

# **Trade Union Formation and Practice: Present Situation, Future Challenges, and Way Forward**

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## Acronym

BEPZA	Bangladesh Export Processing Zone Authority
BEZA	Bangladesh Economic Zones Authority
BILS	Bangladesh Institute of Labour Studies
BLA	Bangladesh Labour Act
CSO	Civil Society Organization
DIFE	Department of Inspection for Factories and Establishments
DoL	Department of Labour
EPZ	Export Processing Zone
FDI	Foreign Direct Investment
FGD	Focus Group Discussion
GDP	Gross Domestic Product
GSC	Global Supply Chain
ICCPR	International Covenant on Civil and Political Rights
ICESCR	International Covenant on Economic, Social and Cultural Rights
ICT	Information and Communication Technology
ITUC	International Trade Union Confederation
ILO	International Labour Organization
KII	Key Informant Interview
MoLE	Ministry of Labour and Employment
NCCWE	National Coordination Committee on Workers Education
SDG	Sustainable Development Goal
SEZ	Special Economic Zone
SKOP	Sramik Karmachari Oikya Parishad
SOP	Standard Operating Procedure
TU	Trade Union
UDHR	Universal Declaration of Human Rights

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# Chapter One

## Introduction and Background of the Study

### 1.1 Introduction

This report is the outcome of the study ‘Trade Union Formation and Practice: Present Situation, Future Challenges, and Way Forward’ in Bangladesh sponsored by International Labour Organisation (ILO) and implemented by Bangladesh Institute of Labour Studies (BILS). Trade union (TU) organizes the workers under the purview of the fundamental human and labour right ‘freedom of association’. Despite protection of the rights of the workers is the prime role, TUs ultimately help to maintain harmonious industrial relations, i.e., relation between workers and employers that contributes to increased productivity which is beneficial for both parties (Chowdhury & Rahel 2018). Historically, TUs of Bangladesh have played an effective role in protection of the rights and ensure the wellbeing of the workers. Not only that, TUs also played important role in the democratic movements of Bangladesh as democracy is an essential precondition for ensuring workers’ rights and wellbeing. However, at present, workers are increasingly facing difficulties in realizing their rights through exercising freedom of association and their rights are less protected. It has become more difficult as, in recent times, in context of rapidly changing economic structure and technological developments, TUs are facing incredible challenges to perform their roles due to various reasons like labelling TUs as against productivity by anti-worker forces, political allegiance of the TUs, corrupt TU leaders, nexus between employer and government and subsequent government interference, and so on. But there is no way other than organize the workers in TUs for promoting workers’ interest and protecting their rights. TUs are key in this regard. It is important to know why the TUs are failing to play their roles? How the formation of TU is being affected? What provisions of the labour laws are creating hurdle in smooth practice of TU? What are the inherent weaknesses of the TUs limiting their roles? What measures need to be taken so that the TUs can play their due roles in promoting and protecting the rights of the workers? Answers to these questions are necessary to make the TUs effective to protect the rights and ensure the wellbeing of the workers. Present study intended to explore and analyze the legal environment of TU formation and practice, as well as the challenges ahead for TUs in the context of economic transition and future of work in Bangladesh. The study was conducted using qualitative approach and collected data through consultative workshops, FGDs, KIIs and documents study during November – December 2019.

The report is composed of six chapters and three annexures. *First chapter* presents the problem statement and rationality, objective, plan, and implementation strategy of the study. *Second chapter* focuses on the international and national instruments which are basis of the rights to freedom of association and collective bargaining. *Third chapter* examines the legal landscape relating to TU in Bangladesh. Particularly this chapter highlights the issues and challenges confronting TU including coverage of workers/workers eligible for TU formation and registration

process, protection of TU representatives, and anti-union discrimination. The chapter further examines Bangladesh Labour Act's compliance with international standards on TU rights. *Chapter four* presents the situation of TU rights in practice in Bangladesh. While exploring the condition, this chapter focuses on available facilitative factors and challenges of TU practice. This chapter also examines the scope of TU's participation in workplace related decision making. Bangladesh's transition and future of work and its implications for TU has been discussed in *Chapter five*. This Chapter focuses on structural changes of Bangladesh economy, demographic transition, employment patterns and related issues. The chapter further analyzes upcoming issues for TUs and TU's own preparation to address the future of work challenges. Finally, *Chapter six* is about the way forward. The chapter shows the needed actions/changes for more TU-friendly labour law, a more favourable environment for TU rights practice, and pragmatic strategies for TU to combat upcoming challenges.

## **1.2 Problem statement and rationality**

Bangladesh's labour movements under the leadership of the TUs are having a glorious history in promoting and protecting the rights of the workers. TUs of Bangladesh also contributed significantly to the national democratic movements which are also important in terms of forming, joining, and practicing TUs to protect the rights of the workers. The political involvement of the TUs, however, identified as against the interest of the labourer as TUs failed to uphold workers' rights beyond their political obedience (Rahman & Langford 2012). This political allegiance has been implanted at the very beginning of the labour movements in the sub-continent. Despite All India Trade Union Congress (AITUC), the first was formed as an independent body of the workers in 1920, soon after, political parties took interest on trade union movements. As a result, during the British rule, nationalist and leftist political parties, as a part of their anti-colonial struggle, organized the working class. Since then, trade unionism in this region has been identified as the history of political allegiance (Khan & Wichterich 2015).

