

Labour

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- State of Bangladesh Garment Sector Tripartism and the Scope of Harmonious Industrial Relations
- Labour in Fishing Sector of Bangladesh: Mapping, Status and Awareness about Rights
- Workplace Safety and Security of Readymade Garment Workers in Bangladesh: An Analysis from Legal Perspective
- Strengthening Tripartism in Bangladesh: Role of Trade Unions



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Editorial

This issue of “Labour” has been published aimed at addressing Tripartism and Industrial Relations in RMG sector, status and awareness on Fishing Workers rights, workplace safety and security of RMG Workers and role of Trade Unions for strengthening Tripartism in Bangladesh.

RMG sector is considered as one of the major lifelines of the economy of Bangladesh for its contribution to export and employment. However, workers who give relentless effort to continue the flow of lifeline are suffering due to lack of effective institutional mechanism, which is also bringing dispute to the industry. In this case a strong tripartite system is needed to ensure harmonious industrial relations and positive outcome to this industry. The article on Tripartism at RMG sector is prepared based on exploration of those ways that may to bring effective outcome in this industry.

In Bangladesh, a large number of workers are employed in fishing sector. Fisheries are now considered as the second most effective sector for employment generation and poverty eradication. However, rights and benefits are not ensured for the workers at this sector comparing their contribution. The article has provided information based on the study that explored the workers engagement in fishing sector and nature of their work, described their socio-economic status and state of awareness about worker rights, and identifies issues for their advocacy.

The article on workplace safety and security of RMG Workers is prepared based on a study aimed at justifying the status of compliance regarding security and safety of the Garment Workers in Bangladesh in line with national and international legal framework and standard practice coupled with the vow to investigate the main loopholes of the present labour law in the country.

The last article of this journal is prepared to address some concerns and challenges regarding Tripartism. It looks for some ways to strengthen the mechanism, especially from Trade Union point of view as they face the real challenge to marginalise their role in the tripartite process. This article makes several key recommendations in this regard.

We hope these articles will provide analytical information for the readers, academicians, researchers and students.

We acknowledge Friedrich Ebert Stiftung (FES) Bangladesh Office, writers, researchers, academicians, experts and labour leaders for their precious support to publish this journal.

Syed Sultan Uddin Ahmmed
Editor

State of Bangladesh Garment Sector Tripartism and the Scope of Harmonious Industrial Relations

Dr. Jakir Hossainⁱ

Dr. Afroza Akterⁱⁱ

The ready-made garment (RMG) sector has become one of the important lifeline of the national economy of Bangladesh because of its significant contribution in terms of manufacturing exports (more than 80 percent of the total export) and employment creation for a larger group. This sector has been substantially contributing for the social transformation of a significant portion of the society, particularly for the young women who are mainly from the rural area. At the same time, it is also an undeniable fact that Bangladesh's garment workers with their dedication and sincere commitment has established themselves as the trigger for the sector itself to be competitive and to support the national economy. Unfortunately, due to lack of effective institutional mechanisms along with other challenges and constraints related industrial relations and fundamental labour rights – garment workers and industry both suffer the most, thus springing up labour disputes.

The study looks at the disputes of garment sector workers and maps out the different representation modalities to settle disputes amongst the different interest groups as there is a poor functioning of the social dialogue mechanisms within the factories in particular and the garment sector in general. The study maps all the existing tripartite representation structures and identify the modalities of setting up a broad based effective tripartite structure in the RMG sector. The study explores and sets out a new structure to bring these issues to the fore and ensure that Bangladesh's reputation in the RMG is as strong and sturdy as ever.

The study was conducted by Bangladesh Institute of Labour Studies-BILS with the support of Friedrich-Ebert-Stiftung (FES).

1. INTRODUCTION

Ready-made garments (RMG) are of immense importance to the economy of Bangladesh, accounting for around 80 percent of manufacturing exports and more than three million jobs. Surpassing country's traditional export items, the garment products have experienced a quantitative leap in both the volume and value.

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Bangladesh garment workers, undeniably, serve as an asset for the sector itself to be competitive and to support the economy (please see Annex 1 for a brief on Bangladesh's RMG sector profile).

The quality of work and workplace governance is determined partially by the efficiency of labour administration system promoted for policy setting, formulation, and implementation. At the centre of Bangladesh's labour policy formulation and implementation is the Ministry of Labour and Employment. Department of Labour (DoL), as one of its implementing agencies, is responsible for overall administration and implementation of policies and programs. The DoL also acts as conciliation machinery that deals with labour and industrial disputes including strikes and lockouts. The inspection of factories and prosecution against violations of labour laws in courts are prerogatives of the Department of Inspection for Factories and Establishments (DIFE). All garment factories except those in the EPZs are under the purview of DIFE's monitoring and enforcement, whereas for factories in the EPZs, the Department of Industrial Relations (DIR) acts as a substitute.

In spite of the presence of institutional mechanisms, workers of this sector suffer due to poor working conditions, constant negligence of labour rights and weak enforcement mechanism. The series of accidents including the Rana Plaza disaster and fire at Tazreen Garments led to renewed focus on the occupational safety and health issues in the sector. Together, the garment sector is beset with numerous disputes amongst the conflicting interests of the employers and workers. As there is limited scope to address workers' complaints at the factory level, eventually demonstration for rights of workers takes place as a form of protest.

The main reason for the dismal state of settling disputes among the conflicting interests is the lack of or poor functioning of the social dialogue mechanisms within the factories and in the sector level. There are both bipartite and tripartite institutions. Numerous committees too exist in the Ministry of Commerce and Ministry of Labour and Employment. But in most cases their authorities are not well defined. Accordingly, disputes are often settled on an ad-hoc basis and by different ministerial bodies at different times. Also, lacking the appropriate authority to any particular tripartite forum means that the workers' rights are hardly ensured. The garment sector experience evinces the fact that whenever unrest emerges, government convenes some tripartite meetings but those are not arranged by any permanent committee. The roles of those who arrange such meetings are limited within the current regulatory framework of the country.

The available evidence of the nature of employers' and government's intervention in the workers' protests makes it clear that the ad-hoc policies and strategies to settle crisis merely focus on establishing peace in the sector—by tackling the phenomena of civil disobedience and disturbance not by getting deep into what bring workers to the street protests/blockades in the first instance. But rather than helping to resolve disputes, the ad-hoc mechanisms actually create the conditions for other disputes to emerge and escalate into severe forms.

Indeed, this is a vicious circle. The lack of effective workers' representation at the plant level leaves workers powerless to protect their own interests. The employers seek maintenance of stability, and accordingly intervene in a way only to establish industrial peace and to continue production. The means used subsequently to resolve disputes are pressure and persuasion to suppress workers' demands and interests only to be forced to vent out in some other forms at a different time. Obviously, the circle, leading not closer to the roots of the workers' grievances and interests, leads to consequences and outcome inequitable to the workers, and it even deters the establishment of industrial peace. The outcome of such a vicious circle only produces either denial of genuine interests of the workers or a coercive agreement hardly accepted by the workers as well as employers.

A regular dialogue and quick and visible tripartite mechanisms are necessary for ensuring safety at workplace, settlement of wage and ensuring decent work at the RMG sector. Tripartism ensures active interactions among the government, workers, and employers as representatives, equal and independent social partners. This tripartite mechanism has to convene regular dialogues among employers, workers and government, and may also include in the dialogue other stakeholders such as brands, buyers, workers' rights NGOs and other members of civil society. A permanent tripartite forum for the RMG sector to place recommendations to the government for a coordinated action in the sector is long outstanding.

The core objective of the study is to map the existing tripartite representation structures and identify the modalities of setting up a broad-based effective tripartite structure in the RMG sector. To this end the specific objectives are to: (a) analyse the trends and reasons of the industrial dispute, and identify the scope and challenges for settlement; (b) map the existing tripartite structures of the sector and review their roles, activities and challenges for settling crisis in the sector; and (c) identify and spell out clear guidelines for setting up modalities of advocacy for a permanent RMG tripartite structure, and make a set of recommendations for tripartite forum for regular social dialogue.

For developing the modalities of setting up a permanent/ legitimate tripartite structure in the RMG sector, the necessary information has been collected both from the primary and secondary sources. The secondary sources include the review and analysis of existing literature relating to existing bipartite and tripartite structures of the sector, its roles, activities and challenges. The primary information has been collected through key informants interviews (KIIs). The list of participants in these interviews and a checklist for discussion is annexed as Annex 2 and Annex 3. The draft report has been shared with both the national level and sectoral (RMG) trade unions alongwith multi-level stakeholders in discussion meetings.

The study is presented in four core sections. Following the introduction, the next section highlights the trends and reasons of industrial disputes and dispute settlement procedure. The section identifies the reasons of conflicting industrial and labour relation and focuses on the importance of labour tripartism in RMG Sector. Section three analyzed the current structures of bipartite and tripartite forums, their functions, coordination mechanisms, cooperative arrangements, and achievements and the challenges faced. The section also discussed on the desirable structural changes within the tripartite structures for harmonious industrial and labour relations. The final section outlines the advocacy directions for the TU's regular social dialogue for setting a broad-based legitimate tripartite forum for RMG sector.

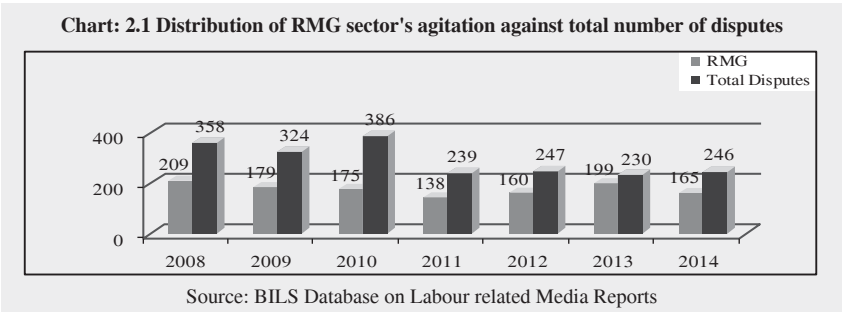
2. INDUSTRIAL DISPUTE AND DISPUTE RESOLUTION

Industrial disputes and conflicts are an unavoidable part of industrial and labour relations because of the differences of interests. The Industrial disputes mainly relate to the strife or difference between employers and employees on the terms of employment. It is also a disagreement between employers and employers, or workers and workers, or employers and workers' representatives. According to The Bangladesh Labour Law, 2006 [Section 2 (62)] "the 'industrial dispute' means any dispute or difference between employers and employers or between employers and worker or between worker and worker which is connected with the employment or non-employment or the terms of employment or the conditions of work of any person." Industrial dispute may be collective or individual in nature. Individual disputes are those involving a single worker whereas collective disputes involve groups of workers – usually represented by a trade union. When an industrial dispute occurs, both the management and the workers try to coerce each other. The management may resort to lockouts whereas the workers may resort to strikes, picketing or gherao.

This section explores the reasons of industrial disputes and trends of dispute settlement procedure as well as identifies the reasons of conflicting labour relation in Bangladesh. The importance of labour tripartism in Bangladesh’s RMG sector is also analyzed in this section.

Trends and Reasons of Industrial Disputes

The industrial and labour relations have hardly been harmonious in Bangladesh. There are a number of industrial disputes in different sectors each year, however the number is highest in the RMG sector. Although, the exact statistics is hardly available, the evidence based on newspaper reporting shows that, during the period of 2008 to 2014 on an average 259 case of industrial disputes arose in different sectors and on an average, there have been around 175 cases of collective disputes raised against the violation of labour standards and rights in RMG sector. It is however evident that in the years 2008, 2009, and 2013 the number of incidents observed in RMG sector was more than the average incidents e.g. 209, 179 and 199 respectively. The lowest number of disputes (138 incidents) was raised in the year 2011 (Chart-2.1).



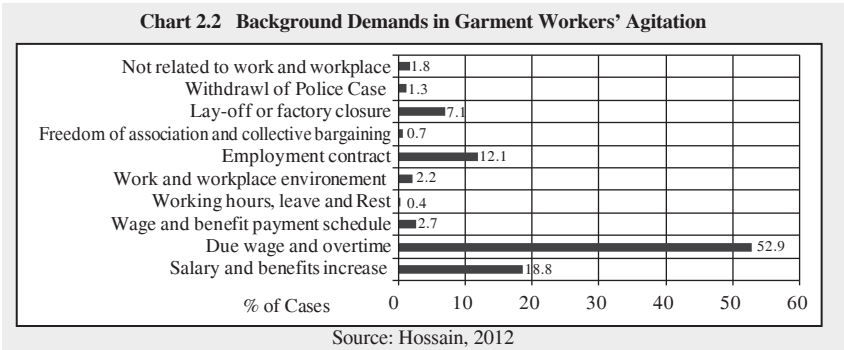
The most common form of industrial dispute includes strike, road blockades, demonstrations, sit-in protests and protest marches, confinement of authority, and human chain. During the period of 2006 to 2010 the most common forms of industrial dispute reported as sit in protest and protest marches (96 percent) were followed by work stoppage or strike (89 percent). Then come the other forms of industrial disputes that took place – blockades (78 percent), petition (32 percent) and damage of factory and other property (31 percent).

The reasons of labour disputes are many, but it can be broadly categorized under two heads— economic and non-economic reasons. The economic reasons include the issues like wages, bonus, allowances, and conditions for work, working hours, leave and holidays without pay, unjust layoffs and retrenchments. The non-economic factors contain unfair treatment to workers, employers’ attitude towards workers,

sympathetic strikes, political factors, indiscipline at workplace and rumours. The monetary or economic reasons are more obvious since these clearly pull in opposite directions in the conflicting interest between labour and capital.

It is commonly said that the garment workers and the management are engaged in disputes because the workers always want a better wage while the employers always try to minimize the cost. However it is evident that the disputes arise in the RMG sector as the workers are subject to systematic exploitation, long and stressful working hours, casual employment relationships, and exclusion from the rights and benefits they are entitled to (Chart 2.2).

An analysis of the dispute cases reveal that during 2006 to 2010, about 59 percent (53 percent for due wage and overtime payment, 3 percent for delayed payment schedule, and another 3 percent for due employment benefits) is somehow related to monetary dues; and only 19 percent is related to the increase in demand for salary and benefits (Chart 2.2).



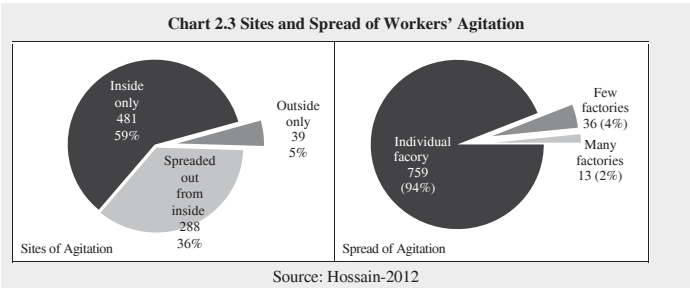
Workers' protests are largely in response to specific violations of rights such as non-payment or delay in payment of wages and overtime, and their demands also relate to working hours, leave and rest, and freedom of association and collective bargaining (around 1 percent of cases each). Lay-off or factory closure was the background of around 7 percent of workers' protests. Violation of employment contract, particularly employers' misconduct and unlawful and arbitrary dismissal were the causes behind around 12 percent of incidents in the sector (Hossain, 2012).

The demands are broadly related to work and workplace, and specifically in relation to systematic exploitation much of which is beyond the demands of a decent living from the current below poverty-level wages. Overall, the interests are general in nature, not at all of any special type.

The general interests of workers are mainly exhibited by two other facts of the workers’ agitations. Findings of a study (Hossain 2012) reveal that, the majority sites of workers’ agitation and protests were solely inside factory (59 percent), however sometimes it started from inside the factory and stretched beyond the factory (36 percent). The focus of the conflict was predominantly individual factory. Around 81 percent of agitation cases during 2006 to 2010 were targeted towards individual factory; mass scale protests were recorded in around 19 percent cases (Chart 2.3).

The manifested workers’ interests pursued by their representatives go far deeper than the problem of poverty level wages. Temporary contracts, systematic exclusion from social security benefits, repression of trade union organizing, and problems in accessing state provision of basic services are often the issues taken forward by the representatives along with the problem of low wages. However, the workers’ interests as exhibited in their agitations are of latent nature. The latent interests get manifested by workers themselves only when systematic exploitation becomes unbearable to them.

The reason of the workers’ interests being latent is that workers keep their grievances suppressed since they understand that expression to them might lead to abuse by mid-management or even to job-loss. In the mentioned study (Hossain, 2012), the workers identified fear of job-loss as the main reason for lack of initiative for collective action. The study however revealed that workers see moving to another factory as an easy and relatively less costly alternative to protests and mobilizations. Thus the interests are mostly covered. And these interests only get ignited with sudden outburst of a particular incident e.g., humiliation and abuse, termination of job, or even sudden lay-off or closure of factories. When conditions become too oppressive or when there is no scope for bargaining, a worker either simply leaves the job (for good or for joining move to another factory) as a silent protest, or channels the demands through formal or informal interest groups. When management arbitrarily

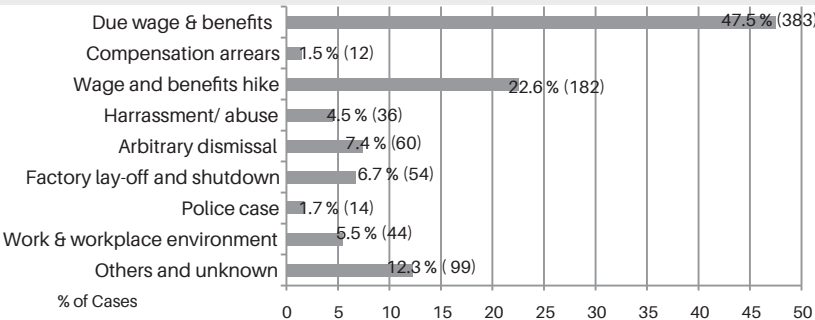


dismisses workers or even keeps workers' wage and overtime payment unpaid, workers are often left with little option but to stage a public protest in the hope of forcing the employers to listen to them, or the government to intervene on their behalf.

