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# **AN EVALUATION OF EXISTING GAPS BETWEEN THE BANGLADESH LABOUR ACT, 2006 AND ILO CONVENTIONS ON RIGHTS OF RMG WORKERS ABOUT FREEDOM OF ASSOCIATION AND COLLECTIVE BARGAINING**

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## **ABSTRACT**

This article examines the gaps between the Bangladesh Labour Act (BLA) 2006 provisions and the ILO Conventions, specifically in freedom of association and collective bargaining. It highlights how these gaps contribute to violations of workers' rights in practice.

The abstract first outlines the significant gaps between the BLA and ILO Convention 87 on freedom of association and Convention 98 on collective bargaining. The key issues are stringent union registration requirements, excessive restrictions on union activities, inadequate promotion of collective bargaining, and insufficient safeguards against anti-union discrimination.

The analysis then explains the impact of these gaps on ready-made garment (RMG) workers, who comprise the majority of the industrial workforce in Bangladesh. The lack of an enabling legal framework obstructs workers from forming trade unions, undertaking collective bargaining, accessing dispute resolution, and defending their rights. This results in poor working conditions, low wages, lack of social dialogue, and frequent abuse of labor rights.

The article discusses the underlying reasons for the gaps, including the weak legal framework, unfavorable management culture, political constraints, and limitations of state capacity on labor governance. It highlights the legal, cultural, and political factors that have impeded reforms and compliance with international standards.

Three case studies illustrate the gaps and their impact on freedom of association and collective bargaining by RMG workers in practice. The case studies demonstrate blatant employer violations and a lack of remedies under the current BLA provisions compared to ILO conventions.

The article examines the efforts made by the government, employers' groups, and trade unions to address the gaps. It notes some small steps forward but emphasizes that substantial reforms are still needed in the legal framework, factory-level practices, and administrative systems to protect labor rights.

In conclusion, the article strongly recommends priority actions for the Bangladeshi government to amend the BLA accordingly, strengthen enforcement mechanisms, including inspections and dispute resolution, and ensure freedom of association and collective bargaining rights are fully protected in law and practice in alignment with ILO guidance.

**Keywords:** Freedom of association, Collective bargaining, Bangladesh Labour Act.

## **PROVISIONS IN BANGLADESH LABOUR ACT 2006, Freedom of association and collective bargaining**

### **Literature Review:**

Several studies have examined the gaps between provisions of the BLA 2006 and the ILO Conventions on core labor rights. Rahman (2009) provided a detailed comparative analysis of the BLA vis-à-vis ILO Convention 87 on freedom of association and Convention 98 on collective bargaining rights. He highlighted significant areas where the BLA falls short of international standards, such as stringent requirements for union registration, restrictions on union activities, and lack of regulations facilitating collective bargaining.

An ILO-funded review of the BLA implementation status (BILS 2015) also outlined the gaps in law and practice related to collective bargaining and identified vital issues constraining freedom of association, like excessive controls on union activities. Hossain et al. (2012) empirically assessed the impact of such gaps on garment workers' socioeconomic conditions and rights.

Recent studies like Anwar et al. (2016) have focused on analyzing specific labor rights like job security and unjust terminations. They find the gaps in BLA compared to Convention 158 make

workers vulnerable to arbitrary dismissal and discrimination. Rahman (2021) provides an updated account of the status of labor law reforms in Bangladesh and the persistent gaps with core ILO Conventions despite some progress.

The literature establishes significant gaps between the BLA and international standards on freedom of association and collective bargaining rights. Addressing these gaps through appropriate amendments and strengthened implementation is vital to protect workers' rights in Bangladesh.

## **Introduction of the Bangladesh Labour Act, 2006 and ILO Conventions**

### **Overview of the relevant provisions of the Bangladesh Labour Act, 2006**

The Bangladesh Labour Act (BLA) of 2006 is the primary labor law in Bangladesh that governs the rights and obligations of workers and employers. Some of the key provisions of the BLA 2006 that are relevant to freedom of association and collective bargaining rights include:

**Registration of Trade Unions:** The BLA allows workers to form trade unions without prior permission but requires that the trade union be registered with the Directorate of Labour within 30 days of formation. To be registered, a trade union must have at least 30% of the total number of workers employed in the establishment as members.

**Rights of Registered Trade Unions:** Registered trade unions have certain rights under the BLA, including the right to collectively bargain with employers, represent workers in Labour disputes, and submit demands and grievances to employers. They can also establish linkages with other registered trade unions.

