisory and training services to improve social compliance in factories, training and logistical support for factory inspectors of the MoLE to increase their capacity for factory inspections, and information services for female workers on their rights and responsibilities under the labor law.

In addition to traditional donor-funded activities, western garment buyers have launched two private sector initiatives: The Accord on Fire and Building Safety in Bangladesh³⁸ and The Alliance for Bangladesh Worker Safety.³⁹ Both initiatives support factory safety inspections, remediation requirements, access to finance for remediation, and commitments from buyers to not source from factories that do not pass a common standard for safety inspections. They have each made inspection reports publicly accessible on their websites and will be coordinating with the GOB to put them up on the government's publicly accessible database. The two agreements also provide training of workers and managers on safety monitoring and procedures.

Programming Options and Recommendations

The following section describes recommendations and options for both short-term and long-term USAID programming, and may be applicable to other donor assistance. We identify program ideas that are immediately implementable as 'recommendations' and ideas that are medium-to-long term and may require support from multiple donors as 'options.' While all of the program ideas are mutually reinforcing, it is expected that programming will be selected and sequenced based on availability of funding and of the priorities of local partners and the GOB counterparts.

³⁷ Not to be confused with the ILO's "Better Work" program

³⁸ See <http://www.bangladeshaccord.org/>.

³⁹ See <http://www.bangladeshworkersafety.org/>.

The report recommends three broad areas where additional programming could be effective. The first area is in strengthening the effectiveness of worker organizations. Recommendations focus on strengthening organizations' ability to represent, advocate, and deliver services to members. Initiatives that support improved representation and will protect union organizers from discharge. Initiative support will also better facilitate collaboration and strategic planning among union federations. A sustainable approach would include anchoring union trainings in a Bangladesh labor college and use high-tech tools such as text messaging and social media to raise awareness and better identify problems and solutions and empower workers.

Second, the report recommends several measures to address gender-based violence and support empowerment of women workers. These recommendations seek to improve women's lives by enabling them to be safe in their communities and in the factories. Programs should include trainings and education for women workers, community organizing efforts and the creation of community spaces, and increased health services in worker communities. Improving linkages between NGOs that are protecting women's rights and worker organizations and NGO recommendation are integrated into this report.

Promoting labor peace is the third broad area of focus. Programs that engage worker organizations and the industrial police in non-violent ways to resolve disputes would improve workers' quality of life and reduce business risk. Recommendations include trainings in the act of nonviolent protest, supporting protocols for the industrial police, and developing communications channels between worker organizations and the police.

Expanding and Improving Worker Representation

The past year has seen an exponential rise in the number of unions organized at the workplace level in the RMG sector. Despite this new momentum around organizing, workers remain under-represented, and existing worker organizations are as-yet unable to effectively engage in social dialogue, and thus have not yet been able to fully represent or advocate for their members' interests. Thus we recommend programming to strengthen worker representation.

Why focus on effective collective representation? With an estimated 3.5 million workers in the RMG sector, common problems and concerns need to be addressed across the sector. Enhancing workers' capacity to participate in labor relations systems at the factory and national levels will serve to improve conditions for workers, and improve the safety record, stability, productivity and potential for growth for the RMG sector in Bangladesh.

Effective worker representation can create a feedback loop for understanding and addressing workers' concerns. Programs to promote effective collective representation may have a "snowball effect." If such programs can demonstrate value to workers, more workers may be stimulated to join worker organizations, creating and sustaining demand for the expansion of effective representation.

Collective representation may also strengthen the effectiveness of current programs to provide individualized services (such as access to legal aid) to workers and help such programs begin to work at scale. For example, a legal aid organization that handles wage disputes may only have sufficient information to handle each grievance on a relatively inefficient one-on-one basis. An organization with

information about multiple wage disputes may be able to help identify a pattern and support collective legal action. Similarly, a health service provider that sees a single case of occupational disease must only treat that case. A collective identification of a common health problem could help the service provider deliver necessary services at scale.

1) *Support Union and Community Organizing*

- a. Increase Union Organizing: Unions are membership organizations that provide collective representation, advocate on behalf of their members and deliver services to their members. They are potentially more sustainable than other organizations because they are membership based and partly funded on member dues. In many countries, trade unions work closely with other social justice organizations, including faith-based organizations, student organizations, and NGOs on common advocacy platforms. Unions may also work with NGOs on programs to provide important services, such as skills training, legal aid, access to credit, and health services.

During the past year, there has been significant new momentum toward organizing RMG workers. However, even with these new efforts, the total number of RMG workers with access to union representation remains extremely small. Providing collective representation to an estimated 3.5 million workers across over 3,500 factories will require significant additional organizing efforts.

Union organizing takes place at the workplace level. Workers themselves may decide to form a union, and work at a personal level to recruit additional supporters and organizers at the factory level. This process may easily take several months, as it may be necessary to meet several times with individual workers, or invite them to several small group meetings, in order to address all their questions and concerns while they consider joining the union. Program support for union organizing includes supporting union federations to hire and deploy several new staff that will target areas to engage factory workers that will establish new unions.

There are nine union federations where new RMG sector unions have been affiliated. To varying degrees, they all have organizers but to work at the scale required to reach the majority of workers in this sector, all would need significant new resources to hire and train organizing staff.

- b. Support Strategic Planning to Increase Union Density: Organizing in smaller factories is easier than in larger factories, as fewer workers are needed to meet the 30% threshold required for union registration. In addition, USAID's programming has focused on the number of trade unions organized, rather than the number of workers represented by trade unions. This may have contributed to a focus on organizing many smaller factories, with very few unions formed in factories with more than 5,000 workers. Unions' ability to effect change is limited severely where they represent a relatively small percentage of workers in an industry. Isolated piecemeal bargaining will lead to isolated piecemeal improvements. Greater union density will make it easier to negotiate a multi-employer or sector wide collective bargaining agreement and that would have a far greater impact benefiting both workers and employers.

Organizing large RMG factories will ensure that workers have sufficient bargaining power that will effectively improve their pay and employment conditions. Most of the newly registered unions are in factories with 500 or fewer employees. To some extent, this is a result of incentives provided by the current support given to these activities; targets have focused on number of unions formed, rather than number of workers represented. Additionally, unions have had little success in organizing the large factories because they have not yet had sufficient support to develop, test and successfully apply new approaches to mass grassroots organizing. In these longer-term campaigns for larger factories, union organizers need protection from retaliation and discharge, with worker organizations playing a supporting role by taking actions that help protect employees or help gather evidence.

Strategic organizing enables unions to organize large factories to cover larger numbers of workers and to set standards for the industry, including for unorganized factories. Owners of large organized factories will not want to be on an uneven playing field with unorganized factories. As a result, they may pressure other factory owners to recognize unions and raise wages and conditions to match their own. Organizing large factories depends on improved strategic organizing, better protection for union organizers, and a balanced bargaining system where employers view collective bargaining as a process that services their interest (for example, in promoting productivity and labor peace).

As a precursor to engaging in activities to target large factories, trade union federations could be encouraged to engage in a joint strategic planning initiative, convened by a trusted external support organization. The strategic planning activity would include not only trade unions active in the RMG sector but also labor support from NGOs that have been critical to campaign work in support of organizing. The goal would be to develop a sector-wide organizing strategy to target larger factories. Such a strategy would facilitate ‘managed competition’ of existing union federations in their organizing efforts so that union federations are not duplicating organizing efforts.

- c. Support Community Organizing: Alternative ways to link workers to unions are needed, particularly in areas where unions do not yet exist or are not able to work. In Bangladesh’s EPZs there are restrictions on union organizations that preclude union federations from the traditional organizing work. Even outside of the EPZs, women’s rights or labor support NGOs have an important role to play in facilitating other types of networks among factory workers.

In many circumstances, workers may not understand what unions are, and many months of work may be needed to educate workers. Community organizations and networks can be an important vector to disseminate information about labor rights and labor law. These organizations can also be the means for the development of media-based public education campaigns, using media and communications tools that are most likely to reach workers, such as radio programs, posters, and street theater.

Even after workers agree to form a union, the registration process may be lengthy, and it may be many additional months before the union can begin to effectively represent its members. In the absence of this process, or in parallel to it, NGOs can play a role in facilitating the creation of networks that work in the community, rather than at the

factory level. These types of worker networks, which could also exist within EPZs, are analogous to other types of community-based organizations, which are less dependent on formal bureaucratic processes and less vulnerable to employer resistance. While they could not engage in negotiation with employers, they could provide an important avenue to educate RMG workers about their rights, build awareness of the role of trade unions, and link workers to service delivery organizations. These networks could also provide an ongoing venue to coordinate advocacy across trade union federations, and advocacy that addresses issues that do not stop at the factory door. Ultimately, these alternative organizations could support a sector-wide organizing strategy.

- d. Support E-Organizing: While direct communication with workers remains essential to effective trade union organizing, the rise of new communications tools should enable important work to educate and sensitize workers to their rights, and to ensure feedback loops between workers and their representatives. Global human rights campaigning organizations have used new media extremely effectively to educate and mobilize supporters.⁴⁰ Spontaneous grassroots political organizing has also reached around traditional, and government-dominated, media channels to reach large numbers of people and mobilize them to take action.

A handful of new initiatives are experimenting with ways to use communications technology to reach factory workers and farm workers. Groups like Labor Link⁴¹ and LaborVoices⁴² are being used by companies for corporate social responsibility (CSR) initiatives; these initiatives are creating simple and direct communications mechanisms that provide feedback to workers. These initiatives use simple mobile phone technology, to which most workers have access to, for conducting surveys of worker needs. At present, mobile phones are used as an auditing tool. Communications technology is used to verify the nature of workers' problems and to provide the CSR initiatives with the information. However, these systems do not enable any direct response to the issues that are identified, nor any means to follow up with workers to see if the issues they raised have been effectively remediated.

This technology holds promise to be used for more than just feedback loops. In other contexts, USAID is supporting work to enable activists around the world to organize and express themselves politically through use of mobile phones, Facebook and other social media.⁴³ With the launch of its Global Development Lab,⁴⁴ USAID has indicated its strong support to expand its presence in the area of applying new technologies to longstanding problems. For example, through its Making All Voices Count initiative, USAID supports innovations that harness new technologies to enable citizen engagement and government responsiveness.⁴⁵ As of yet, these technologies have not been applied to labor organizing, in some measure because of perceptions that low-wage workers do not have access to or utilize new communications tools.

⁴⁰ www.avaaz.org

⁴¹ See <http://goodworldsolutions.org/services/>.

⁴² See <http://www.laborvoices.com/>.

⁴³ See <http://www.usaid.gov/mobile-solutions>.

⁴⁴ See <http://www.usaid.gov/GlobalDevLab>.

⁴⁵ See <http://www.makingallvoicescount.org/what/>

However, initiatives such as Labor Link and LaborVoices, which have demonstrated proof of concept among apparel workers in India, suggest that RMG workers are able to utilize at least some of these tools. Other organizations in Bangladesh and India have effectively used mobile and other technology to reach rural populations.

Civil society organizations could use both e-organizing and other community-based forms of alternative organizing to educate workers about their rights, build awareness of trade unions, and link workers to service delivery organizations. These tools could be used to gather information about specific workplace problems even prior to the development of an organizing campaign. This information might help trade union federations determine with more precision their strategic focus for new organizing drives. The information may also enable unions, at the outset of a campaign or well after a union has been established, to understand with precision the most pressing problems and concerns that workers are facing at the factory level.

For example, in Bangladesh, worker organizations could use cellphones for a range of purposes, including gathering information about the numbers and types of in-factory violations, identify which problems the workers view as the most important to address, and canvass workers on which demands or bargaining proposals that should be put forward to employers. A voice-activated system could be used for easier access. This simple approach could have a far-reaching effect, including finding violations common to large numbers of workers, empowering workers by giving them a direct voice in identifying their needs and priorities, and promoting union democracy and transparency.

2) Increase Union Membership by Protecting Union Organizers

A key approach to increasing effective representation of workers by unions is to improve protection of union organizers. Presently, Bangladesh lacks an effective and efficient process to protect union organizers, and worker organizations lack capacity to ensure that organizers are not fired for their union activities. Currently, available means for reinstatement of a fired union organizer is inefficient or unsustainable. Worker organizations appear to have the greatest success when they appeal directly to the buyers or request intervention by other international actors such as the US Embassy. However, these approaches only address a limited number of violations.