In situations of extreme and prolonged violation of rights primarily related to delay and non-payment of wages and overtime dues, protests spill onto the streets and to other factories.

Along with the regular demand of due wage and benefits, compensation, wage and benefits hike, it often requires a sudden action by the owner/management to spark off an outburst that unites all the workers and moves outside the factory floor. The actions which trigger off such outbursts include harassment and abuse of workers (5 per cent), closing factory, sudden lay-off of the factory (7 per cent), police cases filed against workers (2 per cent) etc. (Chart 2.4).

Chart 2.3 Sites and Spread of Workers' Agitation



Source: Hossain, 2012

With no mechanism within enterprises to alleviate labour-management tensions, worker dissatisfaction often builds up over a long period, and protests are sparked off by a specific incident. Protests are perceived to be ways workers can motivate employers and government officials to take their interests and aspirations seriously.

This is not to claim that no individual protest takes place. Individual action by garment workers even by female workers transcending the feudal, religious, and traditional gender relations is increasingly being used to protest unfair treatment, to bargain for higher wages, or to demand arrear payments. Nonetheless, workers' resistance against workers' rights violation is primarily collective.

System of Industrial Dispute Resolution

Dispute resolution is an essential part of any well-functioning labour market and industrial relations system. Where there are labour relations one inevitably finds labour disputes and the need to resolve them efficiently, effectively and equitably for the benefit of all the parties involved and the economy at large. Effective dispute resolution may help employers to maintain good relationship with their employees by dealing with workplace issues.

This section highlights the legal aspects of industrial dispute resolution in Bangladesh and analyses how industrial disputes between employers and employees are actually resolved. The issues have been discussed here in terms of-Labour Administration, Labour Judiciary and Interest Representation.

Labour Administration

Labour administrations in each country typically establish labour dispute resolution procedures in national legislations. Resolving system of labour dispute in Bangladesh is clearly outlined both in The Bangladesh Labour Law 2006(BLA 2006) and EPZ Workers Welfare Association and Industrial Relation Act 2010 (EWWAIRA 2010). The BLA 2006 provides procedures to settle industrial disputes by the employer or the collective bargaining agent (CBA)¹ outside the EPZ (Sec. 210), while the EWWAIRA provides industrial dispute resolving procedure inside the EPZ. According to these legal instruments, the industrial disputes of both rights and interests can be settled through three steps –negotiation, conciliation, and arbitration.

Negotiation:

When an industrial dispute is likely to arise between the employer and the workers or any of the workers and employer, at first the collective bargaining agent shall communicate with the other party in writing. Then the recipient party shall take initiative to arrange a meeting for negotiation within fifteen days of the receipt of the communication. If the both parties make a positive solution to the disputed issues, a deed of settlement shall be recorded and signed by both the parties and the copy of the deed is forwarded to the government and the conciliator thereof. [Section 210 ^(1,2,3)]

¹Generally Trade Union is allowed to work as a collective bargaining agent (CBA). If there is one registered trade union in an establishment, it shall be treated as a CBA, but if there is more than one trade union in an establishment then CBA determine through election from the TUs(BLA 2006, Section 202).In EPZ workers representatives of Workers Welfare Association are entitled to work as CBA [EWWAIRA 2010, Section 37 ⁽¹⁾].

Conciliation:

If the negotiation fails within a period of one month from the date of the first meeting of negotiation, it shall be forwarded to the conciliator for the process of conciliation. If the dispute is settled through conciliation the conciliator shall report it to the government along with the settlement deed but if not settled within 30 days of initiation of conciliation it will be treated as to have failed. However, the consultation may be extended after the period if both parties agree in writing. [Section 210 (4-b)]

Arbitration:

If the conciliation also turns into failure, the conciliator shall try to influence the parties to agree to refer the dispute to an arbitrator. When both parties agree, then the conciliator shall forward the matters to an arbitrator chosen by both parties. The arbitrator shall present award within the thirty days or such further period as may be agreed upon by them after the dispute is received. After making award the arbitrator shall forward a copy of it to the parties and to the Government. [Section 210 (4-b)]

Right to Strike or Lock-out

If the parties (in case of industrial disputes outside EPZ) do not agree to refer the dispute to the arbitrator, then the conciliator shall issue a certificate to the parties within three days that the proceedings have failed. In this case the party which raised the dispute may provide the notice of strike or lock-out to the other parties. The date of commencement not to be earlier than seven days and not later than fourteen days of serving that notice. But for serving notice consent of two third members is needed to call a strike (BLAA, 2013). If a strike or lock-out lasts more than 30 days the conciliator may refer the dispute to the Labour Court prohibiting strike or lock-out. In case of EPZ if the negotiation and conciliation process fails, the parties involved in the dispute are not entitled to go for strike or lock-out. Though the EWWAIRA allows the concerned parties to go to The EPZ Tribunal for settling dispute, however, no such Tribunal has been set up till now in EPZ. Nonetheless, the issue can be raised in the labour courts.

It is observed in recent years that more than 90 percent of dispute cases are reported to have fully been settled through the conciliation machinery. The average fully settled cases during the first decade were 37 percent, which increased to 67 percent in the following decade. The statistics however reveal the number of failed and pending cases decreased during the years (Chart 2.5). It implies that when conciliation is utilized as means of dispute settlement, it works effectively in settling the disputes.

The above chart amply reveals that over the years, only a small number of industrial dispute cases have been taken up for conciliation. For example, during the period of 1990 to 2000, on an average, some 403 disputes per year went through the conciliation machinery, which was only 74 per year during the period of 2001 to 2010, and 246 cases per year during the period of 1990 to 2010. In contrast, on an average, 4995 and 274 disputes annually went through the labour courts and labour appellate tribunal respectively during 1990-2010 (Table 2.1).

These mean that the labour administration for promoting compliance with labour laws and for resolving labour disputes is weak. The administrative mechanisms often fail to provide the workers with amicable solution to grievances and disputes putting undue pressure on the labour judiciary to settle disputes originating from the conflicting interests of workers and employers.

Labour Judiciary

The labour courts deal with both industrial disputes and individual grievances. A dispute may be referred to labour courts by the employers, the workers, or by the government. When the bipartite negotiation and conciliation are exhausted, the disputant parties either before or after the commencement of a strike or lock-out may make an application to the Labour Court for the adjudication of the matter. A worker can apply to the Labour Court for resolution if any deduction is made from the wages, or any payment of wages is delayed, or payment of wages or gratuity under any rule or his dues in the provident fund is delayed. An individual worker who has been dismissed, retrenched, laid-off or otherwise removed from employment can make a complaint to the Labour Court.

Table 2.1 Functioning of Dispute Settlement Machinery

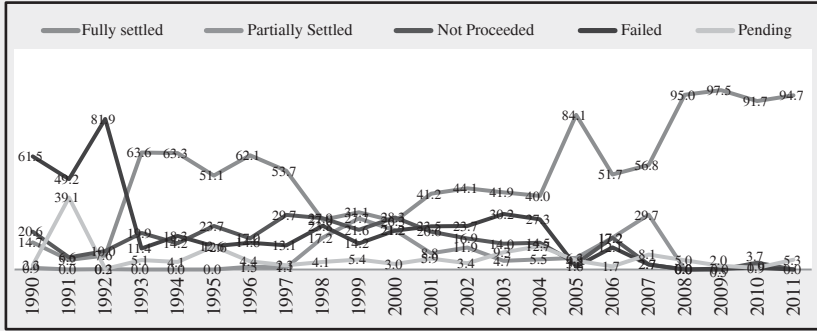
Year	Total Cases	Conciliation	Labour Courts and Appellate Tribunal		
			Labour Courts	Appellate Tribunal	Total
Average 1990-2000	6522	403	5957	161	6118
Average 2001-2010	4271	74	3936	522	4458
Average 1990-2010	5450	246	4995	247	5269
2011	7719	142	7577		7577
2012	7663	159	7504		7504

Data Source: Bangladesh Labour Journal, various issues, Department of Labour, GoB

The worker (or legal heir in case deceased) or any legal representative may apply to the Labour Court for redress.

While for workers filing a case at the labour courts is subject to time-limits, the time taken to settle a case is rather long. Most of the

Chart 2.5 Status of Disputes Taken Up for Conciliation

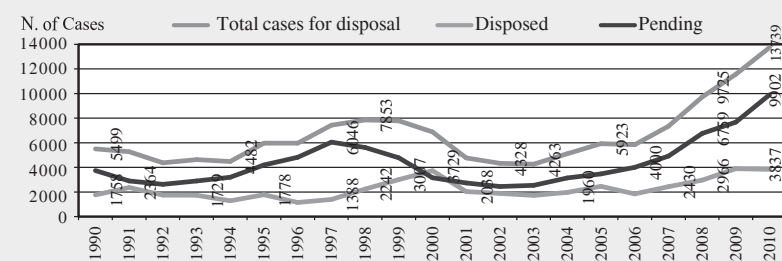


Source: Updated from Hossain, 2012.

labour courts fail to dispose of the cases within the statutory time limit of 60 days. “Six months to over a year appears to be normal, and the actual time for resolution can be much longer, particularly if brought to appeal, (Hossain, 2012)”. Farooque (2009) in his study shows that, about 50 percent of the cases at Chittagong Labour Court took a time period between 12 months and 36 months. The time required for 25 percent of the cases ranged between three years and five years. About 8 per cent of the cases took more than five years. The average time taken to decide the cases by the First Court and the Second Court of Dhaka was more than 17.5 months and 31 months respectively.

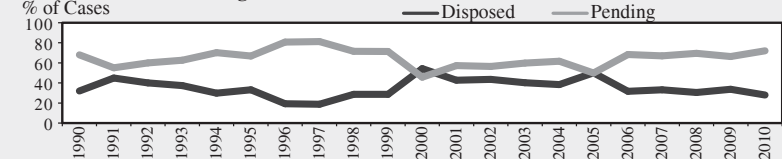
An annual average of 4047 cases were filed at labour courts during 1990 to 2010, of which on an average 2248 cases were disposed of and others remained pending. The pending cases increased in proportion to number of cases filed (Chart 2.6).

Chart 2.6 Industrial Disputes Handled by Labour Courts



Data Source: Bangladesh Labour Journal, various issues, DoL, GoB

Chart 2.7 State of Working of Labour Courts



Data Source: Bangladesh Labour Journal, various issues, DoL, GoB

The long time period for settling disputes through labour courts is due to a number of reasons. Two of which is of paramount importance in terms of government's action in providing adequate resources to make the labor judiciary functional.

First, on adequacy of courts: the coverage of labor courts is low due to the inadequate number of courts. Currently, there are seven Labor Courts—three in Dhaka, and one in each of the four divisional headquarters. The maiden appellate tribunal with only one Bench is in Dhaka.²

Second, on composition of the courts: the BLA 2006 provides that a Labor Court shall consist of a chairman and two members— one of whom is the representative of employers and the other is the representative of workers.

This representative character of the labour courts is not extended to cases related to wage and payment, and to workers' compensation for injury by accident (BLA 2006, Chapters X and XII) for which the court is constituted with the Chairman only. The chairmen of the courts are appointed by the government from sitting District Judges or Additional District Judges. The selection of judges for labour courts follows no standardized procedures, thus political pressure from the ruling party at times play important part for recruitment. Remuneration and benefits of the members of the courts are reported to be poor leading to disinterest in attending court sessions. Absence of employers' and workers' representatives is often the cause to this kind of delay.

Another important barrier to access to labour judiciary is the lack of awareness about the entitlement. Garment workers hardly know whether they can take legal measure in case of conflict with their employers. The lack of knowledge on the case-filing procedures, in effect, causes the emergence and growth of the middlemen (intermediaries) to access the legal facilities, which often cost the workers handsome amount of money. The discontent in terms of the access to justice is widespread amongst workers. They allege that the court always favours the employers; the nature of the verdict often depends on the amount of money given as bribe, muscle or corrupt practices (Hossain, 2012 b).

Interest Representation

The participatory interest representation system in the RMG sector to comprise, aggregate, resolve, and mediate various interests of individuals and groups is a complex one. Currently, three tiers of the structure exist: a) Enterprise level b) Industrial level c) National level. According to records of the Register of Trade Unions, there are 32

²The inadequacy looms large against the vested power of the government. The government has according to the BLA 2006 the power to establish as many Labor Courts as it considers necessary. Also, the Government is empowered to appoint as many as members as required for the Tribunal to form several Benches for smooth functioning (BLA 2006, Article 214).

national-level trade union federations representing workers in various industry including garments.³ In the garment sector itself, there are 23 national garment labour federations, and 20 division based garment federations.⁴

Another key institutional group is the alliance of the National Federation of Trade Unions—Sramik Karmachari Oikkya Parishad (SKOP). The plant level trade unions are the associational groups for the sector. According to the records of the Register of Trade Unions, there are only 329 plant level unions (around 200 of which were registered in last 2 years) in the garment sector. These plant level unions are affiliated with the 36 national and division based garment federations.

The garment factories in the EPZs are still exempted from forming trade unions, and instead, workers are allowed to form associations (WWS) on the basis of referendum by workers. A total of only 143 (Dhaka – 54; Chittagong – 89) such workers' associations have until today formed in 264 enterprises at Dhaka (101) and Chittagong (163) EPZs of the country. In view of the inadequacy of plant level unions and associations, the sector's workers' representation is carried out by multiple national and/or industrial federations.

Whilst multiplicity of these interest groups is an important feature, it has some weaknesses in representing workers' interests. Three of the factors are mostly indicative in this regard.

First, along with the non-representative character of the unions at the plant level, the ever growing organizational multiplicity suffers from poor organizational strength caused by lack of membership.

Second, the female membership in trade unions varies widely, ranging from as low as two percent to as much as around 33 percent. The average rate of female participation in the selected federations stands at around 16 percent (BILS 2009).

Third, unions along with their members often are highly politicized, and devoid of lacking working class ideology. The multiple national and industry-wise federations are mainly the result of political outsider wanting to establish unions of their own with a view to increasing their political influence (Ahmed, Hossain and Kabir 2012).

³National level federations are combination of basic and industrial federations. According to Article 200(5) of BLA, 2006, not less than 20 trade unions formed in different types of industries may, jointly, constitute a federation.

⁴According to Article 200 (1) of BLA 2006 (amended in 2013), any five or more registered trade unions formed in establishments engaged, or carrying on, similar or identical industry may, if their respective general bodies so resolved can constitute a federation by executing an instrument of federation and apply for the registration of the federation. At present, a total of 108 industrial federations are registered.

Fourth, the trade unions suffer heavily in terms of finance in representing workers' interests. The average income of most of the unions has been low and almost inadequate to carry out regular advocacy through direct and indirect means.

The non-associational and anomic groups, in contrast, are perceived to be more representative to workers' interests due to the existence of workers' apathy in expressing their interests through formal channels. There are unregistered trade unions numbering over thirty. There are too loosely structured platforms of unions and union leaders e.g., Garment Industry and Workers' Protection Alliance, Garment Sramik Sangram Parishad, and Garment Workers Unity Council, and forums run by workers' rights NGOs e.g., Sramik Nirapotta Forum which work to uphold garment workers' interests as non-associational groups. These platforms have less formalized structure, and many of them are issue based e.g., OSH, living wage. Nonetheless, all these groups consist of people who share a common interest.

The anomic groups in the sector are spontaneous uncoordinated protests by the workers themselves. The less confrontational struggles on the factory premises take place through workers coming together spontaneously to lodge a complaint with the factory management. In situations of extreme and prolonged violation of rights primarily related to delay and non-payment of wages and overtime dues, protests spill onto the streets and to other factories. Along with the regular demand of due wage and benefits, compensation, wage and benefits hike, it often requires a sudden action by the owner/management to spark off an outburst that unites all the workers and moves outside the factory floor. With no mechanism within enterprises to alleviate labour-management tensions, employee dissatisfaction often builds up over a long period of time, and protests are sparked off by a specific incident. When they are denied outlets for their grievances by the lack of an effective collective bargaining system, they have little option but to make those grievances public by staging strikes, demonstrations, sit-ins and blocking roads and highways nearby. This is the only way workers perceive that they can get employers and government officials to take their interests and aspirations seriously.

The Need for RMG Sector Tripartism

Tripartite cooperation plays an important role in promoting harmonious labour relations. Tripartism is the process whereby representatives of workers, employers and the government work together and facilitate the improvement of labour standards and protection of workers' rights, as well as resolve employment related tension of common concerns

through consultation and discussion. Tripartism is defined as “the interaction of government, employers and workers (through their representatives) as equal and independent partners to seek solutions to issues of common concern”. It also refers to the involvement of employers’ and workers’ organizations, alongside the government, on an equal footing, in decision-making. (ILO, 2013).

Since in tripartism, three parties (Government representatives, workers’ representatives and employers’ representatives) work together, and trade union or workers are encouraged to dialogue with the management as a team, it becomes easy to make consensus on the relevant issue and the establishment can get better corporate result. However the policies and measures that are initiated through tripartite consultation would find greater acceptance and ownership and could then be implemented smoothly.

The tripartite consultation helps to settle industrial disputes. The earlier discussion reveals that a large number of disputes regarding different issues e.g. wage and benefit, workplace environment, compensation, harassment, arbitral dismiss, have been raised at workplace and a significant number of them have been settled through tripartite consultation. It has been found that the disputes which are taken up for conciliation around 95 percent of them are fully settled and a little proportion are pending, while the status of handing the cases in labour courts indicates that on an average during the last two decades only about 35 percent cases have been settled and the others remained pending. It is therefore evident that tripartism has significant role in dispute resolution. Furthermore, the tripartite cooperation helps to ensure smooth political and economic transitions and mitigate the impacts of crises. Above all it is considered significant for creating a business friendly environment and attracting foreign investment.