**Restrictions on Trade Union Activities:** The BLA prohibits registered trade unions from engaging in certain activities, such as providing financial aid to any trade union or political organization, holding any lottery, or allowing the use of union funds for political purposes. Trade unions are also prohibited from calling strikes or lockouts without giving prior notice and following conciliation procedures outlined in the BLA.

**Collective Bargaining and Settlement of Disputes:** The BLA provides for collective bargaining between an employer and a registered trade union to regulate relations and settle disputes. It

outlines procedures for parties, such as providing notice and conciliation efforts. If conciliation fails, the dispute may be referred to an arbitrator, labor court, or tribunal.

**Unfair Labour Practices:** The BLA prohibits employers from engaging in unfair Labour practices, such as interfering with or dominating the formation or administration of a trade union. It also prohibits discrimination against workers for trade union membership or activities.

**Penalties:** The BLA prescribes penalties for violations of its provisions, including fines and imprisonment. For example, violating the right to form trade unions can result in imprisonment of up to one year and a fine.

**Exemptions:** Certain workers, like those in state administrative and security services, hospitals, and export processing zones, are exempt fully or partially from the provisions of the BLA related to trade union rights.

The BLA provides a basic framework for protecting workers' freedom of association and collective bargaining rights. However, it contains several restrictions and limitations on the formation and functioning of trade unions inconsistent with international standards.

### **Overview of the relevant ILO Conventions, specifically Convention No. 87 (Freedom of Association and Protection of the Right to Organise Convention) and Convention No. 98 (Right to Organise and Collective Bargaining Convention)**

The International Labour Organization (ILO) has adopted two core conventions for freedom of association and workers' collective bargaining rights - Conventions 87 and 98.

ILO Convention No. 87 deals with the Freedom of Association and the Protection of the Right to Organise. Some key provisions include the following: Workers and employers can establish and join organizations without prior authorization. Workers' and employers' organizations shall organize freely and not be liable to be dissolved or suspended by administrative authority. Workers' organizations shall have the right to establish and join federations and confederations, which may, in turn, affiliate with international workers' organizations. Workers' and employers' organizations shall not be subject to dissolution or suspension by administrative authority. Workers' and employers' organizations shall have the right to draw up their constitutions and rules, elect their representatives, and formulate their programs.

The public authorities shall refrain from any interference that would restrict the rights granted in this convention. ILO Convention No. 98 deals with the Right to Organise and Collective Bargaining. Key provisions include: Workers shall enjoy adequate protection against anti-union discrimination in employment. Protection against anti-union discrimination in their employment shall apply to workers' and employers' organizations. Workers' organizations shall enjoy adequate protection against any acts of interference by each other or each other's agents in their establishment, functioning, or administration. Workers shall enjoy sufficient protection in exercising the right to collective bargaining. Collective bargaining rights shall be protected by laying down mandatory collective bargaining procedures, including conciliation and arbitration processes. Collective agreements made by collective bargaining shall include provisions for their scope of application and collective bargaining procedures.

The ILO conventions provide comprehensive standards and principles regarding freedom of association and collective bargaining rights. They aim to enable the formation of free and independent workers' and employers' organizations and promote voluntary collective bargaining between employers and workers' representatives.

### **Comparison of the provisions of the Bangladesh Labour Act, 2006 and the ILO Conventions**

The Bangladesh Labour Act (BLA) of 2006 and the ILO Conventions No. 87 and 98 have some similarities but also significant differences in their provisions relating to freedom of association and workers' collective bargaining rights.

**Registration Requirements:** BLA and ILO Convention 87 allow workers to form trade unions without prior authorization. However, BLA requires compulsory registration of trade unions within 30 days with restrictive conditions like having 30% of workers as members. ILO 87 prohibits such strict registration prerequisites.

**Right to Establish and Join Unions:** BLA and ILO 87 grant workers the right to establish and join trade unions. However, BLA prohibits workers in export processing zones and other services from forming trade unions, contravening ILO 87.

**Restrictions on Trade Union Activities:** BLA prohibits registered trade unions from activities like political links and financial aid to other unions, which are not banned under ILO 87. The

BLA also imposes different restrictions on trade union activities, which are inconsistent with the principles of ILO 87.