The potential solutions involve improving labor regulations, procedures and processes. Including improving the worker organizations' ability to bring, and successfully resolve a union organizer's discharge cases. If organizers are quickly reinstated, then employers will be less likely to discharge them in subsequent organizing campaigns.

- a. Improve the Process for Reinstating Union Organizers: A fast-track process should be implemented to quickly reinstate union organizers who are discharged. While there are various ways to do so, the most promising appear to be:
 - Establish the MoLE fast-track procedures for investigating, resolving and referring for prosecution cases that involve the discharge of union organizers.

- Establish a referral process, with agreements between MoLE and worker organizations with a defined role and a process for MoLE and union federations and local unions; in order to quickly refer cases with certain criteria to the appropriate MoLE officials for their quick action.
 - Build capacity at the JDL for the investigation and prosecution of ULPs. Currently there are no lawyers on staff at JDL, and officers have extremely limited experience with such investigations.
 - Establish Labor Court procedures to ensure that these cases are resolved on an expedited basis with quick enforceable decisions. The process should be user-friendly for workers, particularly women workers.
- b. Improve Worker Organizations' Skills and Ability to Effectively Resolve Organizer Discharge Cases: Worker organizations need improved skills and abilities to effectively represent discharged organizers to ensure that they are quickly reinstated. Ideally, they would follow MoLE procedures if effective, or they would be able to resolve them through other appropriate means. To be sustainable, the training would be anchored in appropriate Bangladeshi institutions and organizations.

Improving the protections for union organizers will help increase the number of union members, thus increasing their bargaining power. Improving worker organization skills and ability to keep organizers working in the factories should also lead to a reduction in worker destruction/violence because they will have a peaceful means to have their grievances heard and resolved.

3) *Increase Unions' Ability to Protect and Serve their Membership*

- a. Improve Worker Organizations' Effectiveness in Service Delivery: A number of development initiatives in Bangladesh may affect or be relevant to populations of RMG workers, without explicitly targeting this population. Resources directed to strengthening access to health, education, social services, credit, or legal aid in Dhaka, Chittagong, and other areas of RMG production would all be of interest and value to women factory workers. However, as many factory workers are migrants to urban areas, they may experience barriers in accessing information about available programs. Donors to any social service delivery programs in areas of heavy factory concentration might be encouraged to review their programs and ensure RMG workers are appropriately served. NGO coalitions and networks might be engaged to serve as a resource to connect trade unions and other worker organizations with the network of NGOs delivering services of interest.
- b. Strengthen Effectiveness of Union Leadership through Training: A worker college or training institute could be developed to ensure that factory-level worker leaders learn and apply key skills, and that their organizations effectively represent and advocate for them and provide needed services. USAID could support an existing institution or a university to do this work. Alternatively, it may be appropriate to establish a new worker college. A hybrid approach between developing a new institution and using an existing institution could be to anchor a worker education program in an existing institution. This would include developing core modules with a certificate program. Different organizations could serve on the advisory board with a smaller professional group on

the management board. Representation could come from academia, unions, labor support NGOs and NGOs providing services to workers, particularly women.

The curricula could include the following:

- Literacy & numeracy skills (in preparation for representation and bargaining);
- Grassroots organizing;
- Worker grievance handling: gathering evidence and making the case;
- Interest-based negotiation and problem solving
- Collective bargaining
- Women leadership skills;
- Union administration: communications, planning, basic budgets and finance; and,
- Participatory worker education techniques.

Other needed skills and knowledge could be provided through the college or through other institutions, such as the Industrial Relations Institute (IRI), which is affiliated with MoLE. For example, they could include training on labor law and regulations. The worker college might also undertake research for use by unions or NGOs, especially with regard to labor force participation, tracking instances of unfair labor practices, and more. Such an institution could also be a focal point for better educating media on how to cover labor issues.

4) Encourage Union Cooperation and Consolidation

In recent years, much of Bangladesh's trade union movement has been weak, fragmented and politicized. Employers understandably complain that it is difficult to bargain with multiple unions or engage in social dialogue with multiple and sometimes competing federations. This fragmentation is also inefficient because it requires more employer and worker bargaining representatives on both sides. The bargaining results, with a multiplicity of agreements, are also likely to be uneven and inconsistent. It is also difficult for small unions, most of which cannot support professional staff positions. This lack of professionalization impedes agreement and frustrates employer representatives who need counterparts trained in negotiations and problem solving.

Bangladeshi union federations currently provide advocacy for law and policy reform, help resolve individual grievances, and at times assist in union presentation of their "charters of demand." However, they are not yet well equipped to engage in collective bargaining in part because they lack the necessary skills and do not have effective structures to communicate with workers and understand their needs and preferences.

IndustriALL, the global union federation that represents unions in the apparel and textile sectors, is playing a new coordinating role with a sector council. This is an important component to build toward the ultimate goal of a stable and well-functioning industrial relations system. Existing union federations must learn to work together and to participate effectively in national tripartite structures, for example for minimum wage negotiations. It may be particularly critical to build capacity of the sector council to play a constructive role in tripartite fora because new

ILO programming requires tripartite advisory bodies, and thus will inevitably call upon existing federations to take up this role, whether or not they are ready for it. However, given the very thin level of genuine representation of the RMG workers by many of the federations, this needs to be approached carefully, with a view to unintended consequences. IndustriALL has very few professional staff in Bangladesh. Sector council union federations may not all be truly representative of the RMG workers. Capacity building for the federations should support their ability to engage in national advocacy, but must avoid validating professional staff who are not truly accountable to RMG workers.

Strengthening IndustriALL or any other sector-wide federation or council must therefore begin with a focus on governance and accountability. It must assist federations and sector-wide councils to develop transparent measures to select representatives, criteria to ensure member unions are genuinely representative of RMG workers, and strong internal processes to ensure that policy positions are vetted with all members.

5) *Effectively Engaging Employers: Highlight Positive Examples to Encourage Better Labor Practices*

The promotion of labor rights depends on positive as well as negative incentives. Approaches may include establishing a labor-management award. The award could exist in coordination with an initiative to share information and provide advice to employers on best practices in the areas of profit sharing and other types of services or benefits to workers that go beyond those mandated by law or common practice.

Some stakeholders identified Corporate Social Responsibility (CSR) awards as a positive way to motivate employers to improve employee behavior through positive reinforcement and peer pressure. However, many of the ‘good’ companies are only providing the benefits that are mandated by law (e.g., childcare, health clinics, or profit sharing). Thus we recommend creating a reward for companies that go beyond the law and demonstrate best practices in negotiation and dialogue with workers; in short, it would not be a CSR award but rather a labor-management award. There is precedent for this approach. The annual State Department Award for Corporate Excellence set an unusual and high profile precedent. This year, a Honduran framework agreement between the US apparel company Fruit of the Loom and the Honduran union federation CGT received this accolade.⁴⁶

A labor-management award could be established in Bangladesh for the RMG sector. The immediate area of focus could be best practices in profit sharing. Despite a legal mandate, most employers do not engage in profit sharing. A company with a ‘best practice’ in using its worker participation committee to negotiate profit sharing with workers could be profiled in the first year; in future years, if trade unions are able to establish effective negotiations, a management-union agreement could be featured. In addition to establishing the award, a new program to profile labor-management cooperation could also develop and share a set of relevant best practices with employers to encourage adoption of appropriate practices. Fair trade initiatives may provide examples of good practices; there are numerous initiatives among fair trade companies in negotiating higher prices for products that are ethically produced, often referred to as a “social premium”. A panel would be established to accept nominations, review them and select winners who would receive high-level awards with extensive public recognition. Panel

⁴⁶ See <http://www.state.gov/e/eb/ace/2013/index.htm>.

members would include representatives from academia, government, employers, and worker organizations. The awards would be given for the best labor-management partnerships in which employers and worker organizations successfully cooperated to achieve a mutually beneficial result. The award would be presented in a high-profile public event by a high-level official from the GOB, possibly along with the US ambassador and representatives from other donor countries. Award categories could be based on the size of the enterprises (large/small), the sector (RMG or other), or other criteria (e.g., issue). Extensive news coverage would highlight them, partly shifting the focus from bad examples to good examples.

Empower Women Workers and Promote Safe Worker Communities

Women workers may be the key to a new approach to improving factory safety and workplace conditions, as the workforce in the RMG sector is overwhelmingly female. Women bear the burden of health, safety and other overall labor violations.. At the same time, women's employment has been critical to the country's economic growth and development. The sector has provided new opportunities for women to become formal sector wage-earners, and has allowed women to provide remittances to their villages that have helped to raise overall levels of development in Bangladesh's rural areas. Yet, women remain under-represented in trade unions and other worker organizations.

Women workers in Bangladesh's RMG sector are routinely exposed to gender-based violence and problems related to reproductive health. However, these problems have been largely unaddressed because they go beyond the factory setting. Bangladeshi NGOs that are active with populations of low-income urban women, including RMG workers, report that women are often migrants from rural areas; they live in rental situations that are unsafe and unsanitary, and are exposed to the risk of gender-based violence at the hands of proprietors or others. Their children may be similarly at risk. Women workers may also turn to legal aid organizations for support on concerns that are not strictly workers' rights issues but do stem from factory employment, such as husbands garnishing their pay. In brief, the following common problems affect women workers in the RMG sector are:

Physical safety - women are at physical risk when traveling long distances to and from work, and often they are traveling when it is dark.

Health and well-being- proprietors are often reluctant to rent to single women. As a result, many start unstable relationships with boyfriends in order to rent a space in a room. Some women become pregnant and the boyfriends leave; at this point, the women do not have access to healthcare and some choose unsafe abortion procedures. Proprietors themselves may also harass or sexually abuse tenants.

Environment hazards to all workers and children- many workers live in slums, surrounded by trash. Refuse is burned in open piles, with children and dogs running around them. Sewage and sanitation infrastructure and practices are unhealthy; washing facilities are not properly separated from sewage. Nearby canals and rivers are heavily polluted.

Children's health and wellbeing- while many of the larger factories are now providing daycare to infants and very small children, such services are not available to older children, many of whom do not have access to schools and spend their days without proper supervision in dangerous conditions. Some children are sent back to relatives in home villages but many stay in the slums

of the city. These children may be poorly supervised during the day and may be at risk of sexual or physical abuse.

Family life- workers are often unable to maintain a healthy and happy family life, consistent with Bangladeshi values and practices. In many cases, four or five workers are crammed into a 10x12 foot concrete room, often with a mix of couples and non-couples. Intense pressures keep family members apart or in unstable relationships (for example, a husband stays in the village and a wife goes to city for the factory job and may commence a relationship with a boyfriend). Children are separated from parents due to the lack of schools and unsafe living conditions in areas where garment workers live.

When workers live in an unsafe and unhealthy environment, their productivity also suffers. Some NGOs in Bangladesh are working to address sexual and reproductive health issues among RMG workers. Unsanitary conditions at work (such as lack of adequate menstrual pads) are compounded by unsanitary conditions at home, leading to illness that may reduce workdays or work hours. If workers are subject to abuse and harassment, this also takes a mental and physical toll on their ability to concentrate and work productively. Some Bangladeshi RMG employers have recognized this, and a few have worked with NGOs to provide healthcare and childcare in their factories. These provisions and services are mandated by law for facilities that employ more than 50 workers. Unfortunately, in many cases the services available in factories are inadequate or nonexistent.

Ensuring women's health and safety has critical implications for the continued economic progress of the country. Workers' welfare and standard of living are directly affected by the circumstances of their lives both inside and outside of work, most particularly in their communities. In short, the workers' welfare and standard of living will be sustainably improved only if the broader circumstances of their lives are addressed, in particular that they live in safe communities.

A program focused on women and gender issues is consistent with USAID's strategy on gender equality and female empowerment.⁴⁷ The recommendations below address several aspects of this important policy, including improving reproductive health, reducing gender-based violence, and enhancing paid employment and control over assets for women.

1) The Safe Communities Approach

A Bangladesh Safe Communities initiative would draw from a subset of development fields to tailor an effective and appropriate approach for Bangladeshi RMG workers. The initiative would design and implement an approach with these elements: low-cost/affordable housing close to factories in mixed-used communities (housing, shops, schools community and religious centers, in close proximity), with safe sanitation, improved transportation practices, reduced pollution (with "green" practices) with special attention to the needs and interests of women and children. Ultimately, the Safe Communities approach should benefit all, including men. However, it may start by addressing the most vulnerable: single women and their children.