3. CURRENT STATE OF LABOUR TRIPARTISM IN RMG SECTOR

Tripartism is the process through which the foundation for a harmonious industrial relations system can be laid at the national and enterprise level. Several tripartite institutions and committees/forums were set up at different times to address various labour market issues and create and implement labour regulations in Bangladesh. Tripartism is institutionalized in the country mainly through the ratification of the ILO Convention concerning Tripartite Consultations to promote the implementation of International Labour Standards, 1976 (No. 144) in 1979.

This section explores the current state of labour tripartism in RMG sector. To do this, the section analyses the current structures of existing tripartite forum in RMG sector, its functions, co-ordination mechanisms and

cooperative arrangement, and its achievement and challenges. To that end, we explore whether there are requirements of structural changes of tripartite forum in the RMG sector for a harmonious industrial and labour relations. The current structure of the forums, its functions, co-ordination mechanisms and cooperative arrangement, and its achievement and challenges are analyzed in this section mainly based on review of the reports, meeting minutes, government gazette and the information received from key informants.

Current Structures of Tripartite Forums in Bangladesh

In Bangladesh, there are mainly three regular tripartite institutions at the national level which have relevance for the RMG sector along with other industrial sectors.

These are (a) Tripartite Consultative Council (TCC); (b) Minimum Wage Board (MWB); and (c) National Industrial Safety and Health Council.

There are also some ad- hoc based tripartite forums engaged in establishing harmonious industrial and labour relations in RMG sector. Noteworthy, the government often institute committee for settling particular disputes for example in Tuba garments (case 1), Swan garments (Case 2).

Case 1:

The incident of Tuba group is an example how due to lack of effective role of workplace cooperation mechanism an isolated incident of workers' dissatisfaction over pay issues turn into a national issue that threatens wider labour unrest in the RMG sector. After Tazrin fire accident, Tuba group with 1600 workers did not get any orders from the buyers as the owner of Tazrin fashion and Tuba group is the same. They made jerseys for the world cup football and other garment product overseas from January until June. The company earned Tk. 39 crore selling the products, but it was past more than one month that they did not pay the workers. The Participation committee met two or three times to solve the problems. The management representatives gave word that they would pay the workers soon, but workers did not receive their dues. The workers representatives of PC failed to negotiate with management, and the management ignored the committee's decision. This creates dissatisfaction among the workers. As it was before Eid, the workers started agitation including strike and fast-until-death against the factory owners demanding due salary and bonus.

Case 2:

With 1300 workers in the two factories of Swan group— Swan Garments and Swan Jeans, there was no workplace cooperation mechanism like participation committee, OSH committee, and canteen management committee. The workers of these factories usually used to solve their personal or workplace related problem individually through supervisor or line chief. Due to ownership conflict the two factories declared closed on April 10, 2015, without any discussion with workers and without paying salary and bonus of workers. As there was no workplace cooperation mechanism, the workers indirectly heard about the factory closing, but they did not understand how and in what ways they could consult with the management about the issue. When the factory had closed they started agitation including sit-in protest, demonstration, road blockade, and hunger strike until death for their due salary and bonus.

These committees are purely ad-hoc and not any regular one. A list of existing regular tripartite institutions and forums working in RMG sector is presented in the following Table (Table- 3.1). Out of ten existing tripartite forums, the Minimum Wage Board is the only statutory tripartite forum. The Tripartite Consultative council (TCC) was formed through ratification of ILO Convention no 144 and rest of the forums established through government's ordinance/ notification.

Functional Period

The first tripartite institution was formed in Bangladesh after its independence as the name of 'National Labour Advisory Boards'. Then it had 10 members from the government and 5 each from organizations of workers and employers. The 'National Labour Advisory Boards' was reformed as Tripartite Consultative Council (TCC) in 1980 through the ratification of the ILO Convention concerning Tripartite Consultations to promote the implementation of International Labour Standards, 1976 (No. 144) in 1979. It has been reconstituted last on March 2009.

The formal tripartite consultation came into practice broadly from the last decade. It is found that out of ten currently existing tripartite forum, only two –TCC and National Industrial Safety and Health Council have been formed before the year 2000. The Crisis management committee has been formed in 2007. The Social Compliance Forum, two Taskforces on Labour Welfare and Occupational Safety, and Compliance Monitoring Cell have been formed in the year 2005. The National Tripartite Committee for the Fire and Building Safety and Rana Plaza Coordination Committee (RPCC) has been formed in 2013.

Table-3.1 Existing Tripartite Forums working in RMG Sector

Sl.	Committee Name	Central Authority	Headed by
1	Tripartite Consultative Council (TCC)	Ministry of Labour and Employment	Labour Minister
2	Minimum Wage Board (MWB)	Ministry of Labour and Employment	Chairman (district judge)
3	Crisis Management Committee	Ministry of Labour and Employment	Joint Secretary
4	Social Compliance Forum for RMG (SCF)	Ministry of Commerce	Commerce Minister
5	Task force on Labour Welfare in RMG	Ministry of Commerce	Secretary, Ministry of Labour and Employment
6	Task force on Occupational Safety in RMG	Ministry of Housing and Public Works	Joint Secretary, Ministry of Works
7	National Tripartite Committee for the Fire and Building Safety in RMG Sector	Ministry of Labour and Employment	Ministry of Labour and Employment
8	Rana Plaza Coordination Cell (RPCC)	ILO	ILO
9	National Industrial Safety and Health Council	Ministry of Labour and Employment	Joint Secretary, MOLE

Members of the Forums

The tripartite institutions /forums have been constituted with mainly representatives from three parties— government, workers and employers organizations. The number of members vary from forum to forum but equal representation from government, workers and employers is available in most of the existing tripartite institutions/forums. For example, the total members of the TCC are 60 of whom 20 each from government, workers union and employers organization; and the number of members of crisis management committee is 10 of whom one chairperson and 3 each members from government, workers and employers. The Minimum Wage Board consists of six members— a chairman, one independent member, two members to represent the employer (one permanent and the other representing sector) and two members (one permanent and the other representing sector) to represent the workers.

The Social Compliance Forum is the 25- member forum and it includes the participation of Board of Investment (BOI), Secretaries of Commerce, Home, Labour, Textile, Industries, Works and Women and Child Affairs, Bangladesh Export Processing Zone Area (BEPZA), Export Promotion Bureau (EPB), Prime Minister's Office (PMO), Fire

Service and Civil Defense, Department of Labour, Bangladesh Garment Manufacturers and Exporters Association, Bangladesh Knitwear Manufacturers and Exporters Association, Bangladesh Terry Towel and Linen Manufacturers and Exporters, Bangladesh Independent Garments Workers Union Federation, Representatives from Workers, Business Social Compliance Initiative, Nari Uddog Kendra (NUK), Karmajibi Nari, UNDP, GTZ, ILO, LCG. Below the table shows the member status of existing tripartite forum (Table 3.2).

Table-3.2 Member Status of the Tripartite Forums

Committee Name	Members	Representation Status
Tripartite Consultative Council (TCC)	60	20 each from government, workers and employers organization
Minimum Wage Board (MWB)	6	1 chairman, 1 independent member, 2 employer representative and 2 workers' representative
Crisis Management Committee	10	1 chairman and 3 each member from government, workers and employers
Social Compliance Forum for RMG (SCF)	31	Different ministry and department of government-15, workers organizations-4, employers organizations-4 and from NGOs-3 and International Organizations-4
Task force on Labour Welfare in RMG	11	1 chairman, 5 from Government, 3 from Employers Organizations and 2 from Workers Organizations
Task force on Occupational Safety in RMG	14	1 chairman, 7 from Government, 4 from Employers Organizations and 2 from Workers Organizations
National Tripartite Committee for the Fire and Building Safety in RMG Sector	16	1 chairman and 5 each member from government, workers and employers
Rana Plaza Coordination Committee (RPCC)	12	Neutral Chair ILO and representative of the Ministry of Labour and Employment; BGMEA, BEF; NCCWE; IndustriALL BD Council; BILS; IndustriALL Global Union; and nominated brands (Bonmarché, El Corte Ingles, Loblaw, Primark) and the Clean Clothes Campaign.
National Industrial Safety and Health Council	22	1 chairperson and 7 each from government, workers and employers organizations

Central Authority

Most of the tripartite forums (4 out of 10 forums) like Tripartite Consultative Council (TCC); Minimum Wage Board (MWB); Crisis Management Committee and National Tripartite Committee for the Fire and Building Safety in RMG Sector) work under the authority of Ministry of Labour and Employment. Among the others, three— Social Compliance Forum for RMG, Task Force on Labour Welfare in RMG and Compliance Monitoring Cell work under the supervision of the Ministry of Commerce. The Task force on Occupational Safety in RMG, Rana Plaza Co-ordination Committee and National Industrial Safety and Health Council works under Ministry of Housing and Public Works, ILO and Ministry of Industry respectively (See Table-3.1).

Present Status of the Forums

At present all the forums' activity is going on but outcome of the activity is not equal in all cases. Meetings are not held regularly and lack of participation of the members sometimes delay the taking of decision. For example; the Crisis Management Committee is required to meet at least once in every two months, but it meets almost two or three times around the year, reported a Key Informant.

Functions of Tripartite Forums

The functions of the Industrial Tripartite forums in general are to study and discuss the labour related problems of concerned industry with a view to bring better understanding between the workers and employers, and to recommend the government in solving these problems as well as make a workable formula agreeable to the parties concerned. Since the tripartite forums working in RMG sector were formed on the basis of different issues or incidents, their task is different, but their working nature is almost the same. It is evident that the members of each committee sit together to discuss the concerned issues and make action plan to carry out the responsibilities. In the meetings the participants/committee members also review and recommend appropriate actions regarding critical needs. Meeting minutes are prepared and disseminated among the members.

The specific tasks of some forums are

- TCC, in its meetings, discuss various issues of national importance such as formulation of labour policy, amendment of the existing labour laws, adoption of ILO Conventions and Recommendations by the Government, and improvement of industrial relations etc. So far, TCC has discussed the feasibility of amendment of several laws. TCC examines the texts of ILO Conventions and Recommendations vis-a vis existing laws and practices prevailing in Bangladesh and recommends to the Government the ratification of Conventions.
- The purpose of the formation of Rana Plaza Coordination Committee is to provide payments to the victims of the Rana Plaza accident and their families and dependents in a transparent and equitable manner. It develops a comprehensive and independent process that would deliver support to the victims, their families and dependents in a predictable manner consistent with international labour standards.
- The Minimum Wage Board recommends minimum rates of wages for certain workers if workers or employers or both parties of any sector (covered by BLA 2006) make application for fixation of minimum rates of wages. The wage board shall make its recommendation within a period of six months (Government may extend this period if

the wages board so request) from the date of receipt of such direction made to it. The minimum rates of wages for any industry may be re-fixed after every five years as may be directed by the Government.

- Social Compliance Forum for RMG is working on ensuring compliance issue at workplace like safety and security, working hours, wages, weekly holiday and welfare of workers.
- The Taskforce on Labour Welfare in RMG has prepared short term, medium term and long-term work plan on the different social compliances including: (i) elimination of all sorts of discrimination; (ii) abolition of forced labour; (iii) removal of all sort of harassment and abuses; (iv) free from child labour; (v) providing the worker with an appointment letter; (vi) reasonable working hour; (vii) health and hygiene; and (viii) right for freedom of association and collective bargaining.
- The Taskforce on Occupational Safety in RMG, also has prepared short term, medium term and long-term work plan - classifying in four security aspect e.g. fire safety, building safety, environment safety, and security and safety.
- Compliance monitoring Cell has been established within the Export Promotion Bureau (EPB) to monitor activities related to welfare and improvement of working conditions in the country's RMG industries. The specific tasks of the CMC are— a) to provide secretarial support services to the 'Social Compliance Forum for RMG' and issue specific taskforces on compliance issues; b) to review the reports received from the Taskforces and report to the 'Social Compliance Forum for RMG'; c) to keep regular contacts with the international buyer groups on compliance issues; d) to raise awareness on social compliance among those involved in RMG production and export process; e) to recommend EPB and Ministry of Commerce on activities undertaken on compliance for building images abroad; f) to seek, consult and gather information from related ministries/ departments/ stakeholders including international buyers on compliance and safety related issues/aspects; g) to create database on RMG industry (ownership, location, items produced, production capacity, number of employee); and h) to perform oter activities as suggested by the 'Social Compliance Forum for RMG' (EPB 2016).
- The purpose of the Crisis Management Committee is to prevent the labour unrest and instability in the garments sector. If any dispute arises in any industry or labour incentive area, the CMC resolves the problem through discussion with employers, workers and workers representatives. The CMC also provides advice to the regional Crisis Management Committees. There are 8 regional Crisis management Committees which take steps to avert labour unrest or instability through discussion with workers and employers at local level (MoLE, 2014).

- The task of the National Tripartite Committee (NTC) for Fire and Building Safety in RMG sector is to monitor the implementation of the National Tripartite Plan of Action (NTPA) in Bangladesh Garments Industries. A working group headed by the Joint Secretary (Labour), MoLE has been formed to assist the committee. The National Tripartite Plan of Action on Fire Safety (NTPA) in the RMG Sector is developed in response to the Tazreen fire aiming to take comprehensive action to prevent any further loss of life, limb and property through workplace fires and related incidents.

Coordination Mechanisms and Cooperative Arrangement of Forums

The Ministry of Labour and Employment played a leading role to coordinate at least tripartite forums working in RMG sectors followed by The Ministry of Commerce. The Ministry of Housing and Public Works and the Ministry of Industry are responsible to coordinate the Taskforce on Occupational Safety in RMG and National Industrial Safety and Health Council respectively. The ILO has played a most important role to help coordinate the response to the Rana Plaza collapse. ILO is moreover asked by the Government of Bangladesh to assist in the implementation and coordination of the NTPA.

In most of the forums the coordination mechanisms are not elaborated. As such, the mechanisms to coordinate amongst the forums are to a great extent ad-hoc and irregular. The Tripartite forums are mostly coordinated by letter invitation, monthly meeting, report writing and report distribution. The frequency of the meetings held at different forums is irregular and sometimes all the members of the forums are not properly informed about the meetings. The meeting of crisis management committee should be held once in each three months, but it is mainly held when any dispute arises in any industry.

Lack of Coordination among the forums is also noticeable. For example; members of Compliance Monitoring Cell hardly know about the activities of Crisis Management Committee or the Taskforce on Labour Welfare in RMG.

Achievements and Challenges

Some committees have made a number of laudable achievements through tripartite consultation. For example, the ‘Minimum Wage Board’ has set the minimum wage for 42 sectors including increase of minimum wage (76.7%) for garment workers. The labour law 2006 (Amended 2010 and 2013) and different policies like; National Labour Policy, Child Labour policy, Occupational Health and Safety Policy have been formulated by TCC’s tripartite consultation. TCC has also played a significant role in adoption of ILO Conventions and recommendations by the government. The RPCC disbursed the compensation to the victims of the Rana Plaza accidents and their families and dependents successfully.

It is however evident that all the tripartite committees are not functioning well at all and are facing different challenges to run the organization. The key interviewees reported that lack of coordination and proper monitoring is the main challenge in this regard. Another challenge is predominant role of government and most importantly all the tripartite bodies suffer from inadequate and unskilled staff, logistic support and rigid structure. Lack of willingness of designated employers' representatives in attending meeting, also sometime make barriers in taking decision.

It is reported in a national daily newspaper that the mid-level officials of BGMEA and BKMEA, instead of the directors of the top apparel bodies, attended the meetings of govt. task force on labour welfare and occupational safety in RMG. Such mid-level officials cannot give decisions rather seek time again and again causing delay in implementation of various important decisions (The Financial Express, 15 February, 2014). The taskforce chairman and joint secretary of Ministry of Labour and Employment (MoLE) Faizur Rahman told to the reporter, "We have written to BGMEA and the BKMEA several times to ensure participation of nominated directors in the meetings. But they are not responding positively.

The Needed Structural Changes for a Harmonious industrial relations

There are at least ten tripartite forums working currently in Bangladesh, but except the TCC and Minimum wage Board the other forums did not have any meaningful achievements in establishing harmonious industrial relations in RMG Sectors. Most of the tripartite forums are almost non-functional or are hardly executing their mandates effectively.

In case of legitimacy it is found that among the forums only the Minimum Wage Board has legal foundation. The Tripartite Consultative Council (TCC) was formed through ratification of ILO Convention no 144 and the others were formed through government notification. It is therefore evident that no tripartite forum or institution particularly formed for RMG sector has any legal foundation. Except TCC and MWB, the other forums are ad-hoc based and was formed mainly in special circumstances or after any accidents/incidents.

The activities of the forums are issue based and fragmented. There is lack of coordination among the forums. A committee does not know the activities of other committees. Overlapping is also noticed in the activities and in the membership of forums. Specific workers representative selection criteria are not mentioned in the committees.

Based on the above, it is important that the structural changes for a harmonious industrial and labour relation should take the form of legitimacy, coverage and representation, and authority. The changes have to be in line with the forums so that the forums get strong legitimacy and be covered by true representative mechanisms and at the same time have wide ranging authority in ensuring the decisions taken for a harmonious industrial and labour relations

4. TOWARDS PERMANENT STRUCTURE OF A TRIPARTITE FORUM

Based on the need of structural changes for harmonious industrial and labor relations, it is proposed for a permanent structure of a tripartite forum including its form, coverage, legitimacy and the institutional mechanism. While the rationality of establishing a permanent tripartite forum for RMG sector in Bangladesh has been elaborated in the previous section, there is explicit contention in establishing such forum. The trade union's representatives agreed with the importance of establishing new permanent statutory tripartite forums for RMG sector, while some others' views are quite negative in this regard. One of the employers' representatives stated his opinion that there is no need to form such tripartite forum for RMG sectors. Two of the interviewees however recommended for strengthening and restructuring the existing tripartite forum like Social Compliance Forum or Crisis Management Committee.

The current study, looking at the need of a permanent structure of a legitimate body with broader participation of stakeholders and inbuilt authority, recommends for a structure of the permanent statutory Tripartite Forum for RMG sector which may be newly formed or can be transformed or restructured from an existing committee through strengthening its coverage.