**Dissolution of Trade Unions:** ILO 87 states trade unions shall not be liable to be dissolved or suspended by administrative authority. However, the BLA allows the deregistration of trade unions on various grounds by the labor authorities, contravening the ILO convention.

**Collective Bargaining:** Both BLA and ILO 98 recognize the right of registered trade unions to undertake collective bargaining with employers. However, ILO 98 mandates governments to establish institutional frameworks to promote voluntary collective bargaining, while BLA does not adequately facilitate the collective bargaining process.

**Unfair Labour Practices:** BLA prohibits unfair Labour practices outlined in ILO 98, like anti-union discrimination and interference in trade unions. However, the BLA does not sufficiently guard against interference between workers' and employers' organizations as set out in ILO 98.

**Dispute Settlement:** BLA and ILO 98 provide for settling industrial disputes through voluntary negotiation, conciliation, and arbitration. However, the dispute resolution processes outlined in BLA are weaker than those mandated in ILO 98.

**Protection against Discrimination:** BLA prohibits anti-union discrimination in principle but does not provide adequate mechanisms to protect against acts of discrimination as outlined in ILO 98.

Overall, while the BLA provides essential recognition of some principles of the ILO Conventions, it lacks conformity with many substantive rights and institutional mechanisms regarding freedom of association and collective bargaining provided in ILO Conventions 87 and 98. Significant reforms are needed to bring the BLA in line with ILO standards.

## **Examination of the Gaps between the Bangladesh Labour Act, 2006 and ILO Conventions**

### **Detailed examination of the gaps between the provisions of the Bangladesh Labour Act, 2006, and the ILO Conventions**

**Registration of Unions:** The BLA has stringent registration requirements for trade unions, such

as having 30% of workers as members. This restricts the right to form trade unions as per ILO Convention 87, which prohibits such prerequisites. The BLA also empowers authorities to cancel registration on arbitrary grounds, contravening ILO principles.

**Government Interference:** The BLA gives extensive powers to Labour authorities to regulate the internal activities of unions regarding elections, constitution, expenditures, etc. This permits excessive interference in trade unions, conflicting with ILO Convention 87, which requires non-interference by authorities in union affairs.

**Restrictions on Union Rights:** The BLA prohibits union activities like political links, financial aid to other unions, and industrial actions without cumbersome procedures. These blanket prohibitions violate the principles of freedom of association in ILO 87 and 98.

**Ban on Unions for EPZ and Other Workers:** The BLA prohibits trade union formation for workers in export processing zones and specific services like hospitals, airports, etc., which removes fundamental union rights granted in ILO conventions.

**Dissolution of Trade Unions:** The BLA allows Labour authorities to cancel the registration of any trade union if they contravene any provision of the BLA. This gives them sweeping powers to dissolve unions, conflicting with ILO 87, which prohibits administrative dissolution of unions.

**Inadequate Collective Bargaining Provisions:** The BLA does not adequately establish frameworks, procedures, and institutions to facilitate voluntary collective bargaining between employers and workers as required under ILO Convention 98.

**Weak Dispute Resolution Mechanisms:** The BLA's dispute resolution procedures through conciliation, arbitration, and Labour courts are relatively weaker and more cumbersome than the systems mandated under ILO Convention 98.

**Insufficient Protection against Discrimination:** The BLA does not provide adequate legal mechanisms to guard against anti-union discrimination during recruitment and dismissal, as outlined in ILO Convention 98.

**Penalties for Unfair Labour Practices:** Penalties prescribed in the BLA for unfair Labour practices like anti-union discrimination are relatively low. ILO Convention 98 calls for suitably

dissuasive sanctions.

**Excessive Power of Courts:** The BLA gives the judiciary dominant powers over dispute settlement through Labour courts, diminishing the role of voluntary negotiation mechanisms emphasized in ILO conventions.

The significant gaps between the BLA and ILO conventions are a lack of protection for union independence, excessive restrictions on union rights, inadequate promotion of collective bargaining, and insufficient safeguards against discrimination. Significant reforms in the BLA are required to uphold freedom of association and workers' collective bargaining rights in line with ILO standards.

### **Analysis of the impact of these gaps on the freedom of association and collective bargaining rights of RMG workers**

The gaps between the BLA and ILO conventions have significantly undermined the rights of RMG workers to form trade unions and undertake collective bargaining with employers. Some key impacts are:

**Low Trade Union Participation:** Stringent requirements in BLA for union registration and excessive cancellation powers have obstructed RMG workers from forming trade unions. Estimates suggest less than 10% of RMG workers are unionized, even though over 60% express willingness.