A safe communities approach could start simply, and build on small-scale work that is currently being conducted by local NGOs. Some NGOs have already begun work that is addressing affordable housing, safe transportation and sanitation in worker communities. For example, one

⁴⁷ See http://pdf.usaid.gov/pdf_docs/pdact200.pdf.

NGO described a small-scale effort that is engaging a community of RMG workers in facilitating trash collections on a regular basis. This has led to improvement in overall sanitation and children's health in the community. Other NGOs described their work to educate women about sexual and reproductive health, and have introduced basic hygiene techniques that are being used in conditions of poor sanitation.

Establishing safe and clean community spaces may be a good first step toward a safe communities approach. Worker-oriented community halls or gathering spaces could serve multiple purposes. During the daytime hours, community halls/space could provide a space where children can play safely. Workers could use the space simply as a place to gather after work. Such centers could be used by various NGOs to provide services the community needs, including literacy training, legal aid, training on women's leadership skills, or rights awareness programs. If centers were themselves inadequate to maintain a full range of needed services, they could serve as a point for referrals.

Optimally, planning for safe communities would occur in tandem with the relocation of many RMG enterprises from unsafe structures in Dhaka to newer and safer facilities outside of Dhaka, as workers themselves will inevitably have to relocate around these new facilities. In a recent speech, Prime Minister Sheikh Hasina stated that the GOB has plans to create a 'garment village' to provide a secure working environment for RMG workers.⁴⁸

Within one to two years, a comprehensive detailed master plan could be developed and within two to three years, construction on a pilot community could be started. The elements of the master plan would include:

- Design of the physical space and structures: including housing and other structures, landscaping and services for safety, environmental protection, water, sanitation, and utilities;
- A transportation plan: with low-cost, reliable and safe transport;
- Selection of construction sites and settling land title and related legal and permitting issues;
- A community governance plan: how the community will be governed and managed; and,
- Services and resources: determining which service should be applied and how (e.g., health, women's peer-to-peer support, child and adult education, legal advice, etc.)

⁴⁸ "Govt Plans RMG Village" – <http://www.thedailystar.net/backpage/govt-plans-rmg-village-19177>

Promoting Sustainable Communities

The United Nations Commission on Sustainable Development has been promoting new approaches to “sustainable communities,” which aims to move the poor out of “patently inadequate housing” into communities with safe housing with basic water, sanitation and utility services and better access to income generating activities. Similarly, the “smart growth” movement aims at building safe and sustainable communities with affordable housing that is close to work, schools and shops, supporting local economies and protecting the environment. Smart growth aims at developing a sense of community and place; shortening and improving transportation; equitably distributing the costs and benefits of development; reducing pollution; and promoting public health. Smart growth approaches are generally designed to address environmental protection, economic competitiveness and equity.

New approaches in landscape design architecture similarly emphasize development with these characteristics: affordability, resiliency (durability), and sustainability. All of these approaches implicitly or explicitly raise the importance of empowering civil society and promoting democracy.

It is essential that the GOB provide a high-level commitment to the safe communities effort and efficiently navigate implementation. While the GOB may not be willing to contribute funding, the GOB could be asked for a contribution in-kind: land near the RMG factories, which it currently holds in abundance. Donors might target specific efforts toward ‘retrofitting’ this space, for example through initiatives providing separate toilet/bathing areas for women/children, hygiene training, covered drainage, garbage collection, or community/peer training/awareness building on combating gender-based violence. Enlisting GOB support for such an approach would need to address GOB concerns that providing basic services to citizens in urban slums would attract more poor people in already overcrowded urban areas.

While this initiative appears to be complex, a number of individuals and organizations have already expressed their enthusiastic support for it. For example, a prominent Bangladesh architect has offered to initiate a public competition for Bangladesh architectural students and professionals on designing a pilot safe community. This approach has the merit of establishing local ownership in the concept with little funding required. Similarly, the leadership of the US-based Council of Educators in Landscape Architecture (CELA) in coordination with the University of Washington’s Landscape Architecture program has suggested that they could provide a “lightening team” for technical assistance and implementation of a Bangladeshi university program. The local representative for Habitat for Humanity also expressed support for the idea, with experience on the challenges of building housing and sanitation systems in Bangladesh.

A pilot community could be constructed under the most favorable circumstances: where the needs are greatest, the commitments the strongest, and the infrastructure, legal and governance issues the easiest to resolve. A basic safe community would serve as a functional example that could be expanded in substantive areas (add services on basic model, e.g., healthcare) and replicated (built in other areas). With an effective structure in place, the community could receive additional support from the USG, other donors, corporations, and the United Nations Development Program (UNDP). For example, the UNDP Office for Partnership

actively seeks to provide funding to local partners with well-managed organizations.⁴⁹

2) *Enhancing women's leadership skills*

In addition to promoting women's safety, security and well-being, work to promote opportunities for women's leadership is also needed. While women make up the vast majority of RMG workers, they are all but absent in management or even supervisory positions within factories. Some factory owners report that even when supervisory positions within a factory become available to line workers, women workers hesitate to put themselves forward for these opportunities. Some anecdotal information from factory managers suggests that women do not see themselves as ready for supervisory roles; also, they may be reluctant to accept more workplace responsibility while needing to juggle home and family responsibilities.

Women workers are best placed to understand directly the issues that male-dominated trade unions have failed to address, such as sexual and reproductive health issues. They are also best placed to understand issues related to income and well-being that relate back to salary and benefits. While organizations within Bangladesh and organizations internationally have engaged in lengthy debates regarding the adequacy of Bangladesh's minimum wage, specifically the need for higher wages, there has been much less attention or work to address the basic goods and services that wages are meant to cover. Some anecdotal evidence suggests that when wages in the sector were recently raised, proprietors in Dhaka raised rents for RMG workers. RMG workers may also be paying a premium for basic goods such as clean water, and bearing other externalities such as costs of childcare that should be provided by employers. Women's leadership in factories and in worker organizations may change the dynamic of collective negotiation, by expanding negotiations beyond wages and toward coverage of the goods and services that women workers need most.

Women need to overcome barriers of discrimination both within the workplace and outside of the workplace in order to access leadership roles, and have the ability to represent other women workers. Some NGOs are currently providing specialized empowerment programs to women workers. However, the programs do not yet operate at scale, and in most cases, are limited in scope focusing on only one subset of women's issues (such as women in trade union leadership, women's financial literacy, or women's sexual and reproductive health). Notably, however, there was little evidence of any systematic approach to research and detail reasons why women do not step into leadership positions in higher proportions, whether within trade unions or simply within the factory workplace hierarchy.

A program to target and empower potential leaders would have the following elements. First, it would require the ability to observe women workers in factory and community settings in order to identify those who are recognized by their peers as mentors and problem-solvers. Second, it would require a careful assessment of both practical and cultural barriers faced by these women. Third, the program would develop and implement an appropriate curriculum and anchor the training in a long-term support network, such as a peer-mentoring network. Finally, such a program would provide for follow up with participants over time to continue to support their development as leaders.

⁴⁹ See www.un.org/partnerships.

Promoting Labor Peace and Stable Industrial Relations

1) *Increase Labor Peace through Training and Collaboration*

Labor unrest resulting in destruction and violence has imposed significant risks and high costs for employers. It also reduces worker welfare when the unrest leads to their temporary or permanent unemployment from the affected factory and at times leads to serious worker injury. Efforts to promote labor peace could focus on three areas:

- a. Establish the principles and practices of nonviolence in worker organizations. The principles of non-violent action, well exemplified in the work of Mahatma Gandhi and Martin Luther King, Jr., has been used to develop practical training curricula that has been applied, tested and improved for labor-related actions. For example, training areas include how to ensure that a labor action starts and stays peaceful; how to defuse a mass action that has turned or could turn destructive or violent; and how to resolve conflicts peacefully. This training has been provided by a number of organizations, including the Martin Luther King, Jr. Center for Nonviolent Social Change in Atlanta and the University of Rhode Island's Center for Nonviolence & Peace Studies, among others. To ensure high-profile attention and commitment to this approach, a civil rights luminary could be invited to kick off the effort.
- b. Establish constructive communications between worker organizations, police and employer organizations. A common problem in Bangladesh is that the police, employers and worker organizations are unable to diffuse spontaneous worker protests that, as a result, spiral out of control. A rapid response network should be created that would assist in establishing procedures for quick communication between worker organizations, the police (particularly the IP), the Bangladesh Garment Manufacturers Exporters Association (BGMEA), and the Bangladesh Knitwear Manufacturers and Exporters Association (BKMEA). The rapid response network should identify and train contact points (representatives) from each organization in group sessions, establish a system for each party to keep track of the results of their efforts and provide basic support with communication devices where needed. MoLE could play a facilitating or coordinating role with assistance that identifies and resolves the underlying cause of the unrest (e.g., failure to pay worker wages).
- c. Increase transparency and accountability of industrial police (IP). Workers and union organizers interviewed expressed an extremely low level of confidence in the industrial police. There is a common perception of widespread corruption among the IP, and workers shared several anecdotal examples in which they believed employers had paid bribes. They noted examples of intimidation and harassment that were carried out directly by the IP. A 'watchdog' initiative to provide greater overall transparency on these incidents may reduce corruption and other inappropriate behavior. Curtailing corruption supports the USAID objective of better governance. A civil society watchdog could provide regular reporting shedding light on any known instances of improper behavior by the industrial police. Such an initiative could also have a media outreach component, or could include a component to develop communication and meaningful data sharing with relevant government agencies including the MoLE and Ministry of

Home Affairs (MHA) to promote stronger accountability. An approach engaging these agencies could also include ‘carrots’ to reward instances where the IP play a constructive role in facilitating dialogue between workers and management when unfair labor practices are first reported, thus promoting labor peace.

2) Support Creation of Clear Rules and Procedures for the Industrial Police (IP)

It appears that the IP has no clear governing rules and procedures in general or specifically for when labor unrest happens. The regular police have written regulations; however, they are antiquated and do not properly address mass labor unrest. In particular, the IP needs a governing policy for resolving labor unrest through effective and peaceful means and, when necessary, minimal force. A guideline should include details for implementing and reporting on the policy and training to implement the policy.

The MHA, which oversees the IP, did not express an interest in this kind of assistance. They noted that the Ministry provides them with some training, which includes a union representative, and that the IP and other police have been trained to use appropriate minimal force techniques.

The IP does not need to be the ‘implementer’ of such an approach. Local CSOs, including legal and human rights organizations, could provide proposals to address this gap in policy and advocate strategies to promote adoption of such policies. USAID has supported CSO groups working in good partnership with the MHA and the Ministry of Expatriates’ Welfare and Overseas Employment, to work on reducing human trafficking and may have already established some good precedents.

Promoting International Labor Standards in the Shrimp Sector

The shrimp sector is Bangladesh’s second largest export-earning sector, after ready-made garments. However, in terms of its workers, the shrimp sector is only between 0.2% and 5% the size of the RMG sector. Organizations interviewed for this report estimate that the entire sector consists of approximately 200,000 smallholder cultivators, mostly family plots on one hectare or less of land. These farmers sell shrimp through traders to processors. While over 100 processors are registered, the total number of registered processing facilities is not indicative of the number of actual active employers in the sector, as a number of registered enterprises are not operational. Currently, the approximate number of operating facilities is between 45 and 60, of which only 30 employers are operating at a significant volume. During peak season, these processing facilities employ approximately 25,000 workers, a large number of them contract workers. The permanent workforce is between 6,000 – 8,000 workers.

Although the sector has significant international support, it remains relatively small compared to shrimp sectors in neighboring countries. A number of factors inhibit the Bangladesh aquaculture-sector competitiveness. The limited overall production of the entire sector is a factor that limits the competitiveness. International buyers are not sufficiently invested in Bangladesh to incentivize their interest in supporting improvements. Donors are working to assist the industry to improve the quality of its product and to diversify breeds in order to reduce the sector’s vulnerability to disease.