The Proposed Tripartite Structure

Form, Coverage and Legitimacy

The proposed forum will be mainly a statutory tripartite body consisting of the equal representation from government, workers and employers and will work for RMG sector. The study also proposes to involve brands/buyers, academic/researcher and national, international workers' rights organization as observer, but not to participate in the decision making. It will be the central authority and other committees (existing or may be newly formed) will work under it as sub-committees. It will be a monitoring and recommending body. It will monitor the functions and overall progress of the sub-committees and make concrete recommendations to the concerned authority for future action. For example; the proposed committee may recommend the rate of minimum wage for RMG sector to the Minimum Wage Board for its consideration. Another function of the committee will be dispute resolution. It will monitor the regular industrial dispute and if any dispute or crisis arises it will respond promptly and try to settle it through social dialogue directly or through sub-committees.

Representative Selection Procedure

The current study suggests the following criteria to select the representatives of government, workers and employers. The forum would consist of 27 members, 9 each from the government, employers and workers' representatives. The Minister, Ministry of Labour and Employment would lead the committee as the head of the committee. As such the total members of the new statutory forum would be 28.

The government representatives would be selected from the representative institutions relevant for policymaking and implementation in the garment sector. The government institutions (along with designated person) involved in the sector include (not according to priority) (a) Ministry of Labour and Employment (Labour Secretary; IG, DIFE; Joint secretary, Labour; and Director of Labour); (b) Ministry of Commerce (Commerce Secretary and DG, Export Promotion Bureau); (c) Ministry of Textile and Jute (Secretary; and Director, Textile Directorate); (d) Ministry of Industries (Secretary; and Chief Inspector, Boilers); (e) Ministry of Home Affairs (DG, Industrial Police; DG Fire Service); and (f) Ministry of Power Energy and Mineral Resources (Chief Electrical Inspector, Inspectorate of Electricity, Power Department); and (g) Ministry of Housing and Public Works (Secretary; Chief Engineer, PWD).

For the spirits and purposes of the tripartism, trade unions as workers' representatives must be representative, competent and responsible. Workers' representatives may thus be selected from the most representative national and sectoral organizations. The number of representatives will be total 9— 3 from top 3 national federations (NTUC) and 6 from top 6 sectoral unions based on the majority of registered members reported to the Labour Directorate.

The Employers' representatives (9) may be from sectoral representative organisations. Such organisations include (a) BEF; (b) BGMEA; (c) BKMEA; (d) BTMEA; (e) BCCMEA; (f) BTTMEA; (g) Garments Washing Factory Association; (h) Garments Printing factory Associations; and (i) Garments Embroidery Associations.

The committee may consider to include few observers from other broad-based stakeholders of the sector. Such broad-based stakeholders include a) Buyers; b) Academics and Researchers; c) National Organizations (e.g. BILS, BLAST, Karmojibi Nari, Ain O Shalish Kendra, and Safety and Rights; BUET); and d) International organizations (like ILO, GIZ, FES, Solidarity Centre and Action Aid Bangladesh).

The Institutional Mechanism

The Minister of Labour and Employment would be the head of the

forum and will be responsible for overall coordination in establishing harmonious industrial relation in RMG sector. For performing its functions, the committee is required to organize meeting at least once in every two or three months. The committee is required to meet to review the activities of sub- committees, and to discuss and exchange views as well as make recommendations on the selected issues. The forum shall submit and share the proceedings to the relevant stakeholders for further actions. The proposed Forum will submit an annual report to the MoLE.

The Challenges and Way Forward

There is no legal coverage under the Bangladesh Labour Law 2006 about formation of such sectoral tripartite forum. It is the main challenge to form a statutory permanent tripartite forum in RMG sector.

Another challenge is what will be the position/role of existing forums. Though the current study proposed that the existing forum will work under this committee as sub- committee, however question is whether the existing forums will be motivated to work under this forum or not.

Truly, tripartism means active interaction amongst three partners—government, workers, and employers. The representatives of workers and employers require to participate on an equal footing with those of government representatives in all decisions and the processes of decision making. The challenge remains how best to select representatives who would be truly representative of the workers, competent and responsible to seek mutually agreeable solutions to issues of common concerns.

To overcome the challenges it is important that we embark on the following:

At first; amendment of labour law is needed especially to form a statutory permanent tripartite forum in RMG sector. This is important because the partnerships amongst three tripartite stakeholders must be formalized and also have to be sustained. The three stakeholders must openly negotiate their expectation of and commitments to each other.

Second; social dialogue should be arranged to make consensus among the different stakeholders about the importance of establishing separate permanent forum for RMG sector. Consensus must be made among the existing forums about the position of the existing tripartite forums particularly working in RMG sector. The partnership must be vigorous not symbolic or merely consultative. Instead, the work of tripartite institute must be integrated into the work of labour sector governance.

Last but not the least, the capacity of all active partners in the tripartite mechanism must be enhanced in order for them to be committed, competent, and active for reaching mutually agreeable solutions.

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Labour in Fishing Sector of Bangladesh Mapping, Status and Awareness about Rights

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Bangladesh is rich in fishery resources in its vast inland and marine water with high potential fish production. Along with vast coastal area, water bodies like rivers, canals, beels, ponds, etc. are abundant throughout the country. Large number workers are employed in fishing sector. Fisheries are now considered as the second most effective sector for employment generation and poverty eradication in Bangladesh. With increasing contribution of fishing sector in the economy and involvement of more and more worker including non-traditional fishermen, the sector has become the focus of the human rights organisations and activists as some areas of fishing sector have been proved extremely hazardous for the workers engaged. However, to large scale, the rights and benefits affecting the socio-economic status of majority workers in this sector are yet to address. This study explored the workers engaged in fishing sector and nature of their work, described their socio-economic status and state of awareness about worker rights, and identifies issues for advocacy for workers in fishing sector of Bangladesh. The study was conducted by Bangladesh Institute of Labour Studies-BILS with the support of LO-FTF Council, Denmark.

Introduction and methodology

This study was undertaken to know the state of labour rights and awareness of about the labour rights among the labourers in the fishing sector of Bangladesh. Fishing sector in Bangladesh is considered as a rapidly growing sector and important for the socio-economic improvement of the country. Despite the contribution of the fishing sector to the GDP is about 4 percent and about 12 million full or part-time manpower engaged in the sector, it is still largely unorganized. Only a tiny proportion 2.3 percent of the total catch of the country comes from industrial trawler. With this reality huge number of labourers of this sector remaining outside the purview of the labour laws and hence uncertainty over the state of their rights. There is no dearth of study in the fishing sector but most of those are focused on increase in production. Some studies, however, focused on fishermen. But those were limited to the traditional fishermen communities. Nowadays, however, fishing is not limited to the traditional fishermen communities.

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Despite there is no study estimating the proportion of non-traditional manpower in the sector, it is evident that with growing importance and rapid expansion of the sector huge number of non-traditional labourers have become engaged in the sector. There is always confusion between the traditional fishermen who are mostly self-employed and labourers work for others in the sector. This study exclusively focused on the fishing labourers. Fishing labour has been defined as those persons who are employed to catch, process, transportation and other related jobs on the basis of wages in any form.

Both secondary and primary data were used in the study. Secondary data were used for mappings the fishing sector and fishing labourers of Bangladesh. Both quantitative and quantitative data were collected from primary sources using survey, in-depth interviews and FGDs. The study was conducted in 9 locations (upazila & district HQ) along the coastal belt of the country. The sample size for the survey was 450.

Key Findings

Fish production from different sources: During 2014-15 the total fish production of the country was 3.7 million metric ton. Of this 83.7 percent from inland sources (open water 27.8%, close water / culture 55.9%), and 16.3 percent from marine fisheries sources (industrial 2.3% and artisanal 14.0%).

Manpower involved in fishing sector: The fisheries sector employs 9.0 percent of the labour force of the country. About 12 million people are associated with the fisheries sector, of which 1.4 million people rely exclusively on fisheries related activities. About 768,000 inland water fishermen who are often concurrently farmers, and 510,000 marine water fishermen, the majority of whom being traditional artisanal are engaged in the sector. Labour employment in fishing sector has been increasing approximately by 3.5 percent annually. It is worth mention all these persons are not fishing labour. There are fishermen/fishers too. In both aquaculture and fish capture activities mainly males are involved in Bangladesh. Very recently a few women have engaged in fishing sector, especially in the fish processing sector.

Types of work fishing labourers involved: Fishing labourers are involved in verities of activities. Some of these are: fish culture / aquaculture, fish capture, post-harvest processing, fish marketing, and non-fishing economic activities such as, cultivation, fish feed, maintenance, making fishing gears and supply of subsidiaries, etc.

Socio-economic condition of the fishing labour: As stated, fishing labourers are overwhelmingly male. They are socio-economically poor with more than half face deficit in managing family with incomes throughout the year. Female labourers earn less than half of male. Among the families 64 percent have loan at present, of which 54.6 percent with interest. Despite there are several programmes for the fishing labourers 61 percent never received any help. Membership in development organisation is 54.9 percent of which 84.1 percent in NGOs.

Work and working condition of the fishing labourers: Among the 450 labourers included in the present study 77.8 percent employed in individual enterprises and 22.2 percent in company. They are working for long time as fishing labourers, average 14 years with a maximum of 55 years.

Types of fishing work is important in regard to working condition and safety of the labourer. Distribution of fishing labourers of the present study is marine fishing 38.9 percent, fish marketing 25.1 percent, fish processing 19.1 percent, Sundarban fishing 9.8 percent and fish culture 7.1 percent. Women are engaged in fish processing (94.6%) and fish marketing sectors (5.4%). Fish processing plants of Khulna and industrial marine fishing of Chittagong found relatively organized compared to other sectors.

Condition of workplace: More than 80 percent labourers need to arrange food at workplace by their own and one-fourth drink water from unsafe sources. While more than half has no toilet at workplace. Overall, 40 percent of the labourers termed the condition of their workplace as 'not good' mainly because of fear of robber (Sea&Sundarban), fear of wild animals (Sundarban), dirty condition and housing problem. Female labourers, being employed in relatively organized enterprises termed the condition of their work place as 'good'. Among the sectors marine and Sundarban fishing termed as 'not good' by most of the labourers work in these sectors.

Despite smaller (12.9%) proportion of fishing labourers do not receive wage regularly, female and labourers engaged in fish processing and fish culture sectors do not receive wage regularly. Less than half (40%) of the labourers receive benefit other than wage. Despite organized sector labourers work in companies receive other benefits in lesser proportion (35%). Finally, 66% of the labourers are not satisfied with their present wage and benefits; more among female (82%), Sundarban fishing (86.4%) and fish culture (81.3%) sectors. Prominent desires are: wage increase, financial support in need and security measures at workplace.

About half of the labourers mentioned that security of their work place is not good with highest 98 percent in Sarankhola and 92 percent in Charfashion; male being higher than female and all labourers in Sundarban fishing, 70.3 percent of marine fishing, and 30.5 percent of fish culture.

As high as 84 percent fishing labourers reported they face risk at work; all of Sarankhola, Patharghata and Charfashion and almost all of Barisal, Khulna and Cox's Bazar; all of work in Sundarban fishing, 93.1 percent of work in marine fishing, and three-fourth of fish processing and fish marketing each. Risks are fear of robber, wild animals and cyclone; sickness (fever, diarrhea, cold etc.); injury/fracture; pain due to carry overweight. In case of two-thirds of the labourers employer didn't inform about the risk of the workplace.

About three-fourth of the labourers faced sickness and more than two-third saw accident at workplace, again highest in Sundarban and marine fishing.

Fishing labourers work long hours, 15.7 hours per day with highest 24 hours; male higher (16.8) compared to female 8.2), highest in Sundarban and marine fishing, and higher for individual enterprises.

Situation of labour rights in the fishing labourers: Situation of labour rights in the fishing sector is deplorable as presented in the following table about 15 selected rights considered:

Table 1: Labour rights situation in the fishing sector

Rights	Labourers enjoy or not	
	Yes	No
Have appointment letter	7.6	92.4
Have ID card	22.0	78.0
Have attendance register	22.7	77.3
Treatment facility	30.7	69.3
Wage during sick	30.2	69.8
Wage during no work	12.2	87.8
Retirement benefit	3.1	96.9
Predetermined leave	16.7	83.3
TU membership	18.4	81.6
Termination notice	7.3	92.7
Working hour (8/day)	23.3	76.7
Received training	0.4	99.6
Break during work	60.0	40.0
Regular wage	87.1	12.9
Security at workplace	57.8	42.2

The average score for situation of above 15 rights is only 4.00 out of 15; lowest in Charfashion (1.80) & Patharghata (1.94) and relatively better in Khulna (8.24), Chittagong (5.60) Cox's Bazar (4.8) and Shyamnagar (4.10) despite still very low. Situation of female fishing labourers (5.59) is relatively better than male (3.77). Among the sectors, fish processing (5.85), fish culture (5.00), and fish marketing (4.61) are relatively better and Sundarban (2.59) and marine (2.86) fishing being the worsts. Rights situation is much better for labourers in companies (7.06) compared to individual enterprises (3.12).

Awareness of the fishing labourers about the labour rights: Awareness of the fishing labourers about labour rights is also disappointing measured through 11 selected labour rights as presented in the table 2:

Table 2: Awareness of the fishing labourers about labourrights

Rights	Aware or not	
	Yes	No
Appointment letter	29.3	70.7
Identity card	42.4	57.6
Attendance register	34.7	65.3
Security arrangement	26.7	73.3
Wage during no work	20.2	79.8
Termination notice	14.0	86.0
Retirement benefit	5.3	94.7
Predetermined leave	24.2	75.8
Specified work hour	25.6	74.4
Treatment facility	25.6	74.4
Trade union	26.0	74.0

The average score for awareness about labour rights stands at only 2.74 out of 11. Fishing labourers of Sarankhola, Charfashion and Patharghata are least aware about the labour rights with average score of only 0.36, 0.42 and 0.50 respectively out of 11 and Khulna (7.10) & Chittagong (6.44) being in relatively better position. Awareness of female fishing labourers (3.98) is relatively better than male (2.56). Among the sectors, fish processing (4.59), fish marketing (3.50), and fish processing (3.31) are relatively better and Sundarban (only 0.39) and marine (1.83) fishing being the worsts. Rights situation is much better for labourers in companies (6.58) compared to the labourers in individual enterprises (1.64).

Recommendations and Advocacy Issues

Recommendations

The state of and awareness about labour rights in the fishing sector found deplorable. This has been found through findings of survey, FGDs and in-depth interviews. To improve the state of and awareness about rights, based on the findings of the present study following recommendations are made.

- 1) Despite overwhelming majority of the labourers remain out of Trade Unions (TU), those who were related with TUs found in better position. Roundtable meetings also revealed that unorganized labourers are unable to realize their rights. So, fishing labourers should be organized in TUs or some other organisations like TUs. Most trade unions in our country are politically affiliated. There is no harm in organizing labourers under TUs affiliated with national political parties. But leaders should be careful about using the TUs for other political reasons than that of the labour issues.
- 2) Number of organisations are found already existing in some of the study locations but inactive. Initiatives should be taken to identify these organisations and BILS may undertake programmes for the purpose.
- 3) It was found that government officials meet the owner of the enterprises during their occasional visits. The frequency of their visit should be reasonably increased and during the visit they should meet the labourers and labour unions.
- 4) More control should be imposed on the employers, especially owner of boats/traulers out for fishing in Sundarbanand Sea. There should provision of license. License should be given to only those who fulfils the predetermined conditions. Information at the office located in the landing stations or like place should be kept when the boats/traulers leave for fishing and immediately after return. During out for fishing the controlling agency should keep contact with the boat on regular basis.
- 5) Fear of robber and abduction found rampant and identified as number one problem by the labourers as well as all others concerned. This situation can be improved only through the help of law enforcing agencies. Advocacy session should be conducted with Coast Guard, Forest Guard, Police, and other law-enforcing agencies.

- 6) Sundarban and marine fishing are found full of risks. Special programmes for the labourers engaged in these two sectors should be undertaken.
- 7) Labour rights mentioned in the existing Labour Laws are not implementable for the labours of unorganized fishing sector. So, new policy should be formulated and laws should be enacted incorporating the situation of the fishing sector of Bangladesh.
- 8) Despite not enough, there are some useful government programmes for the fishing labourers. This are, however, in most cases do not cover the labourers. For example, ID card project has been targeting the fishermen who are actually owners in most cases. The card is known as jele card and includes primarily fishermen (some labourer may be included for example, labour engaged in ghat) engaged in marine and Sundarban fishing and, as such, excluding majority of the labourers of the fishing sector. So, the policy for registering and distributing ID card should be changed so that all fishing labourers would avail that.
- 9) Governance is always an issue for the government projects. ID card and Allowance during ban on Hilsha catch, allowance in case of death during marine fishing, projects are reported lack of good governance. Despite that ID card project have been proved very useful. Other programmes are also beneficial for the labourers. So, governance problems should be eliminated through involving competent people from different categories so that malpractice would be minimized.
- 10) Fishing labourers do not receive any benefit other than wage. Employers, during FGD, also endorsed that. Moreover, labourers are not satisfied with their present amount of wage. Other issues like security arrangement, treatment, etc. are also need to be addressed. Employers are important in this regard. So advocacy session with the employers should be conducted about wage increase, other benefit such as bonus, treatment facility
- 11) Overall security also found a general concern of the fishing labourers. All boats/trawlers should have provisioned with enough security measures like providing wireless, radio, life jacket, medicine, food & water, etc. according to requirement determined by the competent authority. Government should establish a strong and effective mechanism to monitor this.
- 12) Illness has been experienced by almost all labourers at workplace. This problem is not solvable by the employer. Government should come forward in this regard. Floating hospital would be very effective in this regard. Besides well-equipped hospitals should be constructed at all the landing stations.