**Constraints on Union Activities:** Prohibitions on union links to political parties and restrictions on funds have limited the ability of RMG unions to strengthen the organization and representation of workers. Undemocratic practices within unions have also emerged due to inadequate protections.

**Violations of Union Rights:** RMG employers routinely harass, intimidate, and dismiss workers involved in union activities and organizing. ILO conventions emphasize that the BLA lacks sufficient mechanisms to prevent such anti-union discrimination and interference.

**Weak Collective Bargaining:** Despite legal provisions, collective bargaining between employers and unions is almost absent in the RMG sector. The adversarial legal framework



hampers the development of mature industrial relations based on voluntary negotiation as envisioned in ILO standards.

**Reliance on Unfair Labour Contracts:** The absence of collective bargaining has resulted in the continuation of unfair Labour contracts between RMG employers and individual workers that often violate national laws and deny fundamental rights.

**Ineffective Dispute Resolution:** The dispute resolution mechanisms in BLA, like arbitration and Labour courts, are lengthy, costly, and relatively ineffective for workers. They are geared more towards preventing industrial action rather than good-faith settlement.

**Poor Working Conditions:** Lack of collective bargaining and voice for workers has perpetuated poor working conditions, low wages, lack of occupational safety, job insecurity, and abuse in the RMG sector.

**Obstacles to Skills Development:** Training and skills development of RMG workers get neglected without mechanisms for worker-management dialogue and collective platforms to articulate needs.

**Loss of Competitiveness:** Suppression of Labour rights undermines productivity, retention of workers, and the reputation of the RMG industry, affecting its long-term competitiveness and sustainable growth.

Overall, by not adequately upholding freedom of association and collective bargaining rights as recognized in the ILO conventions, the BLA has constrained the empowerment of RMG workers, weakened industrial relations, and prevented.

### **Discussion of the reasons for these gaps, including legal, cultural, and political factors**

**Legal Factors: Weak Labour law framework:** The BLA was enacted during military rule in 2006 to uphold fundamental Labour rights ostensibly but contains significant gaps and limitations compared to ILO standards.

**Inadequate reform efforts:** Successive governments have not undertaken sufficient reforms in BLA to address gaps with ILO conventions despite repeatedly committing to ILO and trade partners.

Protective legal provisions: BLA restricts Labour rights like freedom of association and collective bargaining but strengthens employers' discretion in hiring, retrenchment, factory closure, etc.

Colonial-era laws: Some outdated laws constraining unions, like the Special Powers Act of 1974, are still retained, contradicting modern ILO conventions.

Poor implementation: Even the existing legal mechanisms in BLA are very poorly implemented due to a lack of resources, coordination, and priority within Labour administration systems.

Cultural Factors: Paternalistic management culture: A hierarchical, paternalistic management culture exists in factories whereby owners expect obedience from workers rather than engagement through unions. The weak tradition of labor activism: Sustained union activism did not take root in Bangladesh for long periods due to its colonial experience and subsequent authoritarian regimes. Social deference to authority: The general cultural norm of showing deference to authority figures hinders workers from confronting management through collective action.

Lack of legal awareness: Most RMG workers lack awareness about fundamental Labour rights and mechanisms for grievance redressal due to high illiteracy rates and the absence of legal education.

Political Factors: Influence of Factory Owners: Politically and economically influential RMG factory owners lobby against reforms in BLA that promote independent unions and collective bargaining. Political control over unions: Successive governments in Bangladesh have tried to exert control over union activities and leadership to serve partisan political objectives.

Fear of industrial unrest: Authorities are wary of freely allowing unionism and strikes, fearing potential impacts on economic growth, exports, and law and order.

Weak state capacity: Poor technical and administrative capacity of the Labour institutions hampers the government's ability to regulate industrial relations even with adequate laws.

Global supply chain pressures: The government is reluctant to push complex reforms that may upset the competitive position of the RMG export industry in the worldwide supply chain.

In summary, the significant reasons for gaps are the weak legal framework, unfavorable management culture, political constraints, and limitations of state capacity on Labour governance. A concerted effort is vital to address these factors and align Bangladesh's laws and practices with ILO standards.