Civil society organizations' reports on labor conditions for shrimp processing workers have identified numerous problems. Problems identified include the lack of appointment letters or employment contracts; payment of wages below the nationally mandated minimum wage, late payment of wages, excessive overtime and lack of overtime pay and the persistence of child labor. The situation is reportedly dire for contract workers, who make up 70 percent to 80 percent of the workforce at the processing plants during the peak work season.⁵⁰

There is a need to address these issues and improve compliance with international labor standards in the sector. The needs include improving workers' understanding of rights and systems, promoting worker-management dialogue and providing recourse to rule of law. There is also a need to ensure government systems work smoothly and efficiently, in this case by ensuring clear lines of communication and differentiation of roles between the MoLE and the MoFL.

It should be noted that there are a number of donor initiatives active in this sector with a component of programming that targets one or more of the needs described above. Given the small size of the sector and limited number of employers and employer organizations, and relatively small total population of workers, it is important that the sector not be 'over-programmed' as this may have the unintended consequence of disabling effective intervention.

The UN Industrial Development Organization (UNIDO) has been working with MoFL to improve export prospects for the sector through global standards training, including training on labor standards. A system of labor standards verification is in place. The Bangladesh Shrimp and Fish Foundation (BSFF) has administered a labor compliance survey to all its members. The MoFL now links export licenses to verification of this self-assessment. The MoFL retains authority over the issue of export licenses for this sector.

USAID launched two initiatives in the shrimp sector that have just come online in early 2014. USAID and the GOB have provided support to WorldFish, which in turn is supporting the Solidarity Center that is improving labor rights compliance in the shrimp and frozen fish sector. This program works to create an alternative dispute resolution process. USAID and the GOB have also provided support to the ILO to assess and improve the environment for labor compliance in the export shrimp sector.

The ILO works with tripartite national stakeholders, namely MoLE and its national trade union and employer partners to develop training and outreach programs. The ILO plans to conduct new research on working conditions in the shrimp sector. The ILO also plans to hold national and international workshops to sensitize international and national stakeholders on conditions of work and international labor standards in this sector, and to strengthen the capacity of the MoLE and the MoFL to carry out inspections, in particular by developing new self-assessment tools for factories and employers.

At the same time, through the Poverty Reduction by Increasing the Competitiveness of Enterprises (PRICE) activity, USAID has already supported the BSFF in implementing a self-assessment activity on labor compliance with shrimp processing facilities. The goal of this activity is to improve compliance with labor laws and international labor standards. The activity was developed and piloted by labor assessments in ten factories.

Through the WorldFish activity, the Bangladesh Frozen Fish Exporters Association (BFFEA), BSFF and the

⁵⁰ Solidarity Center 2012 Report available at http://www.solidaritycenter.org/Files/pubs_bangladesh_shrimpreport2012.pdf.

Solidarity Center are working to implement a new Memorandum of Agreement (MOA) on labor standards in this sector. Under this activity, partners will undertake new research on working conditions in the sector, including a comprehensive analysis of the issues affecting contract workers. The activity will also support trainings on labor law, legal counseling for workers and employers, and the creation of alternative dispute resolution mechanisms. Importantly, the MOA establishes the rights of workers in the sector to associate and bargain collectively with employers.

These programs cumulatively may address several needs in this sector. While none of the programming directly addresses the need to build capacity of worker organizations, it should be noted that prior programming by the Solidarity Center did support trade union organizing in this sector. Lessons learned from this past programming have been incorporated into the new the MOA and may facilitate future work to strengthen worker organizations, particularly given the explicit coverage for freedom of association in the MOA.

There are current technical assistance needs in the sector. The MoFL would benefit from programs to strengthen its capacity, in coordination with the MoLE, to enforce labor law protections in the shrimp sector. Entities such as the ILO might institute trainings and work to assist both entities that will coordinate their respective roles and establish clear protocols for inspections and for decisions linked to the issue of export licenses.

While the MOA is innovative and promising, much work is still needed to assist the shrimp sector workers to establish representative organizations, and to learn to negotiate with employers. This would require assisting workers to develop a sector-wide organization or federation, and training leaders to represent and bargain for their members. Similarly, programming that assists and enables employers to engage in negotiations with workers would be appropriate. Programs that assist both parties to understand how to engage effectively with government entities would also be useful.

While the new programming does not address all aspects of workers' needs in this sector, it may be desirable to wait until new programming is initiated, in particular proposed new research by the BSFF, the BFFEA and the Solidarity Center as well as the research proposed by the ILO, before initiating any additional efforts to promote compliance. The assessment team recommends encouraging all current project implementers to harmonize activities, and where necessary reducing activities to allow other implementers to work where they have relative expertise. It is recommended that USAID engage in further consultation with the implementers in a six months' time to assess continued gaps in addressing workers' needs.

It should be noted that in meetings with the MoLE, labor officials noted that they are engaged in an activity with Save the Children to develop a new code of conduct for employers on children's rights. While the project is not sector-specific, given the attention to child labor in the shrimp sector, it is likely this sector would be a target for engagement by this activity.⁵¹

Finally, USAID conducted a Bangladesh Labor Assessment in 2008 that included the shrimp sector, and one recommendation from this report may continue to be relevant: improving local-level labor governance. The 2008 assessment found that formal labor relations mechanisms were not as relevant in

⁵¹ Noting divergences between the USG and ILO approach to child labor and that of Save the Children in some contexts, the assessment team respectfully calls attention to this code and the possibility that the project may be at best a distraction, at worst a conflicting initiative to that implemented by ILO and supported by USG.

the informal sector and in rural areas. They noted particularly that interviews with workers in the shrimp sector revealed that negotiated improvements in working conditions were affected by local governance systems. Working through the Upazilas enabled workers and employers, who often lived in the same communities and villages, to come together to negotiate over issues with the Upazila leaders as mediators. As noted, new efforts are underway through the WorldFish programming to develop alternative dispute resolution mechanisms; these programs should consider the findings of the 2008 Assessment.

Summary of Recommendations and Options for Future Programming

This report sets for a number of recommendations and options for future programming. We categorize as *recommendations* those proposals that could be utilized by USAID in the near term and within the context of its current country strategy. *Options* may require additional research, and some would require significant funding and coordination with USAID/GOB counterparts. Other donors could use these recommendations in the near or medium term, and USAID could incorporate options into a future USAID country strategy and support them in the mid-to-long term.

Recommendations for Near Term Programming

Enhance Worker Representation:

USAID support can enable workers to develop strong and credible organizations to represent their interests and engage effectively in social dialogue. Immediate programming might support strengthening workers' collective representation by:

- Increasing support to union organizing;
- Improving unions' ability to deliver services to members;
- Supplementing traditional organizing efforts and providing information on rights at greater scale by supporting other types of community organizing, including e-organizing;
- Supporting strategic planning and coordinated implementation of planning among union federations;
- Supporting programs to develop and implement comprehensive trade union education curricula; and/or,
- Supporting awards for labor-management cooperation.

In the long-term, this might enable sector-wide social dialogue and sectorial collective bargaining, as described below.

Empower Women Workers:

New programming can address interrelated issues including risk of gender-based violence, improving reproductive health, protecting children and empowering women workers to take greater leadership roles by:

- Educating RMG workers and communities about reproductive and sexual health issues;
- Developing and providing safe community spaces, such as community halls;
- Supporting community improvement efforts, including efforts to enhance safety and security and improve sanitation and health;
- Supporting efforts to develop safe housing for RMG workers; and,
- Supporting barrier analysis and empowerment training programs for women workers.

Improve Labor Peace:

Labor unrest resulting in destruction and violence has imposed significant risks and high costs for employers. It also reduces worker welfare when the unrest leads to their temporary or permanent unemployment from the affected factory and at times leads to serious worker injury. Efforts to promote labor peace could:

- Provide training in nonviolent action
- Improve communications between worker organizations, employers and police

Options for Future Programming

Expanding and Improving Worker Representation:

Gains for workers can be achieved by improving worker organizations' ability to engage in effective representation, advocacy and service delivery. Improved representation requires organizing more workers and improving the quality of representation and advocacy. Doing so will require collaboration or consolidation among union federations. Medium-term approaches might include:

- Improve process for reinstating union organizers;
- Improve unions' ability to resolve unfair labor practices cases;
- Encourage union federation cooperation and consolidation; and/or,
- Establish a worker college.

Promoting Safe and Sustainable Communities:

A safe communities approach could start simply, and build on small-scale work that is currently being conducted by local NGOs. Optimally, planning for safe communities would occur in tandem with the relocation of many RMG enterprises from unsafe structures in Dhaka to newer and safer facilities outside of Dhaka, as workers themselves will inevitably have to relocate around these new facilities.

Within one to two years, a comprehensive detailed master plan could be developed and within two to three years, construction on a pilot community could be started. The elements of the master plan would include:

- Design of the physical space and structures: including housing and other structures,

landscaping and services for safety, environmental protection, water, sanitation, and utilities;

- A transportation plan: with low-cost, reliable and safe transport;
- Selection of construction sites and settling land title and related legal and permitting issues; and/or,
- A community governance plan: how the community will be governed and managed.

Improving Labor Peace and Stable Industrial Relations:

A common problem in Bangladesh is that the police, employers and worker organizations are unable to diffuse spontaneous worker protests that, as a result, spiral out of control. Medium-term options to address this would include:

- Support creation of clear rules and procedures for industrial police.
- Establish constructive communications between worker organizations, police, and employer organizations; and,
- Support a watchdog initiative to increase transparency and accountability of the IP.

Promote Sector-Wide Approaches to Social Dialogue:

As a long-term goal for both the RMG and shrimp sectors, activities might seek to promote framework agreements and/or sector-wide collective bargaining. This would include technical assistance that achieves results for multiple objectives in a manner that creates a self-sustaining system, protects labor rights, facilitates worker organizations' input in the process, and creates sufficient incentives for employers to negotiate with workers. CBAs could serve such a purpose, particularly if they cover multiple employers and substantial numbers of workers.

In the current system, worker organizations have primarily focused their efforts at collective representation by presenting to employers "charters of demand". These representatives seek agreements that comply with a few specific legal requirements, which workers believe are commonly violated. Unions have expressed that they are willing to seek ways of promoting productivity in the context of agreements that provides workers with meaningful benefits. A framework from the CBA would have the following advantages:

- Be bilateral, and thus more sustainable by addressing employer interests in productivity and labor peace in exchange for making improvements for the workers;
- Establish an efficient and effective grievance procedure for disputes over the interpretation and application of the CBA; and/or,
- Establish clear and fair rules for a range of matters, including roles and responsibilities on matters such as promoting health and safety.

Annex I

Scope of Work Assessment of Labor Related Programming in Bangladesh March 19, 2014

Justification for Assessment

In April 2013, the dramatic collapse of a Bangladeshi apparel factory stimulated widespread new attention to the problems of labor rights and occupational health and safety violations in Bangladesh's apparel sector. With over 4,500 factories, and an estimated three million workers, the country has become one of the world's largest apparel producers. The sector is the most significant source of employment for the country's enormous and growing workforce, particularly for the country's young women. However, there are serious concerns regarding poor labor conditions, particularly the frequency of factory fires

The United States Trade Representative acted in June 2013 on a longstanding country practice petition related to labor rights in Bangladesh, including concerns related not only to apparel but to shrimp, fish and other export sectors, and suspended the country's privileges under the Generalized System of Preferences program. The Administration subsequently outlined an Action Plan for Bangladesh, which, if implemented, may provide the basis for the reinstatement of benefits.

Subsequently, in response to a Congressional directive regarding the importance of strengthening workers' organizations in the apparel sector, USAID obligated \$1 million in new funding to the Solidarity Center for its work to strengthen trade unions in Bangladesh. In the FY 2014 omnibus foreign operations appropriation, Congress directed additional resources for "programs to improve labor conditions by strengthening the capacity of independent workers' organizations in Bangladesh's readymade garment, shrimp, and fish export sectors."

Several donors and new projects to address labor rights and health and safety compliance in the apparel sector have come online in Bangladesh in recent months. The US Department of Labor (Bureau of International Labor Affairs) and US Department of State (Bureau of Democracy, Rights and Labor) are supporting work in this area implemented by Solidarity Center and the International Labour Organization (ILO). The ILO also received funding from US DOL for an assessment phase to establish a Better Work program for the apparel sector in Bangladesh. A matrix of existing USG, multilateral and EU funding in this area has been prepared by the USAID Dhaka mission, and will be updated as part of this assessment.