- 13) Almost all fishing labourer families found with one or more loan. FGD findings also reveal that there is a provision of dadon when there is no work. Necessary arrangements should be made by the competent agencies including bank and other financial institutions to provide loan to the fishing labourers in simple terms.
- 14) Insurance (general & life) would also be an effective measure against uncertainty of the sector. It is learned that there was initiative to introduce insurance for the fishing labourers. Despite it progressed well due to some legal limitations it could not be completed. The project should be revived immediately through contacting the insurance authority and laws/policies should be enacted clearing the obstacles.
- 15) Large trawler cause severe harm for small trawlers or artisanal boats in the sea. Sometime boat capsizes as collides with or by the waves of the large trawler. So, it is also necessary to include the owners of the large trawlers in advocacy sessions to find out solution to the problem.
- 16) Robbers and law enforcing agencies of the neighbouring country has also been identified as a threat for the labourers in the sea and in Sundarban fishing. If intrusion occurs unconsciously there should be arrangements for easy repatriation and friendly treatment. Advocacy should be conducted with the respective government agencies (Foreign and Home ministries) in this regard.
- 17) Fishing is a huge potential sector and increasing rapidly in Bangladesh. Productivity of the sector, however, still far less than expected. Fishing requires special skills. Findings of the present study reveals that none of the fishing labourers have any training from anywhere. Whatever skills they have, acquired through work. There is a false conception that fishing does not require any special skill and even literacy. This should be eliminated. Training institutes should be established to train the labourers in the fishing sector, especially those engaged in marine and Sundarban fishing.
- 18) There is wide difference among the locations, between gender, among the sectors and between types of employer in terms of situation of and awareness about labour rights. So, measures must be location, gender, sector and employer specific. Advocacy issues should also planned considering these differences.
- 19) The whole fishing sector should be declared as industry so that all labourers engaged in different sectors would fall under the purview of labour laws.

- 20) Fishing is a dynamic sector. There are areas within the sector not well known. Such as, the proportion of traditional fisherman and fisherman from other communities not known to us. Moreover, new issues are emerging continuously. To ensure the sustainable welfare of the labourers, regular research should be undertaken on existing and emerging issues in the sector.

Advocacy Issues

To improve the state of and awareness about labour rights advocacy session should be organized participated by all relevant stakeholders. There is no specific agency for the purpose. So, it is suggested that BILS shall take the responsibility of conducting advocacy. For the purpose, based on the above recommendations following (Table 3) specific advocacy recommendations are suggested.

Table 3: Advocacy recommendations for labourers in fishing sector of Bangladesh

Ornisation/TU form	<ul style="list-style-type: none"> • Labourers • TUs • Employers • LGI representatives • GOs 	<ul style="list-style-type: none"> • Labour issues/problems • Social issues/problems
Awareness build up	<ul style="list-style-type: none"> • NGOs • Labourers • Employers • TUs • LGIs 	<ul style="list-style-type: none"> • Labour rights • Labour welfare
Activate existing organisations	<ul style="list-style-type: none"> • TUs • Particular organisations 	<ul style="list-style-type: none"> • Identify problems and measures required to reactivate
Development workers (GO & NGO) meets only employers	<ul style="list-style-type: none"> • GO & NGO officials 	<ul style="list-style-type: none"> • Need for meeting the labourers
Increased supervision and control	<ul style="list-style-type: none"> • DoF • LWO 	<ul style="list-style-type: none"> • License • Inspection • Information exchange • Input

Robbery & abduction	<ul style="list-style-type: none"> • Coast guard • Naval police • Forest guard • Administration 	<ul style="list-style-type: none"> • Threats in Sundarban • Threats in sea • Threats in gher
General labour laws not appropriate for fishing sector	<ul style="list-style-type: none"> • LGIs • LWD • DoF 	<ul style="list-style-type: none"> • Labour laws • Conditions of fishing sector
All sub-sectors of fishing sector not treated as industry	<ul style="list-style-type: none"> • Law makers • Ministry of industry • Ministry of Fisheries & livestock • Law makers 	<ul style="list-style-type: none"> • Marine fishing • Sundarban fishing • Gher work • Fish processing • Fish marketing
Fishing labourers are excluded from existing programmes such as ID card	<ul style="list-style-type: none"> • DoF • LWD • LGIs • Administration 	<ul style="list-style-type: none"> • Fishing labourers should get priority
Lacking good governance in implementation of projects	<ul style="list-style-type: none"> • LWD • LGIs • Administration 	<ul style="list-style-type: none"> • Benefits should go to genuine fishing labourers / fishermen with full transparency
Labourers receive low wage and no other benefit	<ul style="list-style-type: none"> • Employers • Labour unions/organisation • Government representatives 	<ul style="list-style-type: none"> • Tripartite meetings to fix minimum wage and other benefit • Security arrangement • Strong monitoring
Labourers face illness	<ul style="list-style-type: none"> • Employers • Ministry of health 	<ul style="list-style-type: none"> • Provide effective first aid • Hospital at landing stations • Floating hospital • Medical consultation over mobile
Labourers need loan	<ul style="list-style-type: none"> • Financial institutions • Employers • LGIs • DoF 	<ul style="list-style-type: none"> • Loan in simple terms • Grant in need

Labourers are not insured	<ul style="list-style-type: none"> • Insurance company • Financial institution • Employers • Government representative 	<ul style="list-style-type: none"> • Comprehensive insurance • Contribution to be shared by Labour Employer Government
Industrial/large trawlers cause harm to smaller trawler	<ul style="list-style-type: none"> • Industrial trawler operators • Coast guard • Naval police 	<ul style="list-style-type: none"> • Coordination between large and small/artisanal boat
Harassment by law enforcing agencies of the neighbouring countries	<ul style="list-style-type: none"> • Ministry of Home Affairs • Ministry of Foreign Affairs • Law enforcing agencies 	<ul style="list-style-type: none"> • Exchanges of views regarding common issues • Friendly treatment of labourers in case of intrusion mistakenly • Easy repatriation
No skill training for the fishing labourers	<ul style="list-style-type: none"> • Ministry of education • TVET providing institutions • NGOs • Employers • Labourers 	<ul style="list-style-type: none"> • Appropriate skill training on safety issues and increased productivity • Basic skill about trawler/boat and fishing gear operation • Common health problems
<ul style="list-style-type: none"> • Insufficient information/data • Identify issues continuously 	<ul style="list-style-type: none"> • Research organisations • Researchers 	<ul style="list-style-type: none"> • Prepare database • Study issues &
<ul style="list-style-type: none"> • Develop new knowledge 	<ul style="list-style-type: none"> • Donors 	<ul style="list-style-type: none"> suggestion to Resolve • Direction for formulation/ change policies • New theory build up

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Workplace Safety and Security of Readymade Garment Workers in Bangladesh: An Analysis from Legal Perspective

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The economy of a country greatly depends upon the industrial sector, therefore the role of labour and industrial laws are of paramount importance. Proper management of labour is an essential matter for growth of industrial sector. The object of Labour laws is no doubt to maintain industrial peace and to meet the surge of problems in employment and to protect the rights of labourer. But due to various loopholes in the labour laws the workers in our country are indiscriminately victimised and are deprived from their legal rights. So it is a question whether the Bangladesh Labour Code, 2006 along with its amendments is a proper law in all aspects to meet the demands of the labour of Bangladesh. This study mainly aims at justifying the status of compliance regarding security and safety of the garment workers in Bangladesh in line with national and international legal framework and standard practice coupled with the vow to investigate the main loopholes of the present labour law in the country.

Introduction

The Readymade Garment (RMG) is one of the booming manufacturing areas with greater interest to the national economy of Bangladesh. In 2014, this sector contributes about 13.5% of GDP including 81.2% of total export which is became possible since the RMG sector has achieved on average 15% growth in the fiscal year 2009 to 2014 (Tasin, 2015). This sector provides apparel, livelihood and earn foreign currency through employing almost 4 million workers of which 80% are female. About 20 million people directly and indirectly depend on this sector for their immediate livelihoods (BGMEA, 2015).¹ This sector is expanding day by day because of less complicated technology, cheap machineries and labour, large number of unemployed population, particularly poor female (Robbani, 2000).

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Nonetheless, this sector is not beyond criticism regarding security and safety issue. Lack of social compliance, short of labour code of conduct and noncompliance of labour law are common phenomena in this sector. There is a labour law in Bangladesh known as Bangladesh Shrami Ain, 2006 (herein after Bangladesh Labour Act, 2006 or BLA, 2006) which is lastly amended in 2013 for ensuring security and safety issue of workers. Notwithstanding the fact, most of the employers, Government and other stakeholders pay little attention to the compliance of labour law particularly in safe masseur of worker which results in workers' dissatisfaction. Workers' dissatisfaction and unskilled labour force are the reasons for slow progression of the RMG sector in Bangladesh (Ferdous et al., 2015). However, this sector may play a vital role in alleviating poverty and reducing unemployment of the country. Therefore, security and safety of worker are indispensable for branding Bangladesh in the world market.

Problem Statement

Readymade garments workers are not secured in their workplace (Ahmed & Hossain, 2009). About 80% of readymade garment workers are female; most of them are not educated and came from remote rural areas (Chowdhury & Ullah, 2010; Ferdous, 2015). They are unaware about their legitimate labour rights (Ferdous, 2015). Non compliance of labour law intensifies the rate of abuse (Ahmad, 2013) and increases insecurity and vulnerability of the workers in readymade garment sector in Bangladesh (Ferdous, 2015). Many garment factories in Bangladesh do not follow the BLA, 2006 in terms of the provisions as to health and hygiene (Chapter 5 of the BLA, 2006) and welfare measure (Chapter 7 of the BLA, 2006) issues as mention in the Labour Act 2006. Even though the safety measure of the readymade garments worker is indispensable, however, notwithstanding the fact there has no visible initiative been taken by the authority. Safety of building and machinery (section 61 of BLA, 2006), precaution in case of fire (section 62 of BLA, 2006), floor stairs and any means of access (section 72 of BLA, 2006), powers to require specifications of defective parts or tests of stability (section 76 of BLA, 2006), precautions against dangerous fumes (section 77 of BLA, 2006), explosive or inflammable dust, gas etc (section 78 of BLA, 2006), obligation of using personal protective apparatus (section 78A of BLA, 2006) etc. does not follow the labour law as expected. Moreover, absence of Labour Rule leads the owners not to practice such provision.

The health issues which are commonly practiced in the RMG sector do not comply the labour law (Shafiqul, 2014). Overcrowded working

place (section 51 of BLA, 2006), ventilation and temperature (section 52 of BLA, 2006), drinking water, cooling water, oral rehydration, (section 58 of BLA, 2006), toilet and washroom facility (section 59 of BLA, 2006), dust bean and spittoon (section 60 of BLA, 2006) etc. also not practice as per the Labour Act, 2006. Unsafe and poor working environment (Lu, 2011; Ahmed & Nathan, 2014) is a challenge in the readymade garment sector in Bangladesh.

Readymade garment workers are deprived (Chowdhury & Ullah, 2010) in all spheres of life. They work hard (Ahmed & Hossain, 2009) from dawn to dusk for their survival (Islam, 2016) but they have no security and safety in their work place. Frequent industrial accidents (Ahmed & Hossain, 2009; Wadud & Huda, 2016) cause million of deaths (Lu, 2011) and physical disability (Huda, 2016). Survivors often face a difficult strain due to maltreatment (Lu, 2011), health and safety (Ahmed & Hossain, 2009; Ahmed & Nathan, 2014) and other familial needs (Islam, 2016). Weak labour inspections lead noncompliance. Lack of awareness (Lu, 2009) and training on health and safety measures (Chowdhury & Ullah, 2010; Lu, 2011) distress workers' livelihood (Nasir Uddin, 2014).

Objective of the Study

The general objective of the research is to explore the perception of workers about their safety and security in readymade garment (RMG) sector in Bangladesh. However, the specific objectives are-

- ▶ To know the level of satisfaction of RMG workers about the existing safety and security in this sector;
- ▶ To know the present compliance status about safety and security issue as mentioned in Bangladesh Labour Act' 2006;
- ▶ To provide some suggestions to the Government to furnish appropriate policy for complying labour law particularly safety and security issue in the readymade garment sector in Bangladesh.

Literature Review

Many researchers have investigated the working conditions of Bangladesh garments industry. In fact, working conditions in the RMG sector are below standard and do not meet the existing labour law of Bangladesh. Labour standards and rights are commonly ignored in the RMG industries in Bangladesh.

Work areas are often over crowded with limited workspaces, causing occupational hazards. Injuries, fatalities, disablement and death from fire and building collapses are frequent in the readymade garment sector in Bangladesh. The absence of labour standards monitoring system and ineffective building codes, poor enforcement and outdated labour laws, and a lack of awareness of labour rights among workers are the major problems in this sector (Ferdous et al., 2014).

Uddin (2012) identified following factors which relate safety issue which are the important causes of the accident. These factors are: routes are blocked by storage materials, machine layout is often staggered, lack of signage for escape route, no provision for emergency lighting, doors, opening along escape routes, are not fire resistant, doors are not self-closing and often do not open along the direction of escape, adequate doors as well as adequate staircases are not provided to aid quick exit, fire exit or emergency staircase lacks proper maintenance, lack of proper exit route to reach the place of safety parked vehicles, goods and rubbish on the outside of the building obstruct exits to the open air, fire in a Bangladesh factory is likely to spread quickly because the principle of compartmentalization is practiced, lack of awareness among the workers and the owners. According to the same source, about 34.65% of the respondents feel that their job place is unsafe and insecure for them. They have anxiety for electrical faults, fire accidents, building collapse, stampede, etc.

The hazards in the garments industry of Bangladesh includes crowded conditions, exposed operating machines, electrical connections are crude and unsafe, a few or no fire extinguishers inaccessible or malfunctioning, no fire practice is ever performed, managers and workers are not trained to understand health and safety issues, stairs and floors used as storage; gates remain closed even in emergency; factory not designed as commercial facility, narrow aisles for fire fighters to enter and rescue (Ferdous et al., 2014).

Most of the garments factories in Bangladesh pay little attention on compliance of labour law and labour rights of the workers. Unsafe working environment and ineffective labour law are the common phenomena in this sector. The factors that affect the safety net of garments workers in Bangladesh have been identified after synthesis of various articles, expert opinions along with Accord² and Alliance³ findings regarding safety issue of garments workers. These factors are:

- a) Condition of structure of factory building
- b) Adequacy of fire extinguishing appliances
- c) Fire fighting practice facility

- d) Adequate and wide fire doors
- e) Effective smoke detection system
- f) Wide aisles for fire fighters to enter and rescue
- g) Openness of machineries
- h) Training as to use of machine safely
- i) Condition electric connections
- j) Sufficiently wide floors, stairs and pathways
- k) Floors, stairs and pathways free from blockade
- l) Effective lighting, ventilation and room-temperature control system
- m) Density of workers in workplace
- n) Wide connecting roads around the factory for easy and quick accessibility
- o) Awareness program

Though there are so many researches on readymade garment sector in Bangladesh that analysed various dimensions including safety and security issue, a very few researches focuses on legal aspects such as to what extent the labour law has been implemented to ensure the safety and security of readymade garment worker in Bangladesh and what are the perception of readymade garments workers about their safety and security in their work place.

Methodology

This study incorporated both qualitative and empirical approach because of mixed nature of the problem with a view to achieving the best outcome of the research. The mixed method (quantitative and qualitative) approach applied in this study is considered purposively as quantification approach alone cannot explain the process of development where the nature of reality (ontology) requires

²The Accord is a legally binding agreement. The Accord is an independent agreement designed to make all garment factories in Bangladesh safe workplaces. It includes independent safety inspections at factories and public reporting of the results of these inspections. It has been signed by over 150 apparel corporations from 20 countries in Europe, North America, Asia and Australia; two global trade unions, IndustriALL and UNI; and numerous Bangladeshi unions. Clean Clothes Campaign, Worker Rights Consortium, International Labor Rights Forum and Maquila Solidarity Network are NGO witnesses to the Accord. The International Labour Organisation (ILO) acts as the independent chair.

³The Alliance for Bangladesh Worker Safety is a body established to ensure on-the-ground presence to facilitate its effort to bring improved fire and structural safety to Bangladesh garment factories. The Alliance—an historic coalition of global apparel companies and their partners—will unify efforts to dramatically improve garment factory safety conditions in Bangladesh following a string of deadly factory fires and collapses.

philosophical interpretation (Obermeyer, 1997; Guba & Lincoln, 2000; White, 2002; Adato and Henbinck, 2007; Orr et al., 2009). This approach can overcome the limitation of quantification in terms of both analytical tactics and interpretation. The mixed method by analyzing the various provision of labour law in the RMG sector will allow the consideration of perspectives associated with the macro aspects of development constraints with the thinking of individuals about their occupation with different rights granted by the labour law and will find out the constraint in compliance of labour law.

The qualitative methodology of research has been applied for subjective assessment based on secondary sources to investigate the loopholes in the current legal framework on the safety and security of the garments workers in Bangladesh. While doing this part of the research, the existing literature on the labour laws have been explored and examined thoroughly. Through application of this approach, findings have been reinvigorated and compiled suggesting better security and safety along with propositions for necessary amendments of the current labour law.

For the empirical part of the study primary data have been collected through a structured questionnaire. This questionnaire includes sixteen statements where fifteen statements are related to safety factors and first one statement reveals the workers' overall satisfaction on safety. Perceptions of workers on the statement have been measured using a 7-Point Likert Scale. Point 7 indicates strongly agree; on the contrary point 1 indicates strongly disagree with the statement. Garment factories situated in Dhaka and Gazipur have been considered in this study. With 3.0 million workers about 75% of readymade garment factories of Bangladesh are operating in Dhaka and Gazipur District. Among the workers, 60% of the garment workers are working in Dhaka District and remaining 40% are working in Gazipur District according to the list of readymade garments factories provided by the BGMEA. 213 samples (garments workers) have been investigated from 68 garments factories (Table 1). Among these, good quality, average quality and below-average quality factories have been selected for this study to ensure proper representation. Those workers have been considered as sample for this study who have at least one year working experience in the same profession. As lack of sample form, Convenient Sampling Technique has been followed to select respondent's labourers.