### **Case Studies of Gaps between the Bangladesh Labour Act, 2006 and ILO Conventions**

#### **Presentation of case studies that illustrate the gaps between the Bangladesh Labour Act, 2006, and the ILO Conventions**

##### **Case Study 1: Closure of Sunrise Garments Factory**

In 2017, workers at Sunrise Garments factory formed a union and submitted an application for registration under the BLA. However, the management refused to accept the application and terminated over 50 workers suddenly without any valid reasons. The company also declared the closure of factory operations.

The union leaders alleged that the sudden terminations and closure were retaliation for the workers exercising their right to form a union, a blatant violation of ILO conventions. However, the Labour Department failed to intervene, stating that employers can close factories with two months' notice under BLA. This case reveals inadequate legal safeguards against anti-union discrimination in BLA.

##### **Case Study 2: Collective Bargaining in Crown Textiles**

The registered union at Crown Textiles submitted a charter of demands to the employer related to wage increases, overtime payments, safety equipment, etc. 2018. The union invoked relevant provisions under BLA and sought to initiate collective bargaining negotiations. However, the management outrightly rejected the demands. Conciliation efforts by the labour office failed as there are no binding timelines or enforceable processes for collective bargaining under BLA unlike ILO Convention 98. The dispute remains unresolved, leaving workers without avenues for negotiation.

##### **Case Study 3: Excessive Regulation of Union Activities**

The Labour Department derecognized the union of the Excel Garments factory in 2020 because

the union had amended its constitution without the registrar's approval and received funding from international workers' organizations.

However, these restrictions are against the principles of freedom of association in ILO Convention 87. The union's dissolution highlights excessive control of regulators over internal union activities in BLA compared to ILO standards.

In all three cases, the substantive gaps between the BLA and ILO Conventions have undermined workers' rights and enabled unfair Labour practices. Significant reforms are needed in Bangladesh's Labour law and institutions to uphold freedom of association and collective bargaining in line with ILO standards.

### **Analysis of the impact of these gaps on the RMG workers and the RMG industry**

**Impact on RMG Workers: Denial of fundamental rights:** The gaps in BLA deprive RMG workers of their basic rights to form trade unions, collectively represent their interests, and negotiate better working terms with employers.

**Lack of voice:** With limited union representation, most RMG workers lack an influential voice to express their grievances and improve their working conditions.

**Job insecurity:** Workers involved in unions and Labour activism face threats of harassment, dismissal, and unemployment due to inadequate legal protections.

**Poor working conditions:** The absence of workers' bargaining power allows unsafe, exploitative, and abusive working environments to persist in many RMG factories.

**Low wages:** Workers have limited scope for wage negotiation without solid trade union presence and collective bargaining, keeping wages depressed.

**Lack of skills development:** Skills training and career progression of workers get limited priority without formal platforms for worker-management dialogue and negotiation.

**Constraints on empowerment:** Restrictions on union rights and collective bargaining disempower RMG workers and prevent their socio-economic advancement.

**Impact on RMG Industry: Industrial unrest:** Suppression of Labour rights has fuelled unrest,

protests, and violent clashes between workers and owners, leading to production losses.

Labor shortages: The RMG sector faces high worker turnover and a shortage of skilled workers partly driven by poor employee relations and a lack of avenues for engagement

Low productivity: The absence of collective bargaining prevents improving work practices and adopting modern technology to enhance productivity in RMG factories.

Reputational risks: Global brands sourcing from Bangladesh face risks to their reputation due to frequent media reports of workers' rights violations in the RMG sector.

Obstacle to growth: Poor industrial relations could undermine the efficiency, quality, and competitiveness of the RMG industry and hamper its projected growth

Discourage investments: A restrictive Labour climate dissuades multinational companies from investing in the RMG sector and integrating Bangladesh into higher value chains.

In summary, the gaps between BLA and ILO standards have disempowered RMG workers, strained industrial relations, and posed risks to the sustainability and growth of the industry. Addressing the gaps through appropriate legal and institutional reforms is vital for advancing workers and the RMG sector.

### **Discussion of the efforts made by the government, employers, and trade unions to address these gaps**

Efforts by Government: Amendments to BLA: The government amended the BLA in 2013, including easing conditions for union registration and restrictions on union activities. However, significant gaps persist.

Improving dispute resolution: Labour courts and arbitration systems have been expanded to expedite dispute resolution, but their effectiveness remains limited.

Allowing EPZ unions: The government lifted the ban on union activities in export processing zones in 2019, but the formation of unions is still slow.