The proposed assessment will be conducted by a team consisting of Bama Athreya, Jeffrey Wheeler, Jeffrey Skarin, Emelda Mullick, and a Dhaka-based expert. The assessment' team's final deliverable will be a paper describing recommendations and options for USAID and overall USG programming to improve labor rights and increase capacity of workers' organizations in Bangladesh to advocate effectively for improved workplace protections and working conditions. The assessment will serve overall USG, USAID and USDOL objectives in the areas of democracy, human rights, governance and international labor rights.

Given the particular focus of this assessment on informing future programming to strengthening worker organizations, the assessment will include analysis of the current challenges that workers face, including poor working conditions, limited freedom of association, and lack of compliance with international labor standards. The assessment team will examine (1) the existing legal framework for enforcement of labor standards; (2) respective roles and capacity of existing worker organizations, including civil society organizations and trade unions; (3) the relevant government authorities, including offices and personnel handling labor compliance inspections and remediation, registration of unions, unfair labor practices, and dispute resolution, including the staffing and capacity of such offices; (4) bipartite and tripartite industrial relations mechanisms at the factory, sector and national levels, including worker welfare committees and health and safety committees; (5) current GOB and donor initiatives to improve compliance with international labor standards, and opportunities to complement current initiatives.

Objectives

- Identify pressing political, economic and social challenges in Bangladesh that undermine compliance with international labor standards.
- Map existing programming and actors, identify gaps in current programming and analyze the short, medium, and long-term needs to address these gaps.
- Provide specific recommendations on how USAID and other USG agencies can strengthen the capacity of workers and their representative organizations to support improve labor conditions and advocate for improved workplace protections, in a manner that supports broader DRG and overall USG objectives.

Methodology

The assessment team will use the following methodology:

- Initial Implementation Planning: In consultation with USAID Dhaka, assessment team will prepare a list of resources for the initial desk review, a list of individuals/organizations to be interviewed internationally, a list of individuals/organizations to be interviewed in Dhaka; a list of programs to be observed, and initial sets of interview questions.
- Desk Review of Program Documents: Team will review all available project materials, including grant agreements and grant-related reports on all projects active in promoting labor rights compliance, occupational safety and health, and/or strengthening worker organizations in Bangladesh.
- International Stakeholder Interviews: Team will interview key stakeholders among international donors and implementing organizations related to this topic, including but not limited to other USG agency representatives, the ILO, IFC, Bangladesh Accord and Alliance for Bangladesh Worker Safety.
- Interviews with USAID and US Embassy: Team will interview USAID mission staff and US Embassy staff engaged in day-to-day implementation and oversight of USG programming to address labor issues in Bangladesh.
- Bangladesh Stakeholder and Key Informant Interviews: The majority of the team's work will

involve meetings with stakeholders and key informants determined in consultation with USAID/Dhaka and including, but not limited to, apparel factory workers and workers' organizations, employers and employer association representatives, GOB officials, civil society organizations, think tanks, and academics.

- Field Observations: In consultation with USAID/ Dhaka, team will identify opportunities for direct observation of USAID-supported and other programming in this area. Examples of programs that may be observed include, but are not limited to, Solidarity Center training and capacity-building workshops, legal assistance programs for workers, ILO or multi-stakeholder initiatives training or factory monitoring programs.

Outputs

- Presentation of Preliminary Findings: Assessment team will present preliminary findings to USAID Dhaka mission staff.
- Outline and Draft Report: Team will circulate draft report to USAID Dhaka, USAID Washington, and US DOL for comment and further feedback.
- Final Report: Team will provide final report that summarizes information gathered with actionable recommendations and options.

Annex II:

Labor Assessment 2014 – Stakeholder Engagements

	Alliance for Bangladesh Worker Safety	CIDA
		Embassy of the Netherlands
<u>GOB/Public Sector</u>	Accord on Fire and Building Safety	GIZ
Ministry of Labor, including Labor department (union registration) and Inspections department	<u>NGOs</u>	Friedrick Ebert Stiftung European Union
	ActionAid Bangladesh	<u>Program Observations</u>
Ministry of Home Affairs including Special Branch and Industrial Police	Awaj foundation	Collective Bargaining Training for BIGUF –Local plan level union leaders (Solidarity Center, Chittagong)
Ministry of Commerce	Bangladesh Center for Workers Solidarity (BCWS)	
Ministry of Foreign Affairs	Nari Uddyud Kendra (NUK)	Labor Law Training (Solidarity Center)
BEPZA	Bangladesh National Women Lawyers' Association (BNWLA)	BIGUF organizers and factory level workers monthly coordination meeting (Solidarity Center, Gazipur)
Bangladesh Institute of Labour Studies (BILS)	Center for Policy Dialogue (CPD)	
Bangladesh Enterprise Institute (BEI)	CSR Center	Women Leadership Program (Solidarity Center/BILS, Dhaka)
	Manusher Jonno Foundation	
<u>Trade Unions</u>	Habitat for Humanity	<u>Factory Visits</u>
Solidarity Center supported union leaders and organizers	FULKI	Sparrow Apparels Factory (meeting with owner, managers, and worker participation committee members)
IndusriAll Bangladesh Council (IBC)	Bangladesh Shrimp & Fish Foundation (BSFF)	Columbia Garment Factory visit, (meeting with general manager and worker participation committee members)
Worker's Rights Consortium and new union members	Solidarity Center	
	WorldFish	
<u>Employer/Brands</u>	WRAP, BSCI	
BGMEA	Better Work Bangladesh Trust	
Mahammadi Group	<u>Donors</u>	<u>Other</u>
GAP	ILO	Director, EMK Center

Annex III: STRATEGIC ALIGNMENT WITH ONGOING USG, GOB AND OTHER DONOR PROGRAMMING

The USG has been supporting labor rights activities in Bangladesh since the 1970's, initially in the tea and jute sector. With the rise of the garment sector as the main export sector in the 1990's, USAID's support shifted to ready-made garments, along with shrimp and frozen fish, the second largest export earner. Following the Tazreen factory fire and the Rana Plaza building collapse, USAID is one of several bilateral and multilateral donors who have stepped up to expand funding to address labor rights and health and safety compliance in the apparel sector in Bangladesh. The US Department of Labor (Bureau of International Labor Affairs) and US Department of State (Bureau of Democracy, Human Rights and Labor) are also supporting new work in this area. The USG's support in the RMG and shrimp sectors is focused on promoting freedom of association, rights to form trade unions, and collective bargaining in accordance with ILO core labor standards. Given the influx of programming to promote fire and building safety, the USG is also supporting efforts to engage worker organizations in this process to ensure workers have a voice in protecting their own safety. The following outlines current USG assistance on labor issues.

U.S. Agency for International Development

The USG's cornerstone labor program in Bangladesh is USAID's Global Labor Program, a Washington-based program serving seven countries, of which \$3.8 million is dedicated to Bangladesh. Initiated in 2011 and implemented by the Solidarity Center, this five-year program strengthens freedom of association in the RMG, shrimp and fish sectors by enabling workers to organize unions and represent their interests through collective bargaining and other advocacy efforts. The program also works in export processing zones to increase worker's voice through worker welfare committees, and to advocate for legal reforms that would allow union organizing rights in the EPZs. The Global Labor Program provides extensive training to union federation leaders, and worker leaders on union formation, registration procedures, union elections, organizational management, and collective bargaining. It also has hired more than 60 organizers to work through union federations to form new unions and strengthen existing ones. At the national level the program advocates for improved labor legislation that conforms to international labor standards. The Global Labor program plays an important role in protecting workers whose rights have been violated, through legal counseling as well as direct advocacy on behalf of workers whose rights have been violated. This has been essential in mitigating the chilling effect of union leaders who have been attacked or fired for their organizing efforts.

USAID – GOB Cooperative Programming

USAID and the GOB have co-programmed funding in the shrimp sector in order to improve working conditions and strengthen freedom of association. The International Labor Organization (ILO) is implementing a two-year, \$1 million program to assess and improve the environment for labor compliance and sound production practices in the export shrimp industry. The Solidarity Center is complementing the ILO's activities through an 18-month, \$450,000 grant to establish an alternative dispute resolution process to provide an objective and peaceful solution to grievances between workers and management. Solidarity Center works with the GOB, industry, labor, and the ILO to improve labor practices and compliance with internationally accepted labor standards through training, outreach programs, and factory inspections.

State Department

The State Department's Bureau of Democracy, Human Rights, Labor (DRL) supplements funding to Solidarity Center with a \$495,000, 18-month activity to strengthening the capacity of independent workers' organizations in Bangladesh's garment sector and export processing zones. This activity focuses

on developing more effective leaders by training worker leaders who will continue to mobilize and educate workers. Training focuses on building the skills of activists and advocates, particularly women, who will be better equipped to recruit and represent Bangladeshi garment workers. The project objectives are to increase the number of plant-level unions and union membership; increase the participation and skills of women to be active organizers and leaders; and to improve the capacity of worker organizations to utilize legal mechanisms to assert workers' rights and engage in national-level policy debates. Through strengthened organizations, Bangladeshi garment workers will be able to constructively and effectively advocate and bargain collectively with the industry owners for improvements in their wages, benefits and working conditions. DRL also supports the Solidarity Center and a sub-grantee, the Worker Rights Consortium (WRC), with a \$150,000, 12-month activity to assist garment worker organizations to use factory safety initiatives to address workplace safety. The project educates worker representatives and leaders to advocate to make workplaces safer from deadly hazards; acts as an interlocutor for labor unions with U.S. and European retailers to ensure supplier factories carry out repairs; and facilitates onsite worker safety trainings and the establishment of factory-level labor-management occupational safety and health committees.

The State Department's Office to Monitor and Combat Trafficking in Persons (J/TIP) supports efforts to combat labor trafficking, including forced labor, debt bondage, and bonded labor, particularly among workers in the garment industry in Bangladesh. Through a two-year, \$500,000 program started in September 2013, J/TIP partner Solidarity Center and local civil society organizations advocate for the implementation of legislation; work to strengthen measures against fraudulent labor recruiters; and have established an information center where prospective migrants can receive information on safe migration and on available services in destination countries.

The Bureau of Educational and Cultural Affairs (ECA) of the State Department sponsors an educational exchange program for labor activists in Bangladesh and Liberia. This \$300,000 program is designed to exchange information and build bridges between labor rights activities in the US and in developing countries.

Department of Labor (DOL)

The DOL's assistance in Bangladesh has focused on supporting the ILO to establish a Better Work program in the country, and more recently, in supporting efforts to improve fire and building safety. From May 2011 to June 2014, DOL provided \$685,000 to prepare for Better Work, a joint ILO/IFC program that promotes economic development and labor rights in accordance with international labor standards. The purpose of this Design Phase was to ensure that stakeholders understand and support the objectives of the Better Work program and to complete the program design so that work can begin as soon as the program is approved. Subsequently, DOL committed \$2 million in funding to start up and implement Better Work Bangladesh, with other donors providing additional funding.

Also to support this effort the DOL has supported the "Promoting Fundamental Principles and Rights at Work in Bangladesh (FPRW) Project." DOL provided \$1.5 million from January 2012 - June 2014 to support an improved labor law framework in conformity with International Labor Standards. FPRW also has provided training and mentoring to enhance worker and worker organization capacity to exercise their rights in practice and improved labor-management cooperation at the enterprise level. The FPRW project works closely with Better Work and the ILO-Dhaka Office to implement activities. DOL engaged the Federal Mediation & Conciliation Service (FMCS) to conduct training on interest based negotiations (IBN) and problem solving for labor, management and government representatives through the FPRW Project. In conjunction with the Better Work design phase, FPRW project has worked closely with

Bangladesh stakeholders on the labor law reform process and on tripartite dialogue on fire safety in the RMG sector.

In September 2013, DOL awarded \$2.5 million to improve fire and general building safety in Bangladesh's ready-made garment (RMG) sector. The grants were awarded to two separate projects. The Solidarity Center received \$1 million to improve representation and protection of workers in the RMG sector on fire and general building safety. This project trains workers and worker organizations to engage in effective dialogue with GOB and employers on fire and general building safety strategic plans and related initiatives. This includes improving the knowledge of workers on fire safety and general building hazards and practices, fire-safety inspections, and means to report and propose remediation to the appropriate GOB authorities and/or factory managers. The project also builds worker organization capacity to represent workers on fire and building safety matters to ensure that their rights and interests are protected.