Table 1: Sample Distribution of the Study:

Area	Population	Area Weight	Area Sample Size
A	B	$C = (B/\Sigma B) \times 100$	$D = (C) n$
Dhaka	18,00,000	60	128
Gazipur	12,00,000	40	85
Total	30,00,000 ⁴	100%	213

Focus Group Discussion (FGD) is used to capture the necessary qualitative information about workers perception which could not be either covered or explored by structured questionnaire. Each focus group consists of eight members. Secondary data have been used to get ideas on safety factors.

These questionnaires are designed in such manner so that the garments workers can express their opinions without any prejudice and bias finding the obstacles as to safety net in consonance with ILO Conventions and standards. The findings of the mixed approach will be categorised systematically and the common findings will be offered as recommendation to amend the current labour law in the country.

Security and Safety under the Labour Law

According to the BLA, 2006 the employers are required to provide basic safety measures⁵ which include, inter alia, safety of buildings, securely guarding all parts of dangerous machinery, precautions for working on machinery, emergency devices for cutting off power, provide protective equipment, measures to prevent fire and so forth. Besides, the existing law has also dealt with the occupational safety and health issues of the labours⁶. Safety of buildings, machinery and plants is to be ensured to the satisfaction of the inspectors⁷. In practice, the scenario is totally different as the workers face unsafe, cramped and hazardous conditions which often lead to work injuries and factory fires. Though the Labour Act provides very compressive provisions for the safety of the workers at the working place, but these are hardly practised. The

⁴Where 4.0 million manpower employed within the BGMEA member factories (Ferdous et al 2015:5). Among them about 75 per cent of Garment Industry operating in Dhaka and Gazipur district where, 60 percent of the garment workers are working in Dhaka district, and remaining 40 percent of the garment workers are working in Gazipur district among the 75 per cent garment of this locality according to the list of the garments factories provided by the BGMEA.

provision under chapter (VI) BLA, 2006 section 61 to 78A states the all safety issue in the work place of workers. The special provisions under chapter (VII) of the BLA, 2006 provide the workers health hygiene and safety condition that which mandatory to the all readymade garment industry in Bangladesh. However, no implementation is visible as expected.

The High Court Division of the Supreme Course of Bangladesh issued directives about the safety issue in the RMG sector to (a) establish a national committee to monitor compliance of garment factories with applicable laws on fire safety, and make recommendations accordingly; (b) secure payment of adequate compensation to the workers injured in fire and to the dependents of the deceased; (c) inspect all garment factories in Dhaka, Chittagong and Narayanganj to ensure compliance with fire safety measures; and (d) ensure appropriate protective measures in all garment factories⁸.

Data Analysis and Findings

The objective of this empirical study is to identify the perception of garments workers as to safety and security measures at their working place as well as the compliance of labour law about the safety and security provisions as mentioned in the Bangladesh Labour Act, 2006.

Figure 1: Satisfaction status of garment workers about fire doors, fire practice system, extinguishing appliance, factory structure and safety facility.

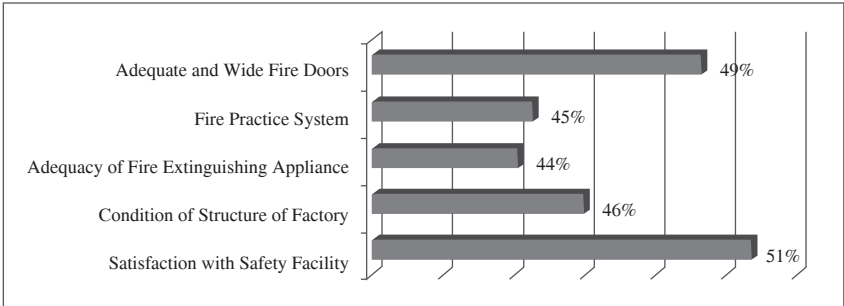


Figure 1: Satisfaction status of garment workers about fire doors, fire practice system, extinguishing appliance, factory structure and safety facility

5. Sections 61 – 78 of the Bangladesh Labour Act, 2006
6. Sections 79 – 88, ibid
7. Chapter 20, ibid
8. Writ Petition No. 6070 of 1997.

According to the figure-1, only 44% respondents agree that they are satisfied with the statement of adequate fire extinguishing appliances in their work place. Where 45% of the respondents agree that they are satisfy with their existing fire practice system of their factory. However, the overall satisfaction about the safety and security provisions as practice in their factory is 51% at all.

On the other hand, FGD reveals that satisfaction level was not high one year back. After the incidents of Rana Plaza, Tazreen Fashion and others, US Government has withdrawn GSP facility and foreign buyers have created pressure on garments owners as to compliance issues. Accord and Alliance in the mean time have already been completed inspection to the factories. Labor law has been amended. And for all these reasons owners of factories have started to improve issues as to compliance.

Figure- 2 illustrates the satisfaction status of garment workers as to electric connections in the factory, training on safe use of machines, protected machines, aisles and smoke detection system.

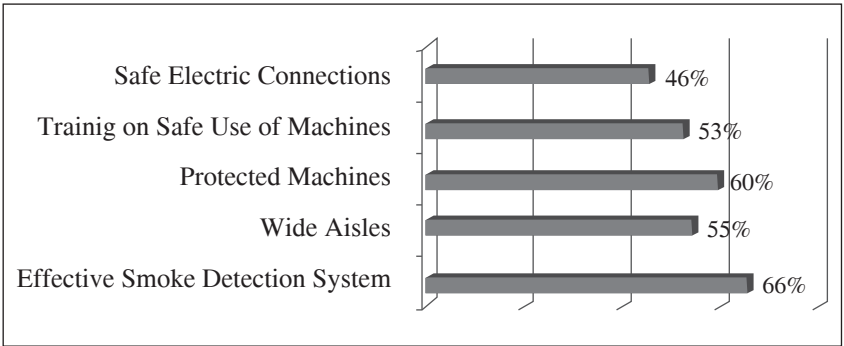


Figure-2: Satisfaction status of garment workers about electric connections in the factory, training on safe use of machines, protected machines, ailes and smoke detection system.

The workers have negative perception about the items of safe electric connections in the factory. Only 46 % respondents are agreed that they are satisfied with this statement. About 53% respondents have confident that they are trained to handle the machine safely. A little bit more, about 55% respondents believe that they have wide aisles for fire-fighters to entre and rescue in their work place. Where, 66% think that their work place factory has effective smoke detection system.

However, in FGD, they commented that they considered only the external view of the building as they don't have that technical knowledge to comment on the quality of construction of building. They strongly requested the proper authority to check the quality of factory building.

Figure-3 shows the satisfaction status of garment workers as to periodic awareness program, connecting roads, crowd in the floor, existing lighting, ventilation and room-temperature control system and conditions of floor, stairs and pathways.

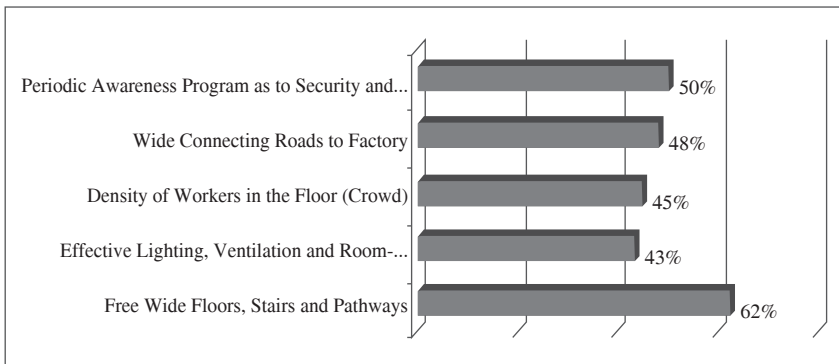


Figure-3: Satisfaction status of garment workers about periodic awareness program, connecting roads, crowd in the floor, existing lighting, ventilation and room-temperature control system and conditions of floor, stairs and pathways.

Among the various items as mention in the above figure, only 43% of respondents agree that they pleased with the existing lighting, ventilation and room-temperature control system of their factory. 45% believe that the floors of the work place, stairs and pathways always remain free from any blockade. However, 62% of the respondents are agreed that they have wide floor, stairs and pathway sufficiently in their work place.

Data analysis came up with following findings as well:

- FGD reveals that if workers feel that fire extinguishing appliances are not enough, they will be panicked at the time of fire which will result in more damages. Workers requested more training on fire fighting system.

- Though findings of this study proves that workers are satisfied in many aspects, while visiting different factories it is found that the most of the workers do not wear safety items, like they do not use hand gloves during ironing clothes. Even though, section 78A of BLA⁹ 2006 says that an employer shall not engage any workers in work without providing and ensuring use of personal safety equipment, and in doing so, a record book shall be maintained as designated by the owner and each of workers shall have to be aware on the risk of the work through trainings. If those are not used by workers concerned, they are to be held liable thereof.
- FGD reveals that they got ‘on-the-job-training’⁹ and learnt it step by step.
- However, in FGD, they comments that they considered only the external view of the building as they don’t have that technical knowledge to comment on the connectivity of electricity of building.
- In FGD, it is found that workers are significantly dissatisfied in particular issue on insufficient adjust fans in their workplaces.
- Moreover, in FGD, they are worried regarding stuck terrible jam in all of the surrounding of their factory. They also recommend that all industrial area should be outside of Dhaka and declare as an industrial area and also should be free from other human disturbance.

Recommendations

Workers Conditions

Currently only about 20% of Bangladeshi RMG workers have some understanding of their legal entitlements.¹⁰ The workers, especially the female ones, are yet to materialize their due dreams of decent work, security and safety.¹¹ Though section 384 of the BLA, 2006 reveals that employer should train workers as to the provisions of labour law so that they have some understanding of their legal entitlements, safety and security, however, there is no penalty provision for employers if they fail to arrange such training program. The Labour Act should be amended further and penalty provisions should be included. Furthermore, this Act should include appropriate penalty provisions for non implementation of safety and security provision as mentioned in the BLA, 2006.

⁹On-the-job training is a form of training taking place in a normal working situation. Employees get training at the place of work while he or she is doing the actual job. It may be obtained through day-to-day experience or through instruction from a senior-level employee.

Monitoring Cell

Government may prepare a 'Special Monitoring Cell' that will monitor only the security and safety net of workers. It is found through FGD that factory owners are improving factors that affect security and safety of garments workers. But Accord and Alliance may not inspect regularly for long. In this case, security and safety net of workers may deteriorate again. If Government make 30 'Special Monitoring Cell (SMC)' to monitor the security and safety net of workers and if each Cell inspects 150 factories in every year then 30 Cell can monitor 4500 factories every year. So each and every factory will under monitoring system and each factory will be monitored at least once in a year. There will be 5 'Apex Monitoring Cell (AMC)' which will visit factories that are already inspected by 'SMC'. AMC will inspect factory on a random sample basis. So the factories inspected by SMC will always be careful that AMC can inspect anytime. Each AMC will have members from Accord and Alliance to make it a transparent one. This 'Random Double Monitoring Approach (RDMA)' will surely augment the image of garments industry in Bangladesh and will help to brand Bangladesh.

Housing

Most of the RMG workers are living in slum area of Dhaka and Gazipur area. However, the environmental and hygienic conditions of these crowded urban slums are appalling. Here, women workers, mostly single and earning meager wages, are vulnerable to verbal and sexual assaults. The majority of garment workers are women. The workers are mainly from the remote rural areas. For them it becomes difficult, if not impossible to arrange a secure housing facility with their limited income. In most of the cases, they are to live in the slums which are highly crime pron. Living in the slums involves the highest risk for the women garments worker. In addition, the socio-economic condition of Bangladesh has made their condition more vulnerable. Our society, generally, pose a negative impression to the people who are living in the slums; when the slum dweller is a woman and she lives alone apart from her family, the stigma intensify. Taking the advantage of the situation people can easily sexually harass the garment workers.¹² In such a situation, the factory accommodation is indispensable for the security of women garments workers. Therefore, the Bangladesh Labour Act may have provision recommending factory supervised housing facilities for the workers. In FGD, female workers mentioned that they are worried about their unsafe accommodation.

¹⁰GTZ (Deutsche Gesellschaft für Technische Zusammenarbeit), Social Compliance Fact Sheet: Realization of Human Rights in Bangladesh RMG Sector, May, 2010, pp. 1-2.

¹¹The Amin, Syeda, Responding to Rana Plaza: a made-in- Bangladesh boycott won't girls, The Guardian, April 30, 2014.

¹²Zohir & Paul-Majumder, in Women Garments Worker in Bangladesh: Economic, Social and Health Condition, Bangladesh Institute of Development Studies, (1996) pp. 79-108.

Job Security

Usually it is found that the workers do not disclose any fault in the safety and security measure of their factories as in this case they may be fired from the job by the employers. As a result most often the inspector fails to identify the fault. To deal with this problem there should have a provision providing that the worker who discloses any such fault shall not be fired from his job under any circumstances. Inspectors also should use 'Observation Method' to collect information. When they interview workers, workers become worried about their job and do not provide accurate information. If Inspectors use observation method to gather information, the output will be biasfree.

Limitation and Further Scope for Study

Following will be the limitations of the current study:

- i. This study has not investigated the EPZ workers who are not covered by the Bangladesh Labour Act, 2006.
- ii. In the empirical part of the study only the garment workers have been interviewed. To make the study more comprehensive other stakeholders, such as, owners and regulatory bodies officials are not interviewed.
- iii. This study is limit with the safety and security issue of readymade garment sector in Bangladesh.
- iv. The most of the readymade garment workers were reluctant to disclose their internal policy and provide responses because of the confidentiality and busy work hours.
- v. The sample size of the study is 213, and only Dhaka and Gazipur district were covered for collecting data.

Conclusion

The readymade garment sector plays a significant role to the development of national economy of Bangladesh where 4 million workers work with a contribution GDP by more than 13%. This sector is expanding day by day because of less complicated technology, cheap machineries and labour, large number of unemployed population, particularly poor female (Robbani, 2000). Nonetheless, this sector is not beyond criticism regarding labour safety and security. Lack of social compliance, short of labour code of conduct and noncompliance of labour law are common phenomena in the RMG sector. All stakeholders involving employers, workers, governments and international as well as national bodies should come forward with the sense of togetherness to bring significant change in this industry. The monitoring of compliance to satisfy buyers cannot bring meaningful changes for the sustainable industry with stability rather ethical compliance of laws by the employers can make a booming difference yielding name, fame and glory for the nation.

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Strengthening Tripartism in Bangladesh

Role of Trade Unions

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Tripartism and social dialogue are two sides of the same coin. This research study analyses the state of tripartism in Bangladesh and how it can be strengthened. Country's labour laws, policies and institutions have been formulated or established incorporating, inter alia, the tripartite principle. Tripartite committees or bodies were set up to formulate national policies, to deal with a particular labour issue, and to guide the work of various development and technical cooperation programmes. However, such role played by the tripartite bodies and institutions and their achievements and impact leaves considerable room for improvements. There are several reasons for their lackluster performance. Important among these are: undue influence of government in the free functioning of the tripartite process; negative attitude of the employers towards trade unions & social dialogue; and overall weak capacity of the industrial relations institutions. In particular, trade unions remain the weakest among the three parties. They face a real challenge of marginalization of their role in the tripartite process for various reasons including difficult union registration process. To address some of those concerns and challenges and to strengthen tripartism, this paper makes several key recommendations. Bangladesh Institute of Labour Studies-BILS has conducted this research with the support of LO-FTF Council, Denmark.

1. Introduction - Tripartism and social dialogue

Tripartism means effective and meaningful consultation and cooperation among the three parties in the world of work namely Government, employers and workers. It is defined by ILO as “*the interaction of government, employers and workers (through their representatives) as equal and independent partners to seek solutions to issues of common concern*” (ILO Thesaurus).

Such interactions among these three parties are termed as social dialogue. In that sense, social dialogue and tripartism go hand in hand. Social dialogue, based on the principle of this three-party consultation, is a means to achieving sound industrial relations which ultimately contributes to a better and safer workplace and decent working conditions (please see the statement of ILO below).

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ii. Executive Director, BILS

iii. Research Coordinator, BILS

“Sound industrial relations and effective social dialogue are a means to promote better wages and working conditions as well as peace and social justice. As instruments of good governance they foster cooperation and economic performance, helping to create an enabling environment for the realization of the objective of Decent Work at the national level.”¹

In a real world situation, however, socio-economic conditions vary from one country to another. Therefore, industrial relations system varies from one country to another depending on their social and economic development, the legal and regulatory framework, the strengths and capacities of the three parties, and the extent of co-operation among them, both in law and practice.

Irrespective of the country situation, there are some common characteristics of the social dialogue and tripartism which have been identified by ILO as follows:

- Negotiation, consultation and information exchange between and among the different actors;
- Collective bargaining;
- Dispute prevention and resolution; and
- Other instruments of social dialogue, including corporate social responsibility and international framework agreements.²

Also, preconditions for sound social dialogue include:

- Strong, independent workers' and employers' organizations with the technical capacity and access to relevant information to participate effectively in social dialogue;
- Political will and commitment to engage in social dialogue on the part of all the parties;
- Respect for the fundamental rights of freedom of association and collective bargaining; and
- An enabling legal and institutional framework.³

Recognizing the very important role of tripartism, the International Labour Conference, in its 61th session in June 1976, adopted Convention no. 144 “Tripartite Consultation (International Labour Standards) Convention, 1976” to promote and realize the spirit and principle of tripartism at the country level. ILO members States which have ratified this Convention commit themselves to abide by its provisions including reflecting the provisions of the conventions in their national laws, policies, and other nation building activities. For example, the Convention 144 in its article 2 states as follows:

1. Each Member of the International Labour Organisation which ratifies this Convention undertakes to operate procedures which ensure effective consultations, with respect to the matters concerning the activities of the International Labour Organisation set out in Article 5, paragraph 1, below, between representatives of the government, of employers and of workers.