Increasing Labour inspectors: The number of Labour inspectors in industrial hubs has been expanded to monitor compliance, but enforcement is weak.

Tripartite consultations: The government has engaged more with employers, workers, and international partners through committees and dialogues to discuss reforms.

Passing anti-discrimination law: A draft anti-discrimination law has been developed to promote equal employment opportunity. But it is still pending approval.

### **Efforts by Employers**

Compliance with laws: Leading RMG companies are taking steps to meet local Labour law requirements in their policies and practices.

Codes of conduct: Employers' associations have adopted voluntary codes promoting workers' rights and workplace safety standards.

Participation in committees: Factory owners engage more with government-led initiatives like minimum wage boards and industry skills councils.

Investment in training: Large RMG businesses are expanding in-house training programs and collaborating with NGOs to build workers' skills.

Social dialogue: A small but growing number of employers are pioneering worker-management communication committees and collective bargaining agreements

### **Efforts by Trade Unions**

Advocacy for reforms: Unions advocate with policymakers, employers, and global brands for legal reforms to align BLA with ILO Conventions.

Organizing workers: Unions seek to expand the organizing and recruitment of workers to build their representative capacity and bargaining power.

International collaboration: Bangladeshi unions are building ties with global union federations to pressure brands for supply chain reforms.

Education of workers: Unions conduct awareness building on Labour rights and grievance mechanisms for workers through workshops and educational materials.

Promoting social dialogue: Unions participate in government and employer-led committees fostering social dialogue and aim to make them more effective.

While some positive steps are being taken, substantial reforms by all stakeholders are still required to bridge the gaps between local Labour laws/practices and international standards.

## **Conclusions and Recommendations**

**The Bangladesh Labour Act 2006 has significant gaps in freedom of association and collective bargaining, which may violate workers' rights.**

The significant gaps in the BLA compared to ILO core conventions include stringent requirements for union registration, excessive restrictions on union activities, inadequate promotion of collective bargaining, insufficient safeguards against anti-union discrimination, and weak enforcement mechanisms. These gaps create an environment where workers' fundamental rights to form unions and undertake collective bargaining freely are not adequately protected.

The mandatory trade union registration requirements, like needing 30% of workers as members, often obstruct the formation and growth of unions in workplaces. The broad powers of deregistration deter workers from union involvement, fearing job loss. The restrictions on political activities and external funding also limit union strengthening. This leads to low union representation and an inability to uphold workers' interests effectively.

The lack of facilitated processes for recognizing unions, sharing information, and bargaining in good faith enables employers to avoid or deliberately frustrate collective bargaining with registered unions. The absence of enforceable collective agreements sustains exploitative employment conditions and denial of rights at workplaces. Dispute resolution mechanisms through labour courts do not sufficiently deter unfair Labour practices.

The lack of remedies against anti-union discrimination results in workers facing threats, harassment, transfers, demotions, and wrongful terminations for union activities. The climate of intimidation and fear dissuade workers from union participation and voicing demands. It enables the perpetuation of adverse working environments despite being illegal.

While the BLA recognizes principles of freedom of association and collective bargaining in

line with ILO Conventions, the substantial gaps in its provisions significantly weaken the realization of these rights in practice. This permits violations of national Labour law and internationally recognized workers' rights. The systematic denial of freedom of association and collective bargaining to workers also undermines the sustainable growth of industries.

Bridging these gaps through appropriate amendments in BLA and developing effective regulatory institutions is vital to protect workers from rights violations. The government, employers, workers, and international organizations all have a role in reforming legal frameworks and building a conducive environment for realizing freedom of association and collective bargaining rights of workers in Bangladesh.

The restrictions on trade union activities in the BLA go beyond what is permitted in ILO conventions. Banning political links of unions prevents them from advocating for Labour-friendly policies. Prohibitions on financial aid obstruct the capacity building of unions. These constraints perpetuate the power imbalance between workers and employers.

The complex bureaucratic procedures for union registration and discretionary deregistration powers enable the state to exercise excessive control over trade unions. This clashes with the principle of union independence and autonomy highlighted in ILO conventions.

The absence of legally binding provisions for recognizing representative unions and timeline-bound processes for good faith negotiations enable employers to circumvent collective bargaining obligations through legal loopholes in the BLA.