DOL awarded \$1.5 million to the International Labor Organization (ILO) to improve the Government of Bangladesh's enforcement of fire and general building safety laws and regulations in the RMG sector. This project, focused on the government side, assists in improving GOB policies and plans in line with the National Tripartite Action Plan. It is also increasing GOB capacity to inspect and ensure timely remediation of fire and building hazards and protect against employer retaliation for reporting hazards, and strengthening GOB education and outreach to employers and workers on fire and general building safety. This project emphasizes improving front-line enforcement with measurable improvements in the number of hazards remediated with effective management of the inspection process.

Other Development Initiatives

The Government of Bangladesh, international donors, buyer consortiums, and international organizations are funding numerous initiatives on workers' safety and occupational health, skill development, social compliance, and technical knowledge sharing on building safety.

Multi-stakeholder Initiatives

ILO RMG Program

Initiated in response to the Rana Plaza tragedy, the "ILO Program on Improving Working Conditions in the Ready-Made Garment Sector" is one of the largest labor programs in Bangladesh. It supports the interventions identified in the National Tripartite Plan of Action on Fire Safety & Building Integrity and is jointly funded by the Canadian, Dutch and British governments, in cooperation with numerous GOB agencies, employer associations, and worker organizations. The program has five components: building and fire safety assessment; strengthening labor, fire and building inspections; building occupational safety and health (OSH) awareness, capacity and systems; rehabilitation and skills training for victims; and implementing the Better Work program in Bangladesh. The Better Work program is of particular interest to this assessment, as it involves working with participation committees in factories to improve communication and cooperation between workers and employers, as well as training for union organizers to improve their effectiveness.

Better Work and Standards (BEST) is a multifaceted program aimed at sustainable economic growth and poverty reduction that respects international and Bangladeshi labor standards. The program includes skills training for workers and managers, international alliance building with research and educational institutions, capacity building for ministries and trade associations, as well as promotion of social and environmental standards. Various GOB ministries, the UN Industrial Development

Organization and GIZ implement this EU and Norwegian development organization funded program. The program provides audit, advisory and training services to improve social compliance in factories, training and logistical support for factory inspectors of MoLE to increase their capacity for factory inspections, and information services for female workers on their rights and responsibilities under the labor law. GIZ has organized 40 “women cafes” where women workers share information and learn about labor rights and life skills through interactive games.

The Accord on Fire and Building Safety is a multi-stakeholder agreement designed to ensure factories that produce for signatory brands are safe. It includes independent safety inspections at factories and public reporting of the results of these inspections. Where safety issues are identified, retailers commit to ensuring that repairs are carried out, that sufficient funds are made available to do so, and that workers at these factories continue to be paid a salary. Factories that participate in the Accord will receive training on fire and building safety procedures and precautions, including engaging workers in monitoring safety compliance. More than 100 international brands, international trade unions IndustriALL and UNI Global, and several Bangladeshi trade union federations participate in the Accord. International NGOs, including the Clean Clothes Campaign and the Workers’ Rights Consortium, International Labor Rights Forum and Maquila Solidarity Network are witnesses to the agreement. The International Labor Organization (ILO) serves as the chair of the Accord.

The Alliance for Bangladesh Worker Safety is an agreement of 26 primarily North American buyers intended to improve safety in Bangladeshi ready-made garment (RMG) factories. Alliance factories are assessed and inspected in accordance with common standards developed by the Alliance and the Accord. Alliance members have committed \$42 million in a worker safety fund to be used for factory inspections, training of workers and managers on safety monitoring and procedures, and to assist workers displaced due to factory closings resulting from failed inspections. In addition, Alliance members have made available \$100 million in low-cost loans to remediate unsafe factories.

Bangladesh Investment Climate Change (BICF) is a project supported by the World Bank Group’s International Finance Corporation (IFC) to support the investment and economic growth in Bangladesh. The program works primarily in Export Processing Zones in Bangladesh and is focused on environmental and social sustainability. The program trains and advises labor counsellors on social compliance, occupational safety and health, and arbitration mechanism for disputes and grievances. In addition to labor rights issues and worker health and safety, the program addresses handling of chemicals and environmental issues.

Worker Rights Activities

Capacity Building for Trade Unions is a four-year program initiated in 2012 by the Dutch trade union organization FNV (Federatie Nederlandse Vakbeweging) to support their Bangladeshi trade union partners. To complement these efforts, the government of the Netherlands is also supporting a program to build the capacity of labor NGOs through the Clean Clothes Campaign.

Friedrich-Ebert-Stiftung (FES), a German trade union organization, works with BILS and local NGOs to bring trade unions in the RMG sector together and equip them to engage with the government and employers in social dialogue. They support regular roundtables and tripartite discussions on labor issues. Through NGO partners, the program supports training for trade unions on labor rights, organizing strategies, democratic union operations, and advocacy.

Trade and Global Value Chains Initiative (TGVCI) is a flexible challenge fund funded by DFID and utilized through partnerships between clothing retailers, suppliers, civil society and government to improve working conditions and factory culture. The initiative is designed to enable DFID to quickly fund interesting proposals from the RMG sector and scale-up of successful projects.

Safety and Health Activities

Creating Opportunities for the Poor and Excluded (COPE) funded by DFID and implemented by the Centre for the Rehabilitation of the Paralyzed (CRP) has provided medical care, counselling, vocational training, rehabilitation and other support to people with disabilities and treated spinal injury and amputee victims of the Rana Plaza factory collapse. A new phase of the program will work through the Manusher Jonno Foundation (MJF) to provide policy level advocacy in the RMG sector in order to improve workers' conditions. The program will work with 30 factories to help workers understand and exercise their rights and responsibilities to insure their own safety. MJF will also assist workers in forming participation committees or improve the ability of existing participation committee to represent workers and negotiate for their interests.

Environment Health and Safety Academy in Bangladesh the Swedish development agency SIDA, in cooperation with Walmart, are supporting the Institute for Sustainable Communities in Bangladesh to set up a management training institution at the North-South University. The institute will provide short, specialized training for managers in the RMG sector on occupational health and safety, environmental compliance, and other management practices.

Health Enables Returns (HER ()), supported by SIDA, DFID, the Netherlands, and the Levi Strauss Foundation, links multinational companies and their suppliers to local NGOs to train workers on women's health issues, which contributes to improved productivity in addition to improved health outcomes.

GIZ Fire Safety Initiative the German development agency has supported fire safety through direct assistance, sending Bangladeshi fire inspectors and fire & civil defense officials to Germany for training on building and fire safety. GIZ is establishing 10 mini-fire brigades in communities around Bangladesh, including in the RMG industrial zones.

RMG Sector Safe Working Environment Program, supported by the Japanese government, in cooperation with the GOB, BGMEA, and BKMEA, is supporting the assessment and subsequent retrofitting of garment factories, purchasing of safety equipment and where necessary factory relocation.

DIPECHO V and VI are safety initiatives supported by the Disaster Preparedness section of the European Community Humanitarian Office (DIPECHO). The project works with BGMEA and BKMEA to develop contingency plans for garment factories, develop fire drill guidelines and training manuals on fire safety and earthquake preparedness, training of compliance officers, and conduct risk assessments.

Compliance in Factories Supplying for LIDL and C&A is a private sector initiative that works in cooperation with GIZ to improve social and environmental standards in RMG factories supplying LIDL and C&A.

Skills Development Activities

Centre of Excellence for the RMG Sector is a partnership between the ILO and Swedish apparel company H&M to promote skills development in the RMG sector. The center has been designed as a replicable model of an industry based, self-sustaining training network operating within the National Skills Development Policy and national institutions and systems. The project is increasing the employability and raising incomes for the working poor.

Child Labor Activities

CSR Child Labour Project Phase II the Embassy of Denmark is working with a local NGO Underprivileged Children's Educational Programs (UCEP) to improve of the living and working conditions of children and young people in the textile and garment industry in Bangladesh. The program raises awareness on child labor issues in the garment sector and promotes positive examples of corporate social responsibility activities that address child and youth welfare.

Partnership to Combat Child Labor through Corporate Social Responsibility in Bangladesh supported by the European Union and implemented by Save the Children is addressing labor conditions for child laborers in the formal and informal sectors. The program targets 1500 child workers and 220 companies, including in the garment sector.

Annex IV

Labor Law and Labor Relations Framework

The following provides an outline of how labor disputes are currently resolved in practice, as well as the formal governmental and legal structures that are intended to protect labor rights and ensure a functioning labor system.

Bangladesh Labor Dispute Resolution in Practice

Before delving into the formal structures for labor relations oversight and dispute resolution it is useful to briefly describe how disputes are commonly resolved in practice in Bangladesh, as described by numerous worker representatives and civil society leaders during the course of this assessment. This provides a valuable context for discussions of legal and institutional structures.

Common workplace issues related to wages, working hours, working conditions, safety, security, health, and wrongful termination are first discussed among co-workers and supervisors in an attempt to find immediate solutions, often by persuading management to comply with some or all provisions of the labor law. If this method fails, workers approach NGOs or, where unions exist, union leaders to enlist their assistance. Union or NGO leaders attempt to informally mediate disputes between aggrieved workers and management. This process is frequently effective in resolving the conflict, though remedies may fall short of those required by law.

If informal mediation fails, workers may file a case through the labor courts. However, this process is costly and time consuming, and employees are sometimes terminated for taking legal action against employers. Due to the time, cost, and negative incentives, cases are rarely taken to court.

Ministry of Labor and Employment

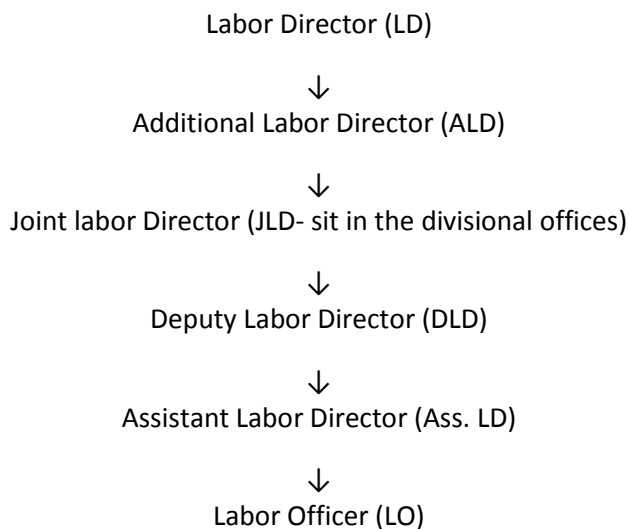
The Ministry of Labor and Employment is divided into two main sections, the Directorate of Labor and the Inspector General's office (Inspectorate), in addition to the Minimum Wage Board and Labor Appeal Tribunal. The Directorate is responsible for issues related to freedom of association, registration of trade unions and the resolution of industrial disputes. The Inspectorate is responsible for monitoring compliance with the labor law regarding terms of employment, working conditions, wages, working hours, safety and security, and the infrastructure industrial facilities. Neither office is mandated to resolve complaints from individual workers nor resolve workplace-related problems; these matters are referred to the labor courts.

Directorate of Labor

The Directorate of Labor is responsible for facilitating the process of collective bargaining, maintaining industrial relations, and trade union registration under the legal structure of chapter thirteen and fourteen of Bangladesh Labor Act 2006. They are the only authority that deals with industrial disputes and unfair labor practices. They also supervise the activity of participation committees (PC) and elections of union leaders. Under the labor act, the responsibilities of the Directorate of Labor include:

- (a) Registering trade unions under Chapter XIII and maintaining a register for this purpose;
- (b) Lodging complaints with the Labor Courts for unfair labor practices or violations of any provisions of Chapter XIII;
- (c) Determining which trade unions in an establishment or group of establishments is entitled to be certified as the collective bargaining agent in relation to that establishment/ group of establishments;
- (d) Supervising the election of trade unions executives and the holding of any secret ballot;
- (e) Acting as conciliator in any industrial dispute;
- (f) Supervising the functioning of participation committees; and
- (g) Such other powers and functions as are conferred by this Act or Rules

The Directorate of Labor currently has 586 employees, including four divisional offices, four industrial relation institutes (IRI), and 52 district offices across the country. The organizational structure is:



Union registration process:

Union registration documents are submitted to the Director of Labor, and must include, among other requirements, the names and personal information of union officers, the total number of paid union members, the name of the establishment to which the trade union relates, and the total number of workers employed, the union's constitution, and financial information about the union, including any sources of funding. All unions must include 30% of the total workers of the establishment, and workers may only belong to one union. The Director of Labor or the officer authorized in this behalf may then send a copy of the list of officers of the union and number of union members to the employer for confirmation. The Director of Labor or his designee then determines whether to register the union. Any disputes as to the Directorate of Labor's decision may appeal to the Labor Court within thirty days of the decision.