2. The nature and form of the procedures provided for in paragraph 1 of this Article shall be determined in each country in accordance with national practice, after consultation with the representative organisations, where such organisations exist and such procedures have not yet been established.⁴

The factors which are important for a meaningful national tripartite social dialogue are:

- Democratic foundations and freedom of association;
- Strong, legitimate, independent and representative workers' and employers' organizations;
- Political will, a sense of responsibility and commitment of all parties to engage in social dialogue;
- Appropriate institutional support;
- Practice and experience.⁵

In the table below, the status of various social dialogue institutions is mentioned.

ILO member States with a tripartite national social dialogue institution (TNSDI) and/or an economic and social council (ESC) (as of 2012)

Region	TNSDI/ESC	No TNSD/ESC	Total
Americas	29	6	35
Africa	38	16	54
Arab States	4	7	11
Asia and the Pacific	23	11	34
Europe and Central Asia	45	6	51
Total	139	46	185

Source: ILO: NATIONAL TRIPARTITE SOCIAL DIALOGUE An ILO guide for improved governance, 2013

1. ILO Website "Tripartism and social dialogue" (accessed in June 2016)

2. ILO: *ibid.*

3. ILO: *ibid.*

4. ILO: C. 144

5. ILO: NATIONAL TRIPARTITE SOCIAL DIALOGUE, An ILO guide for improved governance, Geneva, 2013

2. Situation of tripartism in Bangladesh

2.1 Bangladesh membership in the ILO and the tripartite obligations

Bangladesh, being a member State of ILO since her independence in 1972, has committed to uphold the principles and mandates of the ILO expressed through the ILO Constitution, Conventions and Recommendations as well other global ILO Declarations and Principles. To date, the country has ratified thirty five ILO Conventions of which the most significant ones include:

- Seven out of eight fundamental conventions;⁶
- C. 144 on tripartite consultation in economic and social development.

After the initial ratification of 29 ILO conventions in 1972, Bangladesh ratified six ILO Conventions at different time periods. Thus, the total number of conventions ratified to date stands at 35.

In addition, Bangladesh is committed to abide by the ILO Declaration of Fundamental Principles and Rights at Work 1998, Declaration of Social Justice for Fair Globalization 2008 and similar other international declarations and commitments.

In 1979, the ILO Convention on Tripartite Consultation (No. 144) was ratified by Bangladesh. Ratification of this Convention is a significant one in many respects. It constitutes the commitments made by the country to abide by the principles of tripartism meaning that, in an ideal case scenario, the government, the employers and workers participate as equals and as full partners in the process of social and economic policy making. While the country has generally accepted the principle of tripartism, the main challenge and obstacles are its implementation and enforcement in a true sense. These challenges are being highlighted in chapter 4 of this report. Also, this report brings the fact that Bangladesh is still a long way to go towards realizing the goal of tripartism at the country level.

⁶Seven ratified fundamental conventions are: C. 87, C. 98, C. 29, C. 105, C. 100, C. 111 & C. 182. The fundamental convention not ratified is C. 138 on minimum age.

The tripartite constituents in Bangladesh

Bangladesh is a member State of ILO since 1972 i.e. almost since her independence. So, the country is committed to abide by and reflect the ILO core principle of tripartism in its laws, policies and institutions that deal with labour and employment issues in the country. In specific terms, ILO constituents include:

Government side: Ministry of Labour and Employment representing the government in all matters related to labour, industrial relations and other tripartite measures and activities;

Employers: Bangladesh Employers Federation representing the employers in various tripartite forums including formulation of labour code, labour and social policies, and industrial relations issues.

Workers: Trade unions represented by thirty two national trade union federations. To strengthen and coordinate their voice, thirteen major trade union centres have formed an entity known as National Coordination Committee on Workers Education (NCCWE). Chairman and Member Secretary of NCCWE are elected by the members representing these 13 trade union centres. NCCWE now reflects the voice of the majority of the trade unions in various forums and remains ILO's main focal point for workers activities.

At the country level, several tripartite committees and entities are functioning including the temporary ones as and when required to deal with a particular issue for example during the formulation of the new labour code, formulation of various policies like labour policy, child labour elimination policy, occupational safety and health policy and so on. Also, ILO, through its Decent Work Country Programme (DWCP) for Bangladesh, promotes, inter alia, tripartism and social dialogue at the country level. The current DWCP cycle is for the year 2012-15 which was finalized through intensive discussion and dialogue with the social partners. The DWCP document was formally endorsed in December 2012 through signing of an MOU between ILO and the three constituents.

ILO in Bangladesh has a diverse portfolio of projects. Some of these projects are focusing on promoting fundamental principles and rights at work, compliance and improvement of working conditions in selected industrial sectors (for example RMG, shrimp, construction etc.), strengthening the labour inspection, workers education and capacity building of the constituents.

Also, the ILO is implementing major programmes on skills development and is leading the initiatives in elimination of child labour in the country.

Bangladesh Institute of Labour Studies (or shortly known as BILS) is supporting the trade union movement in the country through advocacy, training and research focusing on strengthening and empowering trade unions to contribute to the socio-economic development process of the country. BILS also supports trade union leadership development and acts as an active advocate to highlight the role and importance of trade unions in the country's socio-economic development context. As a part of this, BILS has developed partnership with ILO and several other national and international organizations to support the trade unions.

2.2 Brief description of laws, policies and instruments relating to tripartism in Bangladesh

In this section, a brief description of policies and legal instruments relating to tripartism in Bangladesh is given below.

(a) Ratification of the ILO Convention 144 on Tripartite Consultation

Provisions relating to tripartism:

- (i) In this Convention the term *representative organisations* means the most representative organisations of employers and workers enjoying the right of freedom of association.
- (ii) Each Member of the International Labour Organisation which ratifies this Convention undertakes to operate procedures which ensure effective consultations, with respect to the matters concerning the activities of the International Labour Organisation set out (in Article 5, paragraph 1) between representatives of the government, of employers and of workers.
- (iii) The nature and form of the procedures provided for in paragraph 1 of this Article shall be determined in each country in accordance with national practice, after consultation with the representative organisations, where such organisations exist and such procedures have not yet been established.
- (iv) The representatives of employers and workers for the purposes of the procedures provided for in this Convention shall be freely chosen by their representative organisations, where such organisations exist.
- (v) Employers and workers shall be represented on an equal footing on any bodies through which consultations are undertaken.
- (vi) The competent authority shall assume responsibility for the administrative support of the procedures provided for in this Convention.
- (vii) Appropriate arrangements shall be made between the competent authority and the representative organisations, where such organisations exist, for the financing of any necessary training of participants in these procedures.

Responsible agency for compliance and implementation: Ministry of Labour and Employment and divisions and departments under the Ministry.

(b) Bangladesh Labour Act 2006 (BLA 2006)

Provisions relating to tripartism: The BLA 2006 is a good example of the recognition and provisions of tripartite consultation and many of its provisions include clear cut recognition of the tripartite principle. Important one includes the following:

(i) BLA, Section 138. Establishment of Minimum Wages Board:

(1) The Government shall establish a Board to be called the Minimum Wages Board (MWB) which will comprise of (a) a Chairman; (b) one independent member; (c) one member to represent the employers, & (d) one member to represent the workers.

For the purpose of discharging the functions specified in section 139, the Wages Board shall also include (a) one member to represent the employers of the industry concerned; and (b) one member to represent the workers engaged in such industry. The member to represent the employers and the member to represent the workers shall be appointed after considering nominations, if any, of such organizations as the Government considers to be the representative organizations of such employers and workers respectively.

(ii) BLA, Section 214. Labour Courts: (1) For the purposes of this Act, the Government shall, by notification in the official Gazette, establish as many Labour Courts as it considers necessary. A Labour Court shall consist of a Chairman and two Members to advise him, but in case of trial of any offence or in disposal of any matter under Chapter X and XII it shall be constituted with the Chairman only. One of the two Members of the Labour Court shall be the representative of employers and the other shall be the representatives of the workers and they shall be appointed in the manner hereinafter provided in sub-section (9). In addition, the Government shall constitute, in the manner prescribed by rules, by notification in the official Gazette, two panels, one of which shall consist of six representatives of employers and the other of six representatives of the workers. The Chairman of the Labour Court shall, for hearing or disposal of a case relating to a specific industrial dispute, select one person from each of the two panels constituted under sub-section (7), and persons so selected, together with the Chairman, shall be deemed to have constituted the Labour Court in respect of that specific industrial dispute.

- (iii) **BLA, Section 235. Management of Funds:** (1) As soon as may be, after the establishment of the Participation Fund and the Welfare Fund, there shall be constituted a Board of Trustees, consisting of the following members, namely: (a) two persons nominated by the collective bargaining agent and if there be no collective bargaining agent in the company, two persons elected by the workers of the company from amongst themselves ; and (b) two persons nominated by the management of the company of whom at least one shall be a person from the accounts branch of the company. The members shall elect for one year a person to be the Chairman of the Board alternately from amongst the members under sub-section (1) (a) and under sub-section (1) (b), the first Chairman being from amongst the members under sub-section (1) (b). The Board shall manage and administer the Funds in accordance with the provisions of this Chapter and any rules made in this behalf.
- (iv) **BLA, Section 276. Tripartite Advisory committees:** The Government may, by notification in the official Gazette, constitute in the prescribed manner such Tripartite Advisory Committees to advise the Government and the competent authority on matters relating to apprenticeship as it may consider necessary.
- (v) **BLA, Section 323. National Council for Industrial health and Safety:** (1) The Government may, by notification in the official Gazette, constitute a Council, to be called the National Council for Industrial Health and Safety. Besides the representatives of several key ministries, the Council shall consist of seven members representing industries, to be nominated by the Government in consultation with such employers' organisations as it may deem fit and seven members representing workers, to be nominated by the Government in consultation with such trade union organisations as it may deem fit.

Responsible agency for implementation: Ministry of Labour and Employment and divisions and departments under the Ministry.

(c) Labour Policy 2012

Provisions relating to tripartism: Tripartism (Government, Owner and Workers):

One of the main salient features of this labour policy is tripartism as recognized by the International Labour Organization (ILO). Bangladesh as member state is the signatory of the charter relating to this and therefore will uphold the terms and conditions of tripartite policy in framing or amending laws and formulating policy relating to labour.

Responsible agency for implementation: Ministry of Labour and Employment and divisions and departments under the Ministry.

(d) Occupational Safety and Health Policy 2012

Provisions relating to tripartism

Role of Govt.: To discuss with the stakeholders on a regular basis and to take necessary steps to implement the goal of this policy, Government should call for year wise workplan from stakeholders, collect those, and, with the consent of all stakeholders, develop a national workplan and provide support towards implementation of the plan.

Role of Employers' organization: to participate in tripartite forum and Bangladesh Industrial Health and Safety Council.

Role of TU: to participate and support bipartite and tripartite discussion on health and safety issues.

Responsible agency for implementation: Ministry of Labour and Employment and divisions and departments under the Ministry.

3. Tripartite institutions in Bangladesh

The first tripartite institution was formed in Bangladesh after its independence as the name of 'National Labour Advisory Boards'. Then it had 10 members from the government and 5 each from organizations of workers and employers. The 'National Labour Advisory Boards' was reformed as Tripartite Consultative Council (TCC) in 1980 through the ratification of the ILO Convention concerning Tripartite Consultations to Promote the Implementation of International Labour Standards, 1976 (No. 144) in 1979. It was reconstituted on March 2009.

In Bangladesh, there are eight main regular tripartite institutions at the national level. The list of those bodies together with additional information on these is provided in the table below.

3.1 National tripartite bodies at a glance

SL#	Committee Name	Central Authority	Headed by	Total Members	Representation Status
1.	Tripartite Consultative Council (TCC)	MOLE	Labour Minister	60	Twenty each from government, workers and employers organizations.
2.	Minimum Wage Board (MWB)	MOLE	Chairman	6	One Chairman, one independent member, two employer representative s and two workers' representative s.
3.	National Industrial Safety and Health Council	MOLE	Joint Secretary, MOLE	22	One Chairman and seven each from government, workers and employers organizations .

SL#	Committee Name	Central Authority	Headed by	Total Members	Representation Status
4.	Bangladesh Labour Welfare Foundation	MOLE	Labour Minister	20	One Chairman (Minister), one Vice Chairman (Secretary, MOLE), one DG, five workers' and five employers' representatives, seven government officials (Joint Secretaries) from different ministries.
5.	National Skill Development Council (NSDC)	MOLE	Prime Minister	36	The NSDC has an Executive Committee (ECNSDC) co-chaired by a private sector representative and the Secretary of Education and Secretary of MOLE. Representatives from government, private sector and community organizations are also in the committee. Two meetings hold per year. However, in the medium term the NSDC may become an autonomous body.
6.	Labour Court	Ministry of Law	Chairman	21	One Chairman, one employers' and one Workers' representatives.
7.	National Child Labour Welfare Council	MOLE			To coordinate and monitor elimination hazardous and worst forms of child labor from Bangladesh, the Government has established a National Child Labor Welfare Council (NCLWC) at the central level as well as formation of Divisional, District and Upazila level council/committees. The council/committees represented by concerned Ministries/ Departments, Workers & Employers Organizations, non-government organizations, international organizations, Lawyers and experts.
8.	National Wages and Productivity Commission (NWPC)	MOI	Chairman (Rtd. Judge, Supreme Court, Appellate Division)	9	One Chairman (Govt), Member Secretary (Joint Sectary, Ministry of Establishment), Members from the MWB, BIDS, MOI, MoJT, one Chartered Accountant and one representative each from employers and workers.

3.2 Composition and mandate of National Tripartite Bodies at different levels

3.2.1 Tripartite Consultative Council (TCC)

After independence of Bangladesh, the Provincial Tripartite Advisory Board was reconstituted as the National Labour Advisory Board, consisting of 10 members from the Government and 5 each from organizations of workers and employers. The Minister-in-Charge of the Ministry of Labour and Manpower was designated as its Chairman. It was further reconstituted in 1976, 1978, 1980, 1986, 1989 and 1991. It is now called Tripartite Consultative Council and consists of 60 members (20 each representing the Government, employers and workers group).

The TCC, in its meetings, discuss various issues of national importance such as formulation of labour policy, amendment of the existing labour laws, adoption of ILO Conventions and Recommendations by the Government, and improvement of industrial relations.

So far, TCC has discussed the feasibility of amendment of several laws many of which are accepted by the Government, e.g., the Industrial Relations Ordinance, 1969; Payment of Wages Act, 1936 etc. TCC examines the texts of ILO Conventions and Recommendations vis-a-vis existing laws and practices prevailing in Bangladesh and recommend to the Government the ratification of some Conventions. Based on its recommendation, the Government ratified ILO Conventions Nos. 144 and 149 (relating to tripartite consultation and nursing personnel). Besides tripartite conferences in matters of labour, tripartite consultations were held in formulating the development policies of the Government through the formulation of advisory panels with participation inter alia by organizations of employers and workers.

Achievements: Key achievements include support to the amendment of the labour law 2006 (Amended in 2010 and 2013) and formulation of various policies: National Labour Policy 2012, Child Labour elimination policy 2010, Occupational Health and Safety Policy 2013. Also, the TCC played a significant role in adoption of ILO Conventions and recommendations by the government.

3.2.2 National Wages and Productivity Commission (NWPC)

In 1984, the Government constituted a tripartite National Wages and Productivity Commission to make recommendations on the wage structure, remuneration and other benefits of various categories of workers in various industries, co-relating them with the productivity of such industries. The NWPC submits its reports from time to time on wage structure. In making its recommendations, the Commission takes into account:

- The cost of living of workers;
- The productivity;
- Resources and economic viability of industries;
- The desirability of fairness and efficiency with reference to the nature of the work, for determination of wages, remuneration and other benefits for workers in different industries; and
- The need for removal of disparities in wages, if any, between workers of the same category in different units of the same industry.

As regard to its structure, the NWPC comprises of a Chairman (retired Judge of the Supreme Court, Appellate Division) and a Member-Secretary at the rank of Joint Secretary of the Ministry of Establishments. Members of the commission are drawn from the Minimum Wages Board, Bangladesh Institute of Development Studies, Ministry of Industries, Ministry of Jute and Textiles, and a Chartered- Accountant, and a representative each of the employers and the workers.

3.2.3 Labour Courts

The Labour Courts and the Labour Appellate Tribunal are the adjudicatory bodies of Bangladesh's Labour Administration. Labour Judiciary, separate from general judiciary system in Bangladesh, has been entrusted with the exclusive jurisdiction to:

- (a) Adjudicate and determine an industrial dispute;
- (b) Enquire into and adjudicate any matter relating to the implementation or violation of a settlement; and
- (c) Try offences under the BLA 2006 or any other law which is referred to it by the Government.

With a view to speedy settlement of cases, Government has established seven courts in the different places of the country. Each of the courts is chaired by a Chairman who will be a Senior District Judge. There will be one employers' and one workers' representative in each court. Currently, there are a total of 21 members in the seven courts.

The Labour Courts are empowered to prohibit the continuance of any strike or lockout in pursuance of any industrial dispute pending at its jurisdiction. The power to control and supervise all the labour courts has been vested to Labour Appellate Tribunal. As such, the labour judiciary has a pivotal role in ensuring and protecting the rights of the workers.

The labour judiciary, as part of the Bangladesh's labour administration deals with both industrial disputes and individual grievances. A worker is entitled to apply to the Labour Court for redress if any deduction is made from the wages, or any payment of wages is delayed, or payment of wages or gratuity under any rule or his dues in the provident fund is delayed. Any individual worker including a person who has been dismissed, retrenched, laid-off or otherwise removed from employment can make a complaint to the Labour Court on failure of the employer to perform labour law obligations. The worker (or legal heir in case deceased) or any legal representative may apply to the Labour Court for redress.

An industrial dispute may be referred to labour courts by the employers or workers. After the stages of bipartite negotiation and conciliation are

exhausted, the disputant parties either before or after the commencement of a strike or lockout may make an application to the Labour Court for the adjudication of the matter.