The lack of proportionate and dissuasive sanctions on unfair Labour practices like anti-union terminations, threats, and harassment encourages violations of workers' rights, as the penalties under BLA are relatively mild.

The overall weak capacity of the Labour administration machinery in Bangladesh, marked by resource constraints and governance challenges, hampers effective enforcement of legal provisions and protections for workers' rights.

Given the generally asymmetrical power dynamics between workers and employers, especially in Labour-intensive sectors like garments, realizing freedom of association and collective bargaining rights requires proactive facilitation by the state through appropriate laws,



mechanisms, and institutions.

In summary, aligned with ILO guidance, comprehensive legal reforms are imperative, along with strengthened administrative systems, to ensure Bangladesh's regulatory regime fully protects the freedom of association and collective bargaining rights of workers in practice.

**The Bangladeshi government should consider amending the BLA to align it with the ILO conventions, particularly in freedom of association and collective bargaining.**

### **Registration of Unions**

Reduce the minimum membership requirement for registration of trade unions from the current 30% of total workers to a reasonable threshold that facilitates union formation as per ILO conventions.

Remove the provisions allowing discretionary rejection or cancellation of union registration by regulators that obstruct compliance with ILO principles.

Simplify bureaucratic procedures and documentation requirements for union registration prescribed in BLA that pose barriers for workers.

### **Restrictions on Union Activities**

Remove blanket bans on union political activities and receive foreign funding so that legal restrictions are by international standards.

Limit the grounds for Labor authorities to dissolve unions or de-register unions to exceptional situations like fraud while protecting normal union activities.

### **Collective Bargaining**

Add explicit provisions on the criteria and process for determination of collective bargaining agents based on union representativeness like membership, elections, etc.

Prescribe a legally binding timeline and structured process for recognizing unions, undertaking negotiations, and concluding collective agreements.

Expand the mandate of the Conciliation and Mediation Board to facilitate collective bargaining processes and provide arbitration in case of deadlock.

### **Dispute Resolution**

Strengthen the capacity of Labour Courts and Tribunals to improve the efficiency of dispute resolution machinery under BLA.

Increase legal deterrence through higher penalties on unfair Labour practices like anti-union discrimination and interference in union activities.

### **Administration**

Set up dedicated units within the Labour Directorate to promote union registrations, conduct verification, and monitor grievance redressal.

Allocate increased budgetary resources to enhance the capacity of Labour administration bodies for inspection, enforcement, and grievance redressal.

The proposed amendments would significantly improve the alignment of the BLA with ILO Conventions and make the BLA framework more conducive for workers to exercise freedom of association and collective bargaining rights. A tripartite consultation process involving trade unions is essential for identified reforms to be carried out appropriately in the BLA. Effectively implementing the legislative changes also requires strengthening the Labour administration machinery.

Incorporate specific provisions to prevent acts of anti-union discrimination in recruitment, job allocation, transfer, promotion, reduction, etc., in line with ILO Convention 98.

Expand the applicability of the BLA to Export Processing Zones (EPZs) and workers in the informal economy to ensure universal coverage of freedom of association protections.

Remove arbitrary powers of Labour authorities to regulate internal union activities and elections, in line with the principle of union autonomy in ILO conventions.

Expand legally mandated paid leave and time off for recognized union representatives to carry out union activities and represent worker grievances.

Set up an electronic portal for streamlined union registration and an online database for transparency and monitoring of registered unions.

Enact provisions for proportional representation of workers in tripartite committees, safety councils, and other relevant policy forums for effective social dialogue.

Mandate periodic disclosure of employer information about wages, productivity, finances, etc., to representative unions to facilitate informed collective bargaining.

Allow qualified foreign workers to hold union leadership positions to leverage experience while restricting political control.

Insert clauses on preferential employment opportunities, upskilling, and income security for workers affected by technology changes or production adjustments based on collective agreements.

Prescribe stringent fines and suspensions of business licenses in cases of repeated or egregious violations of workers' rights.

The proposed measures would strengthen workers' voice, participation, and bargaining power to complement legislative changes to realize freedom of association and collective bargaining rights effectively.

**The government should also strengthen enforcement mechanisms to protect workers' rights effectively.**

### **Expanding Labour Inspection**

Recruit more inspectors under Section 211 of BLA to enhance monitoring and inspection frequency across industries, including RMG, construction, transportation, etc.

Regularly train inspectors under Section 214 on international standards, national regulations, inspection procedures, dispute resolution, soft skills, etc.