The degree of judgment exercised by the Labor Department in deciding whether or not to register unions has led to concerns from union leaders that the process is opaque and uneven.

Handling Disputes

In addition to registering unions, the Directorate of Labor is tasked with addressing industrial disputes. However, their role is to record complaints by trade unions, informally mediate or conciliate disputes where possible, and refer labor law violations to the labor courts for judgment and enforcement. The Directorate does not address complaints by individual workers, and has no mandate to impose penalties on employers or workers who violate the law.

Inspector General's Office

The labor inspection service was set up in the latter part of the twentieth century for enforcement of laws on the safety and health of workers and conditions of employment of women and children. The role of the inspectorate includes:

(a)

Securing the enforcement of legal provisions relating to conditions of work and the protection of orders while engaged in their work. This includes provisions relating to hours, wages, safety, health and welfare, the employment of children and young persons, and other connected matters, insofar as such provisions are enforceable by labor inspectors;

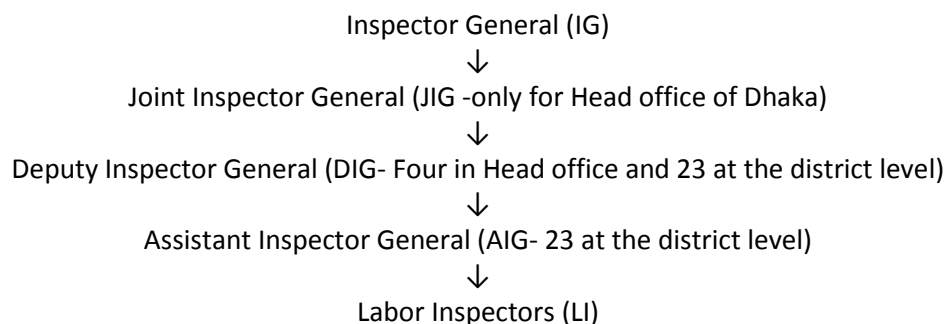
(b)

Supplying technical information and advice to employers and workers concerning the most effective means of complying with the legal provisions;

(c) Bringing to the notice of competent authorities defects or abuses not specifically covered by existing legal provisions.

Under the Bangladesh Labor Act of 2006, the Labor Inspectorate has the right to enter and inspect any establishment or factory at any reasonable time. Inspectors have the power to call for or seize any record, register or other document of any employer relevant to the enforcement of the provisions of Labor Act or the rules and regulations.

The Rana Plaza tragedy and subsequent Geneva Compact and GSP Action Plan have led to a restructuring of the Inspectorate opening of offices in 23 districts, and appointment of 200 additional inspectors (hiring in progress). The new structure includes:



Assistant Inspector Generals and Labor inspectors fall into three categories: general inspectors, safety inspectors, and health inspectors.

Although regular inspection schedules exist, they have not been followed with sufficient regularity to ensure that factories remain up to date on safety standards or to remediate or deter labor rights abuses. Inspections are often the result of major incidents or complaints filed. A formal complaint mechanism is not accessible to workers, and complaints (including unfair labor practices) have been handled in an ad hoc manner at the discretion of inspectors. However, due recent restrictions the Inspectorate is attempting to conduct more regular inspections and address complaints in a more systematic way, including setting up a hotline for complaints and a database for issues and resolutions.

Although the Inspectorate does not have the authority to punish violations, they can direct owners to take corrective measures and, in cases where workers lives are at risk, suspend the operation of a factory pending corrective measures. In an attempt to clear up wage-related cases without involving the labor courts, the Labor Act of 2005 included a provision instructing the inspection department to attempt to mediate wage-related cases before referring them to the courts. All other issues must be referred to the Labor Courts for decisions on remedies and sanctions.

Labor Courts

Bangladesh has seven labor courts with territorial jurisdictions. They can adjudicate both criminal and non-criminal cases. Section 214 of the Bangladesh Labor Act 2006 specifies the activities and objectives of labor court judges. These include:

1. Adjudicating industrial disputes.
2. Enquiring about and arbitrating any matter relating to the implementation or violation of a settlement.
3. Trying any legal and labor act offences as the Government may, by notification in the official gazette, specify on its behalf.
5. Exercising and performing other powers and functions that are or may be conferred upon the court under the labor law or any other law.
6. Maintaining responsibility of the administration and execution of function of the Court as per Acts, Ordinance, Rules and Regulations and Directives issued by the Government.

The labor court judge, called the “Chairman” of the Labor Court, is appointed by the Government from among District judges or Additional District judges. Every two years the Government appoints two panels consisting of six members each: one panel of representatives for workers and the other representatives for employers. In each case, the Chairman is assisted by two “members,” one from the worker representation panel and one from the employer representation panel.

Individual workers and employers can file cases before the labor court. Collective Bargaining Agents can also file cases on behalf of the workers they represent. The majority of labor cases are filed in the three labor courts in Dhaka. An estimated 5,400 cases are filed per year, with 10,000 cases pending. Industrial disputes, including wage issues, terms of employment, etc. are recorded as civil cases, and the judge functions as a District Judge guided by the Civil Procedure Code.

Violation of Labor Court's Order, child employment, failure to pay the minimum wage, failure to serve notice of an accident, and unfair labor practices are treated as criminal offences under the Bangladesh Labor Act. The labor court judge in these circumstances exercises powers of a Magistrate of the First Class, guided by the Criminal Procedure Code.

Workers often face difficulties in attempting to file a case because they lack employment documentation. In order to have standing in court, employees must be able to prove they were employed by the accused. As employers often refuse to give employees proof of employment (appointment letters, ID cards), this is a significant challenge. In addition, workers are often unable to pay the lawyers' fees necessary to file cases in labor courts. A number of NGOs provide *pro bono* legal services to address this issue. There are no fees to file a case in court.

The decision of the Labor Court must be given in writing and delivered in open court within sixty days following the date of filing the case, unless the parties involved give written consent to extend the time-limit. Each party receives a copy of the decision. It can take up to three years for the Court to reach a decision. Few penalties are defined explicitly by the labor law. Employers can be sentenced to jail, fines, or both. The penalty for not paying the minimum wage is one year of imprisonment, five thousand taka (\$63), or both. All other penalties are at the discretion of the judge. If the employer fails to implement any order of the court to make payment to worker, he may be penalized with a fine of up to 25,000 taka (\$316).

Labor Appellate Tribunal

Parties can appeal the decision of the Labor Court through the Labor Appellate Tribunal within sixty days of receiving the decision. The decision of the Tribunal is final and not subject to appeal. The Tribunal is comprised of a Chairman and, if deemed necessary by the Government, additional members. The Chairman is a current or former Supreme Court judge, and members are either current or former Supreme Court judges or district judges with at least three years of experience on the bench. The Tribunal may confirm, set aside, or modify the award, decision, or sentence given by the Labor Court; or it may refer the case back to the Labor Court for rehearing. The decision of the Tribunal must be delivered within 60 days according to law.

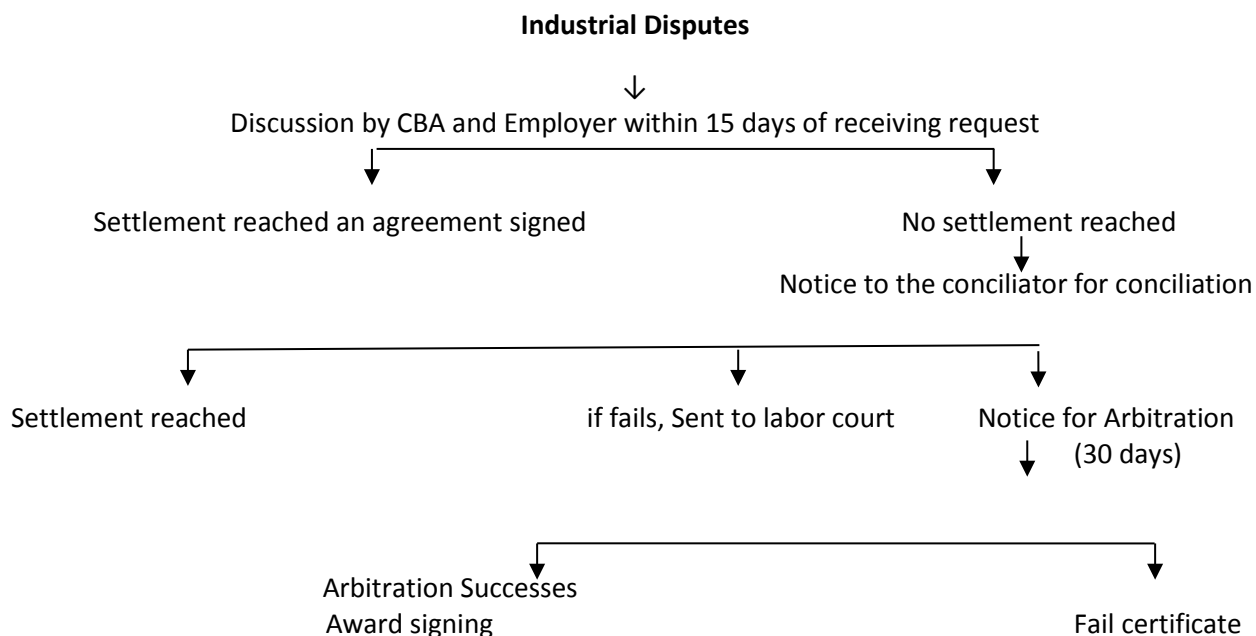
Industrial Disputes

Conciliation and Arbitration

Industrial disputes between unions and employers must be raised through the designated Collective Bargaining Agent (CBA) according to the Bangladesh Labor Law. The first step in the dispute process is for the CBA to write the employer outlining the terms of the dispute and requesting a meeting. The two sides should meet within 15 days and attempt to reach a solution. If they are able to resolve the dispute, they record this in a Memorandum of Settlement, signed by both parties, with a copy sent by the employer to the Director of Labor.

If the employer fails to respond to a meeting request after 15 days or, if after 30 days following the meeting, the parties fail to reach an agreement, then either party may report the matter to a conciliator from the Department of Labor. The conciliator calls a meeting of both parties and assists them in finding a settlement (in this regard conciliation in Bangladesh is the equivalent of mediation). The parties may

appear before the Conciliator in person or send an authorized negotiator in their stead. The Director of Labor may take over conciliation proceedings at any time and proceed to conciliate the dispute himself, or transfer such proceedings to another Conciliator.



If the parties are able to reach an agreement, they sign a Memorandum of Settlement, which is then sent to the Director of Labor. If the parties do not reach a settlement within 30 days of conciliation, the process can continue if both parties agree, or the conciliation fails. In this case the Conciliator will try to persuade the parties to agree to refer the dispute to an Arbitrator. If the parties do not agree to refer the dispute to an Arbitrator, the Conciliator issues a certificate to the effect that such proceedings have failed to each party involved.

If the parties agree to refer the dispute to an Arbitrator, they make a joint request in writing to an Arbitrator agreed upon by both parties. The Arbitrator may be a member of a Government-maintained arbitration panel, or any other person agreed upon by the parties. The arbitrator must decide the case within 30 days, or for a longer period as agreed upon in writing by the parties in dispute. The Arbitrator's decision is final and not subject to appeal. The Arbitrator will then provide records of the decision to the parties and the Director of Labor.

