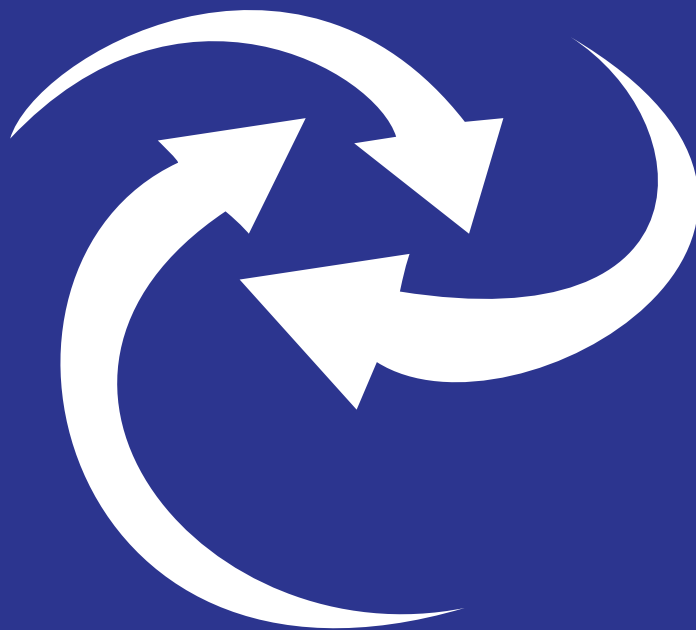


# **Strengthening Tripartism in Bangladesh**

## **Role of Trade Unions**



**BANGLADESH INSTITUTE OF LABOUR STUDIES-BILS**  
বাংলাদেশ ইনস্টিটিউট অব লেবার স্টাডিজ- বিল্‌স

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## Preface

BILS under its LO-FTF Project conducted this study to know the status of tripartism in Bangladesh with a view to identify the challenges toward making the tripartite bodies well functioning to uphold the rights of the workers of Bangladesh.

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 as equal and independent partners to seek solutions to issues of common concern”.

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.

This report contains the situation of tripartite bodies in Bangladesh, identified the challenges to make the tripartite bodies well functioning as well as drew recommendations to way forward.

We hope this publication will be helpful to reveal the situation of tripartism in Bangladesh as well as to get idea to strengthening tripartism in Bangladesh. It will also be helpful for trade unions to identify their role in this regards.

We would like to acknowledge the researchers, key informants, resource persons for their contribution to the study. Finally, we would like to acknowledge the LO-FTF Council for their support.



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## Abbreviations

BILS	Bangladesh Institute of Labour Studies
BIDS	Bangladesh Institute of Development Studies
BLA 2006	Bangladesh Labour Act 2006
BLWF	Bangladesh Labour Welfare Foundation
BEF	Bangladesh Employers Federation
ESC	Economic and Social Council
ILO	International Labour Organization
MOLE	Ministry of Labour and Employment
MOI	Ministry of Industries
MOJT	Ministry of Jute and Textiles
MWB	Minimum Wages Board
NCCWE	National Coordination Committee on Workers' Education
NCLWC	National Child Labour Welfare Council
NISHC	National Industrial Safety and Health Council
NSDC	National Skills Development Council
NWPC	National Wages and Productivity Commission
OSH	Occupational Safety and Health
SKOP	Sramik Karmachari Oikka Parishad – United Alliance of Workers and Employees
TCC	Tripartite Consultative Committee
TNSDI	Tripartite National Social Dialogue Institution





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# 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).

“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.”<sup>1</sup>

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.<sup>2</sup>

**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.<sup>3</sup>

Recognizing the very important role of tripartism, the International Labour Conference, in its 61<sup>th</sup> 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:

<sup>1</sup> ILO Website “Tripartism and social dialogue” (accessed in June 2016)

<sup>2</sup> ILO: *ibid.*

<sup>3</sup> ILO: *ibid.*

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.<sup>4</sup>

**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.<sup>5</sup>

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
<b>Total</b>	<b>139</b>	<b>46</b>	<b>185</b>

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

<sup>4</sup> ILO: C. 144

<sup>5</sup> 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;<sup>6</sup>
- 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.

#### **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.

<sup>6</sup> Seven 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.



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 representatives and two workers’ representatives.
3.	National Industrial Safety and Health Council	MOLE	Joint Secretary, MOLE	22	One Chairman and seven each from government, workers and employers organizations.
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.

SL #	Committee Name	Central Authority	Headed by	Total Members	Representation Status
6.	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 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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