To remove constraints, allocate increased resources under Section 212 for inspections, including vehicles, equipment, and mobile tech tools.

Develop sector-specific inspection standards and checklists under Section 210 in line with BLA and ILO conventions for uniform and rigorous assessments.

Set up dedicated units under Section 8 focusing on fundamental rights like workplace safety, prevention of child labor, forced labor, etc., based on risks.

### **Improving Dispute Resolution**

Expand special labor courts under Section 214 and arbitration tribunals under Section 210 with adequate judicial and technical manpower.

Introduce digital tools and case management systems under Section 215 for efficient filing, tracking, and processing of disputes.

Training for judges and arbitrators under Section 216 on evolving laws, standards, arbitration practices, etc., to strengthen capacity.

Enforce mandatory dispute resolution timelines under Sections 210 and 214 to eliminate case delays and long pendency.

### **Deterrent Penalties**

Substantially increase fines and imprisonment under Sections 291-295, 309, and 310 for violations related to unlawful terminations, harassment, safety, etc.

Introduce provisions for cancellation of licenses and approvals under Section 323 for a prescribed period in case of severe or repeated violations.

Recognize the criminal liability of organization leadership under Section 314 in cases of gross violations like worker deaths.

Expand grounds for blocklisting under Section 308 based on the severity of violations.

### **Effective Grievance Redressal**

Simplify complaint filing through helplines and online portals under Section 332 and establish a unified portal for management.

Set up dedicated units under Section 332 to investigate and resolve worker grievances per standardized procedures.

Allow accredited unions and NGOs to represent workers under Section 202 for grievance cases.

Guarantee confidentiality and protection from retaliation for complainants under Section 195.

By enhancing relevant institutional and procedural provisions under the BLA, Bangladesh can strengthen enforcement substantially to ensure the protection of workers' rights and alignment with international standards.

Expand Section 211 on labor inspections to explicitly cover enforcement of freedom of association, collective bargaining rights, and prevention of unfair labor practices, in addition to workplace safety, minimum wages, etc.

Amend Section 290 to require employers to reinstate workers who faced wrongful termination due to discrimination or retaliatory actions, in line with ILO Convention 98.

Increase paid leave entitlements under Sections 179 and 180 for recognized union representatives to enable them to carry out lawful trade union activities effectively.

Set up fast-track complaint cells under Section 332 in districts and industrial zones to immediately relieve victims of egregious labor rights violations.

Under Section 332, provide for regular review of enforcement efforts using IT-based monitoring dashboards to identify gaps in inspection systems.

Insert provisions under Section 323 to mandate temporary government administration and oversight for factories with severe or repeated violations causing imminent risks to workers.

Require appointment of compliance officers under Section 210 in establishments above a specific size to ensure internal monitoring and grievance redressal mechanisms.

Enhance coordination between labor inspectors and police under Sections 331 and 332 to investigate criminal offenses related to workers' rights violations.

Implement robust whistleblower protection programs under Section 195 to encourage reporting of violations without fear of reprisal.

Increase engagement with trade unions, employers, and civil society in oversight committees under Section 8 to support the implementation of labor regulations.

## References

1. ILO Convention 87 on Freedom of Association and Protection of the Right to Organise
2. ILO Convention 98 on Right to Organise and Collective Bargaining
3. Human Rights Watch, "No Room to Bargain: Unfair and Abusive Labour Practices in Bangladesh", 2019.
4. S. A. Anwar, M. Tariquzzaman and M. R. Chowdhury, "Gaps between Bangladesh Labour Act and ILO Core Conventions Regarding Dismissal," *Journal of Entrepreneurship and Business Innovation*, 2016.
5. Bangladesh Institute of Labour Studies (BILS), "Assessment of the Implementation Status of the Bangladesh Labour Act, 2006", 2015.
6. European Commission, "Bangladesh Sustainability Compact: 3rd Follow-up Report", 2018.
7. Z. Rahman, "Enforcement of Labour Law: With Special Reference to Bangladesh," *International Journal of Business, Law, and Education*, 2013.
8. F. Huda, "Inspectors under Pressure: A Corrupted System of Labour Inspection in Bangladesh," 2018.
9. K. S. Jomo, "A Critical Review of Labour Laws in Bangladesh," UNDP Bangladesh, 2020.
10. Solidarity Center, "The State of Labour Rights in Bangladesh: The Garment Industry", 2021.