Industrial Police

The Industrial Police was formed in 2010 in response to riots in garment producing areas after a modest increase in the minimum wage angered many workers. The purpose of the Industrial Police (IP) is to ensure security, law and order in industrial areas, particularly in the garment sector. IP units exist in four industrial areas -- Dhaka, Gazipur, Narayanganj and Chittagong. The IP is headed by a Deputy Inspector General of Police (DIG), with each police unit controlled by a director (equivalent to the rank of a Superintendent of Police (SP). Each IP unit includes the following wings: Intelligence; Operations;

Investigation, Law and Order; Administration; and Logistics.

The legal basis for the IP is the Police Act and Police Regulation of Bengal (PRB). They have the same jurisdiction for investigating criminal offenses, providing law and order, and preventing crime as the regular police. They have the following responsibilities:

Intelligence activities

- Collection of intelligence regarding potential labor unrest
- Maintain database on companies, labor organizations and NGO's
- Collect information for operational activities
- Collect information about implementation of legal compliance, especially payment of salary, allowances, leave etc...
- Monitor activities of labor organization
- Situational awareness before festivals, e.g. Eid

Operational activities

- Ensure the safety and security of workers and factories
- Patrol industrial areas
- Take preventative measures based on intelligence gathered
- Calm labor unrest using "soft" measures
- Resolve disputes regarding salary, allowances, etc...
- Prevent sexual harassment of female workers

IP officers are trained in human rights, gender issues, counselling, and the criminal procedure code. They receive information on current laws including the Labor Act, Child Act, and Police Act.

The IP are engaged in industrial disputes only when these turn violent or risk turning violent. If violence spreads beyond one factory they may call in the regular police or special police for support. Disputes that do not involve criminal action or intent are referred to the respective government department for arbitration or enforcement.

IP officers have the authority to arrest workers or employers if there is reason to believe that they have committed a crime. The officer transfers arrestees to the nearest IP Station to record the case, and then to the court for prosecution. The IP have no jurisdiction to award any remedy or impose any sanction on any worker or employer. This is the responsibility of the courts.

Major Amendments in the Bangladesh Labor Act 2013

Prior to the 2008 election, the Awami League promised to amend the Bangladesh Labor Law of 2006. Following the Awami League victory, the government formed a 30 member labor law reform committee, which worked for four and a half years to reform labor laws. A new reform was passed in July 2013 with 87 amendments. The major amendments include:

- A new definition of severance payment and required 45 days wages for every completed year of service after 10 years of service
- Legalized recruitment by third parties
- Requiring employers to provide group life insurance in establishments where 100 permanent workers are employed
- Reorganizing the factory license approval process
- A number of new protections for workers safety and security
- Providing for the involvement of trade unions for to fix wages and overtime
- Requiring increased women's participation in the trade union committees
- Increasing punishments for failing to comply with the law
- Increasing owners' liability for worker deaths or injuries while working at the factory
- Mandating the use of personal safety equipment
- Requiring health centers in establishments with 5,000 or more workers
- Designation of Welfare Officers in establishments with 500 or more workers
- Requiring the formation of safety committee in factories with 50 or more workers
- Requiring payment of dues - including wages - through conciliations
- 100% of the export oriented industrial sector and 100% of the foreign direct investment sector were excluded from sharing 5% of net profit with the employee or worker.
- Permitting employers to fire workers if they are absent more than ten days

Annex V

A FRAMEWORK FOR TECHNICAL ASSISTANCE

A. A Well-Functioning Labor Relations System

A well-functioning labor relations system with respect for international labor standards (ILS) serves as a pillar for improved governance and sustainable inclusive growth. Such a system requires consideration of three employment related goals: 1) *efficiency*, including the productive, profit-maximizing use of labor to promote economic prosperity; 2) *equity*, meaning fairness in the distribution of economic rewards and administration of labor policies; and 3) *voice*, meaning employee participation. Sometimes these objectives work together and sometimes they are in tension or conflict.⁵² An effective system uses a combination of negative incentives (sanctions and penalties that discourage violations) and positive incentives (rewards, support and recognition).

The role of the labor relations system is to increase compliance with ILS and promote an appropriate balance between these employment goals. Consistent with the “industrial relations school,” worker organizations play an essential role in correcting the imbalance of power between workers and employers. With an established role for worker organizations, the labor relations system should facilitate cooperation and dispute resolution through collective bargaining and dialogue over disputes of “rights” (in law) and “interests” (beyond the law’s minimum requirements). Industrial conflict is more likely to occur when workers are not provided with a peaceful means to resolve their issues and when they lack the skills to effectively engage with employers.⁵³

A well-functioning labor relations system must contain the following components with their key characteristics:⁵⁴

1. **Labor laws and regulations** that 1) protect fundamental rights; 2) provide for appropriate remedies and penalties; and 3) establish institutional roles and responsibilities with public reporting requirements.
2. **Labor Administration**, which efficiently and effectively a) educates on the labor law and what is required for compliance; b) enforces the laws and verifies compliance; and c) promotes constructive labor relations to promote common interests and resolve disputes of rights and interests.⁵⁵
3. **Efficient and effective dispute resolution**, with

⁵² For a discussion of these basic principles, see *Labor Relations: Striking a Balance*, John D. Budd, McGraw-Hill Irwin, New York, NY, 2010, 3rd, Edition.

⁵³ For an analysis of the factors leading to conflict with a particular focus on worker behavior, see *Industrial Conflict: An Integrated Theory*, Univ. of South Carolina Press, Columbia, SC, 1985.

⁵⁴ For a more complete discussion of these factors, see “The Labor Sector and US Foreign Assistance Goals (Technical Paper),” Lynn Salinger and Jeffrey Wheeler, prepared for USAID by ARD, July 2010, available at www.glasai.com.

⁵⁵ For a detailed explanation of the criteria for effective labor administration and labor inspections, see “Assessment of Ethiopia’s Labor Inspection System,” USDOL, 2013, available at www.dol.gov/ilab/map/countries/Ethiopia.htm.

- a) a system of adjudication with i) respected professional judges/members that: ii) apply rule of law principles with due process; iii) in a user-friendly process; iv) applying appropriate penalties that discourage future violations and remedies that make employees whole; v) in a reasonably timely manner.⁵⁶
 - b) Supported by ARD (mediation, conciliation and arbitration) to improve the speed and quality and reduce the cost of dispute resolution procedures.
 - c) Bipartite and tripartite dialogue and negotiations.
4. **Worker organizations**⁵⁷ that efficiently and effectively: a) collectively represent workers; b) advocate for workers' rights and interests; and c) provide appropriate services, such as legal representation.⁵⁸
5. **Employer organizations** that operate with an ILS framework, also accommodating their interests.

The system should support the stakeholder goals in these areas:

1. **For workers:**
 - a) Improved "standard of living", including: i) wages, benefits, hours, and other terms and conditions of employment; ii) safe housing, family support, child care and education and health in a manner appropriate to local culture and values; and iii) purchasing power.
 - b) Ensure that workers are treated with dignity, respect and believe they have a stake in economic and government success.
2. **For employers:** improved efficiency, productivity, quality, managed risk (reputation, delivery, costs), and labor peace.
3. **For government:** the efficient and effective use of government resources to ensure compliance with the laws and promote labor-management cooperation and dispute resolution in a manner that promotes national prosperity.

B. A Results Framework for Bangladesh

Set forth below is a suggested list of objectives and indicators with an explanation of their relation to

⁵⁶ The likelihood that an employer (or any party) will comply with the law depends of these factors: 1) chances of being of caught; 2) strength of penalty; and 3) and speed of adjudicatory process. Where compliance is in the employers' financial interest, compliance depends on their knowledge of the law and ability to comply with it.

⁵⁷ "Worker organizations" herein includes trade unions, worker associations, worker NGO's and other NGO's advancing worker rights.

⁵⁸ Detailed trade union indicators have been developed by various union federations and research services, including the LO-TCO (Sweden), FNV (the Netherlands), Union Network International (UNI), and South Africa's Labor Research Service. See "Moving Beyond the Rhetoric: Trade Union Development Indicators for South African Trade Unions," Sarah Ryklief, Labor Research Service, 2007, which addresses these characteristics: 1) effective member representation; 2) with democratic worker-controlled organizations; 3) working in solidarity with other unions; and 4) actively advancing workers interests broader than workplace matters.

each other. By doing so, we are not suggesting that technical assistance be provided in all of these areas; rather, the framework identifies the goals in the whole labor system in order to better understand the role of freedom of association, right to organize and collective bargaining within it. To correct some specific freedom of association problems, action may be required in more than one of these areas; to gain lasting improvements, an effective theory of change may link together objectives in two more areas to be mutually supportive and sustainable. This framework is set forth in Chart 1 (“I” is for indicator).

Overarching Objective: Promote good governance and sustainable economic development, with indicators including:

- I1: Workers improved standard of living/ fair share of gains (equity)
- I2: Employers improved efficiency
- I3: Government improved efficiency and effectiveness (outcomes & process)

Development Objective: Improving compliance with ILS in two substantive areas and organizational goals to support them:

Indirect objective IO1: Increased compliance with labor laws & regulations consistent with ILS, specifically C. 87 & 98.

- I1: Improved labor laws, regulations and rules.
- I2: Increased awareness of the laws and how to comply with them.
- I3: Increased government labor law enforcement (plan, educate & enforce with data to evaluate), e.g., union registration and remediate unfair labor practices.
- I4: Improved stakeholder voluntary compliance (defined roles & responsibilities with data to evaluate).

IO2: Improved labor relations:

- I1: Increased tripartite collaboration/ agreements (national, sectoral, factory level).
- I2: Increased bipartite collaboration/agreements (national, sectoral, factory level).

IO3: Improved dispute resolution

- I1: adjudication: respected, fair, user-friendly, good remedies & penalties, and timely.
- I2: ADR: quick, cheap, fair, and effective.
- I3: Increased resolution of individual disputes
- I4: Increased resolution of collective disputes

IO4: Improved worker representation, advocacy and service delivery.

- I1: Improved trade union role for representation, advocacy and service delivery.
- I2: Improved NGO role for facilitating (“incubating”) union representation, advocacy and service delivery.

IO4: Improved employer organization capacity to represent and service member employers within an ILS framework.

- I1: Increased agreements reached through bipartite and tripartite processes.
- I2: Improved organizational capacity to facilitate education, dialogue, and dispute resolution.

C. A Balancing of the Labor Relations System through Framework and Individual CBAs

At its best, technical assistance achieves results for multiple objectives in a manner that creates a self-sustaining system, protects labor rights, gives worker organizations a seat at the table, and creates sufficient incentives for employers to stay at the table and negotiate with workers. Collective bargaining agreements (CBAs) could serve such a purpose, particularly if they cover multiple employers and substantial numbers of workers.

Employers have expressed a willingness to work and negotiate with unions provided that they fulfill the appropriate functions and agree to address key management goals, most particularly improving productivity and labor peace. In contrast, they do not want to work with organizations that are primarily political organizations seeking political objectives, do not have the skills or interest in addressing legitimate worker concerns, or are not willing or able to reduce labor unrest. At the same time, legitimate worker organizations have expressed a willingness to promote productivity, provided that workers share in the gains, and reduce labor unrest, particularly unrest that leads to destruction and violence, provided that employers are willing to comply with the labor laws and make some additional improvements.

In the current system, worker organizations have primarily focused their efforts at collective representation and presenting to employers “charters of demand,” which seek their agreement to comply with a few specific legal requirements that workers believe are commonly violated. This approach supports achieving increased compliance with the law in a piecemeal manner.

An improved approach would more broadly increase compliance with the law beyond the short list of demands, and improve dispute resolution and labor relations. One approach that could show results for all these indicators includes reaching a sector-wide or multi-employer collective bargaining framework agreement. A multi-employer CBA would have the following advantages:

- Cover a larger pool of employees and create greater stability in the labor market. This would address employer interests in productivity and labor peace in exchange for making improvements for the workers. The CBA could have a “no strike” clause for the duration of its term.
- Establish an efficient and effective grievance procedure for disputes over the interpretation and application of the CBA.
- Establish clear and fair rules for a range of matters, such as discipline, discharge, and promotions.
- Establish roles and responsibilities on matters such as promoting health and safety.
- Resolve a large number of existing or potential grievances.

The requirements (or critical assumptions), include: employers’ willingness to negotiate with unions, that unions have sufficient membership and unified organization to bargain, that both parties have the skills to negotiate the CBA, and that unions have the ability to ensure that workers comply with a no-strike/labor peace provision. Individual CBA’s may serve as an initial step.