3.2.4 Minimum Wages Board (MWB)

Bangladesh Minimum Wages Board was established in the year 1959. Its genesis lies in the Convention No. 26 and Recommendation No. 30 of ILO. By the Convention No. 26 the ILO undertook “to create or maintain machinery whereby minimum rates of wages” could be fixed for workers in trades/industries where no arrangement existed for effective regulation of the wages by collective agreement or otherwise. Under the Recommendation No. 30, the ILO recommended that “the minimum wage fixation machinery should operate by way of investigation into relevant conditions in the trade or part of trade concerned and consultation with employers and workers” thereof where views on all matters relating to the fixing of the minimum rates of wages should be given full consideration. It may be stated in this connection that the Minimum Wages Board is the only statutory wage-fixing machinery in Bangladesh.

The Minimum Wage Board consists of a Chairman, one independent member, two employers’ and two workers’ representatives.

Mandate: The Minimum Wage Board (MWB) recommends minimum rates of wages for certain workers if workers or employers or both parties of any sector (covered by BLA 2006) make application for fixation of minimum rates of wages. The wages board shall make its recommendation within a period of six months (Government may extend this period if the wages board so request) from the date of receipt of such direction made to it. The minimum rates of wages for any industry may be re-fixed after every five years as may be directed by the Government.

The main function of Board is, on reference made by the Government, to recommend minimum wages of workers after holding enquires. In making enquiries the Board is required to:

- a) Hold meetings of the members convened by the Chairman,
- b) Issue questionnaire, when necessary, in order to collect data from different units of the concerned industry,
- c) Prepare statistics on the basis of the above data, and
- d) Visit different units of the concerned industry to assess their working condition and the condition of the workers and to interview both the workers and the employers.

Achievements: The ‘Minimum Wage Board’ has set the minimum wage for 42 sectors including increase of minimum wage (76.7%) for garments workers.

3.2.5 National Labour Welfare Foundation

Bangladesh Labour Welfare Foundation (amendment) Act, 2013 was adopted to ensure welfare of workers of both formal and informal sectors. Its activities are governed by the Labour Welfare Foundation Act. Specifically, the Foundation has the mandate to ensure welfare of the workers and their families, provide financial support to the sick/disabled workers, support to the families of the workers who are victims of accidental deaths, introduce group life insurance scheme for the workers, and provide scholarships or stipends to the meritorious family members of the workers.

Functions: Recruitment of staff for the Foundation is ongoing. Meanwhile, Joint Secretary (Labour) of the Ministry of Labour and Employment is acting as the Director General of the Foundation. The Foundation has a Board of Directors consisting of 20 members, chaired by honorable minister of Labour and Employment, while the Secretary of Labour and Employment is acting as the Vice Chairman. The Director General of the Foundation is the member secretary of the board. Five representatives each from workers' and employers organizations' and seven representatives from different ministries at the rank of Joint Secretary are also members of the Board.

Achievements: Though the Foundation is a new entity, it has taken up some important activities such as providing financial support to the numbers of workers and their families in case of death, injury and sickness. For example, it has provided one lac taka (one hundred thousand) to each of the 109 families of death victims of Tazrin Garments. Another of its initiative includes five year long group insurance scheme for construction workers and motor mechanics.

3.2.6 National Child Labour Welfare Council (NCLWC)

The child labour welfare council is to monitor and work toward elimination of child labour in Bangladesh with the priority being given to its worst forms.

Composition: The council represented by concerned Ministries/Departments, workers & employers organizations, non-government organizations, international organizations, Lawyers and experts.

Mandate: To coordinate and monitor elimination of hazardous child labour from Bangladesh including its worst forms, the Government has established a National Child Labour Welfare Council (NCLWC) at the central level and divisional, district and Upazila level council/committees at decentralized levels.

3.2.7 National Skill Development Council (NSDC)

Composition: The NSDC was re-established on 3rd September 2008, with the Prime Minister as its Chair. The NSDC is supported by a Secretariat and an Executive Committee (ECNSDC). ECNSDC is Co-chaired by a private sector representative, the Secretary of the Ministry of Labour and Employment and the Secretary of Ministry of Education. Members of the ECNSDC include relevant ministries and stakeholders.

Mandate: The NSDC is established to address the priority for the Government of Bangladesh in the field of Skills Development, including Technical and Vocational Education and Training (TVET) sector in Bangladesh. This important forum provides leadership and strategic direction to skills development. As the apex body in skill development, NSDC oversees and monitors activities of public and private training providers. Both the NSDC and the ECNSDC are non-establishment bodies consisting of part-time members from Ministries and business. These bodies are supported and advised by a Secretariat which also carries out other important functions relating to skills development system in Bangladesh.

Achievements of NSDC: The NSDC is being supported by ILO and other development partners namely SDC, WB, ADB, and Canadian Government. Its main achievements are:

- The successful operation of the NSDC Secretariat, (supporting the NSDC and the ECNSDC) in a way that ensures that GoB will take over the full portfolio of skills development upon completion of the development projects;
- An action plan (for the project duration) and a long term perspective plan (based on the SD Policy and the 6th Five Year Plan), with supporting budget and requests for medium and longer term funding from Government and other sources;
- Creation of the TVET data cell building on the data collected from the National Skills Survey (funded separately) and produce reports for NSDC and stakeholders;
- Implementation of policy and procedures, and produce operational guidelines for the NSDC.

3.2.8 National Industrial Safety and Health Council (NISHC)

Composition: This council comprises of 22 members and chaired by the Minister of Labour and Employment. There are seven members each from government, workers and employers organizations. As per the Labour Act, Section 323: (1) The Government may, by notification in

the official Gazette, constitute a Council, to be called the National Council for Industrial Health and Safety. (2) The Council shall consist of the following members, namely:

- (a) The Minister for Labour and Manpower, ex-officio, who shall ex-officio also be its Chairman;
- (b) Secretary, Ministry of Labour and Manpower, ex-officio;
- (c) Secretary, Ministry of Industries, ex-officio;
- (d) Secretary, Ministry of Health, ex-officio;
- (e) Secretary, Ministry of Jute and Textile, ex-officio;
- (f) Secretary, Ministry of Shipping ex-officio;
- (g) Secretary, Ministry of Communications, ex-officio;
- (h) Seven members representing industries, to be nominated by the Government in consultation with such employers' organisations as it may deem fit ;
- (i) Seven members representing workers, to be nominated by the Government in consultation with such trade union organisations as it may deem fit, and provided that at least one Female representative shall be included in the members representing workers, as well as employers;
- (j) Chief Inspector, ex-officio, who shall also be its Secretary.

The nominated members shall hold office for a term of three years. The Council shall-

- (a) Prepare national policy for ensuring safety in industrial establishments and maintaining healthy and hygienic conditions of work and atmosphere therein; and
- (b) Frame guidelines for implementation of its policy.

Every establishment shall take steps necessary for implementation of the policy prepared by the Council following the guidelines framed by it.

3.3 Impact of tripartite bodies

It is obvious that the formation and functioning of the above key tripartite institutions is the recognition of the principle of tripartism in Bangladesh. It (i.e. tripartism) is also accepted as a useful means of promoting and implementing national policies and laws through recourse to social dialogue and consultation through the tripartite mechanisms in line with the provisions of the ILO Convention 144 and the relevant provisions of the Labour Act 2006 and the policies adopted by the country from time to time. In an ideal situation, the enabling conditions for successful social dialogue are:

- (i) Strong and independent workers' and employers' organizations which are broad-based and representative and have the technical capacity and access to the relevant information to participate in social dialogue;
- (ii) Political will and commitment to engage in social dialogue by the parties;
- (iii) Respect for the fundamental rights of freedom of association and collective bargaining; and
- (iv) Effective institutional support to contribute to social dialogue.

From the opinions of the stakeholders interviewed through this assessment exercise, it can be said that the enabling conditions mentioned are either fully or partly absent in Bangladesh for a variety of reasons. According to available evidence, the tripartite institutions are not working effectively in improving industrial relations at the national, sectoral or plant levels. A variety of factors explain this situation:

First, there is the multiplicity of tripartite institutions, which are assigned different functions and coordination becomes difficult.

Second, the focus of most of the key tripartite bodies is limited to wage determination, which constitutes only one part of the entire gamut of labour relations process. Additionally, the tripartite bodies in general suffer from inadequate staff and other support facilities.

Third, the predominant role of Government in all the tripartite bodies seriously limits closer labour-management co-operation.

Fourth, all three social partners are not equally strong in participating in the functioning of the tripartite bodies mentioned earlier. Trade unions remain weak and fragmented. Government's industrial relations machinery remains weak (in terms of coverage as well as in implementation of the laws and policies) due to staff and resource constraints.

Fifth, the vast majority of country's labour force (i.e. 84.7% in 2015) is engaged in the informal economy including the significant number of workers in rural areas which entails practical constraints to organizing them as well as bringing them within the purview of the law.

Sixth and the final, despite the existence of laws and provisions for formation of trade unions and the right to organize and bargain collectively, the number of union membership is very small (about 4% of the employed labour force) limiting the scope of the trade unions to participate in the tripartite activities in a true spirit of social dialogue.

Social dialogue to be successful, the social partners (i.e. the government, the employers, & the trade unions) and above all, the general workers, should work together and be willing to implement the negotiated agreements. In this manner, effective tripartism can take place if the results of the negotiations are respected. All parties involved should be willing and able to implement the decision taken. In that sense, social dialogue could not bring desired outcome in Bangladesh as vast majority of labour force remains outside the scope of trade union. As a result, freedom of association and the right to organize cannot be exercised because of lack of credible workers' organizations.

4. Issues and implementation challenges of tripartism in Bangladesh

In line with the principle of tripartism, all three parties should participate equally in the various bodies and in the decision making process involving social dialogue and industrial relations in the country. However, the weakest party in the dialogue process is the trade unions. Though representatives from the unions participate in the various tripartite forums and committees, they are in general constrained by several external factors which are hampering the growth and capacity development of the trade unions and their participation in the national level tripartite institutions. Important among these factors are:

- (i) Due to privatization and restructuring of the economy, the trade union membership has not increased commensurate with the number of workers in the private sector enterprises and establishments;
- (ii) Bangladesh economy, despite the steady growth of the non-agricultural sectors, is still dominated by the agriculture sector in terms of employment (39.8% of the total employed labour force are engaged in agriculture sector in 2015). Agriculture sector workers are not unionized and they do not have any voice or representation in the national policy making;
- (iii) Besides agriculture, overwhelming majority of the labour force (about 84.7%) work in the informal economy. So, they remain outside the purview of labour laws and thus their conditions of employment remain precarious. They are not able to organize in any meaningful way to express their voices and safeguard their interests;
- (iv) Government institutions under the Ministry of Labour and Employment remain weak or understaffed to play their role in a number of important labour matters such as:

- ✓ registration of trade unions and promotion of sound labour-management cooperation,
- ✓ enforcement of the law for protection of the rights and conditions of workers,
- ✓ fixing of minimum wages, and
- ✓ other labour welfare measures as provided in the country's labour laws.

(v) Trade unions remain weak and fragmented thus undermining their role and voice in the national forums. They are not adequately equipped to articulate the workers voices and concerns to influence the policy makers and the national authorities.

Therefore, as an important social partner, trade unions should be strengthened through capacitating them with knowledge and advocacy materials and preparing the trade union leaders with the existing and emerging new trends and developments including the post-2015 development agenda which include decent work as an important component.

BILS, being in an important position for the trade unions, can play such capacity building exercise and is able to enter into partnership with ILO and other important actors towards promoting the role of trade unions in the tripartite process. It has proved its expertise in such partnerships and is committed to strengthening of the trade union movement in Bangladesh.

5. Conclusions

Tripartism and social dialogue are integral components of and are essential channels for achieving the objective of decent work. Workers participation in social dialogue on equal footing enhances their sense of self-worth, gives them an opportunity to express their problems and raise their voice, and gives them motivation to excel in job performance. Despite its proven worth, social dialogue is far from being fully utilized in Bangladesh.

There are several tripartite forums working currently in Bangladesh including the eight established bodies mentioned earlier. The Tripartite Consultative Council (TCC) was formed as a commitment through ratification of ILO Convention 144 and the others were formed through government notification. Except the TCC and Minimum Wages Board, the other forums did not show much meaningful achievements in establishing harmonious industrial relations. Most of the tripartite forums are not functioning properly or hardly executing their mandates

effectively. Their activities are fragmented and there is lack of coordination among these. Overlapping is also observed in the activities and in the membership of forums. Specific workers representative selection criteria are not mentioned in the committees.

Despite the above reality of weak trade union role, there are some good examples where social dialogue has proved its worth in the formulation of the various policies and their implementation in various sectors. These include elimination of child labour, minimum wage determination, occupational safety and health, labour law reform, skills development, and labour policy.

With the support of ILO, 14 trade union federations have joined into an alliance known as the National Coordination Committee on Workers Education (NCCWE). Currently, NCCWE has become a well-recognized and credible body to engage in, inter alia, tripartite social dialogue. It represents the workers in various forums and activities including the development projects. NCCWE takes part in the formulation of ILO decent work country programme and represent the workers in the various activities being implemented by ILO in the country.

Also, in recent times, social dialogue is being pursued in a fruitful and effective manner on a sectoral level in the RMG sector – thanks to the efforts of the ILO, several development partners and the international brands and buyers in the RMG. Based on the experience of the existing programmes, there are plans to expand this to other sectors.

However, it is important that the structural changes for harmonious labour relations should have the element of legitimacy, coverage and representation, and authority. The changes should reflect true representative mechanisms and, at the same time, to ensure that the decisions taken in the forums are actually implemented in letter and practice.

There is thus need to make a model of tripartite decision making bodies, not consultative bodies. Nomination of the representatives to these bodies should be through democratic and independent process. Workers, employers and government will nominate their respective representatives in an independent manner free from influence or force of one party over the other.

As some of the key informants have informed the assessment team, many trade unions do not exercise democratic process within the organizations. So, they need to reform themselves along the lines of

democratic process and select their leadership through such process on a regular basis. This will, among other things, facilitate more effective representation and bargaining with the government and the employers.

Trade unions which have joined in a coordinating body like NCCWE should democratically elect one or two or three members for 2-3 years to represent in the tripartite bodies. Trade unions are not following such norms. As a result, trade unions influence is eroding in effectively engaging with the employers and the government.

Discussions with ILO indicates that ILO may support to work with the constituents on developing a model of tripartism so that the unions can demonstrate to the government and the employers that it is possible the trade union can act as a very effective partner in social dialogue. There are also good examples of trade union initiatives like the Indian Labour Conference. Bangladesh can apply the similar practice and bring the trade union organizations, employers' organizations and relevant government agencies into such kind of national events.

Lastly, for strengthening the tripartism in Bangladesh, it is quite important that the tripartite bodies should work on the basis of regular work programmes including holding its meetings and events as provided in their respective mandates and TORs.

6. Recommendations and way forward

1. A strong Government commitment is needed to implement tripartite agreements and to ensure the co-operation of the social partners in a true spirit of tripartism. For example, inclusion of trade union representative should be mandatory through Rules of Business, which will create legal obligation to involve trade unions in tripartite bodies.
2. Appropriate and established institutional and legal frameworks should be formed to allow linkages, negotiations, and settlement among the three parties. In this process, control or influence of the government in the tripartite process can be reduced.

3. Democratically selected trade union representatives should be nominated as representative in tripartite bodies or institutions. The initiative to do so should come from the trade union leadership themselves. In this regard, all the federations should come together to select their representatives for the tripartite bodies. One possible option could be proportionate representation of all the federations can be introduced in those bodies. However, proper attention should be given to capacitate the representatives with information and knowledge on the issue and also there should be continuity of such representation through an agreed mechanism.
4. Relating to 3 above, a consultation group (Expert group) can be formed for each of the national bodies so that the trade union leaders can have a pre-discussion and come together with a common position on the raised issues in tripartite bodies. Such group may consist of 2-3 persons who are knowledgeable on that particular issue so that the representatives can discuss with them before going to each meeting and after the meeting can discuss with the consultation group for getting idea on future actions. Those groups can be formal or informal in nature but it is important for them to function regularly and effectively. Organizations like BILS, FES or any other entity can come forward to support the group. It will not be a part of the tripartite body.
5. In response to the multiplicity of various tripartite committees, a possible option may be to have a national tripartite coordination committee with representation from all stakeholders. Under this national committee, some sector-based committee can be formed. Even some sub-committees can be formed under the sector-based committees. For example, labour court, health and safety council etc. as sectors. It should be high powered committee with authority to take decision. The unified national tripartite committee on labour related issues can be coordinated by prime ministers' office as like the present practice of PMO on private sector development committee.
6. For the trade unions, a regular follow-up mechanism for tripartite consultation and social dialogue needs to be institutionalized. For example, organization like BILS can provide secretariat for such a regular tripartite mechanism. For each of the labour issue there should be designated staff e.g. an officer for RMG, an officer for women issue etc. Each officer will follow-up the activity of his/her concerned committee and make all the updates and equip the workers' representatives to play their role in the tripartite forums and committees.

7. Lastly, relating to 6 above, international organizations can support in terms of strengthening the mechanism. For example, currently the ILO, with the support of the development partners, is implementing a programme of social dialogue in the RMG industry and other export-oriented industries. Lessons learned and good practices can potentially help in developing a good model of social dialogue which can help strengthening the role of trade unions in particular in the tripartite process on a broader scale.

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BILS

Bangladesh Institute of Labour Studies-BILS was established in 1995. The main objectives of BILS are follows :

- To help in strengthening the democratic functioning of the trade unions and to improve their services towards the society.
- To assist the trade unions in Bangladesh for becoming self-reliant through education, training, research, campaign and communication among them and other social partners as well as civil society.
- To provide various support to the trade union movement in Bangladesh and to participate effectively in the development process of the country.
- To assist the increased participation and representation of women and young workers in trade unions.
- To eliminate all kinds of discrimination between male and female workers.
- To improve occupational health and safety situation and worker's welfare as a whole.
- To brighten the image of the trade union movement in Bangladesh and to increase the organised workforce & consolidate the strength of trade union movement.
- To establish greater unity in labour movement of Bangladesh.
- To undertake multifaceted activities for human resource development.
- To introduce programmes for productivity and good industrial relation.