In the early years of Pakistan, there were some 250 registered TUs with about 200,000 members. In the end of 1960s, TUs joined in the movement to oust the military regime and later in the independence struggle along with student organisations and political parties. Rahman and Langford (2012) mentioned that International Confederation of Free Trade Unions (ICFTU) and American Federation of Labor–Congress of Industrial Organizations (AFL-CIO) were active in the then East Pakistan and East Pakistan Federation of Labour (EPFL) became affiliated with International Confederation of Free Trade Unions (ICFTU). EPFL, however, was divided into three factions blaming each other for misappropriation of money and power. As tied with political parties, like British period, TUs lost their focus, i.e., work for the interest of the workers. It is, however, evident that despite there were repressive measures and divisions, workers organized strike to realize their demands.



After the independence, at the beginning, Workers' Management Committee (WMC) were formed in all nationalized factories<sup>1</sup> in place of TUs. Political reform, instability and military rule severely hampered the TU movement (including ban on TU activities) during the mid-seventies until private ownership allowed at the end of seventies. In 1977, ban on TU withdrawn but registration of TUs made mandatory (Rahman and Langford 2012). Overall, political instability, inter and intra union rivalry, corruption, multiplicity of TU, and use of TU for personal gains by the TU leaders and partisan role of TUs largely marginalized the TU movements in Bangladesh (Ahammad, Shanta, Hossain and Naim 2017). Meanwhile, the productivity of the factories decreased tremendously, and all became losing concern. Despite low productivity in the major industries of the country mainly caused by mismanagement and large-scale corruption of the managers and employers, TU activities often blamed in this regard. As a result, gradually, TU movements in Bangladesh have weakened in general. Taking advantage of this, owners of the RMG sector — started at the beginning of 1980s — vehemently opposed formation of TUs arguing that corrupt and politicized labour unionism would halt production anytime for any reason (Khan & Wichterich 2015). The government also become convinced and was reluctant to allow TUs in the RMG sector fearing losing foreign currency earnings (Rahman & Langford 2012). Actually, this caused strains in the relation between the employers and workers affecting the productivity negatively. Until recently, TU is not allowed in the factories of different areas, for example in EPZ.

There are also new initiatives to replace TU with alternate organisations such as Participation Committee, Workers' Welfare Association in the EPZs, etc. These initiatives also include organizing labourer at different levels, i.e., local informal groups, factory based labour unions, national union federations, and global union federations. Through participation in these initiatives, labour unions of Bangladesh become engaged in a new type activity in place of their usual role of addressing the needs and disputes of the union members in their workplaces (Hasan & Rebeca 2019). Accord on Fire and Building Safety in Bangladesh (Accord) at the international level and National Tripartite Plan of Action (NTPA) are two such initiatives taken after disastrous Tazreen Fashion and Rana Plaza accidents. But, despite initial good start, these initiatives lost pace and became standstill (Khan & Wichterich (2015). Zajak (2017) mentioned the Bangladesh Accord as a double-edged sword as on the one hand provide TUs with new opportunities for developing strategic capabilities, while on the other hand used by powerful domestic actors to discredit TUs and mobilize workers against the constraints of the Accord. Another provision is Participation Committee (PC) to be elected by the workers and function as a trade union in factory where there is no TU. However, understandably, these organisations never been able to play the roles of the TUs and protect the rights of the workers fully. Over the periods the processes of organizing workers in TUs and practice of TU rights have become more difficult. The unfavourable political structure for TU movement and State's role in favour of the employers/owners are two other general factors in this regard. In absence of TU, spontaneous workers' protests are suppressed by the police. Chowdhury (2017), identified reasons of decayed TU movement in Bangladesh as:

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<sup>1</sup> All large industries nationalized, and none was in private sector.

hostile attitude of employers towards unions, redundancy of fake unions, political influence, absence of honest, committed and dedicated TU organisers, yellow trade unionism (pocket union of employers), unawareness of general workers, threat of dismissal of unionists and scarcity of employment. Hasan & Rebeca (2019) observed that historically militant protests are the means of realizing workers' rights which are now increasingly delegitimized and subject to violent crackdowns, such as arrest of workers and labour organisers. In this context, workers right to organize freely and move for protection of their rights has become difficult than ever before.

Bangladesh is transforming rapidly. The economy and labour market have undergone substantial changes in the recent past. The changes have various implications on workers' rights situation including the trade union (TU) rights. The comprehensive BLA 2006 and its amendments, despite applicable all over Bangladesh, have excluded workers of number of sectors. The recent changes of lowering the threshold for TU membership in an establishment from 30% to 20% and adopted simpler and more transparent Standard Operating Procedures (SOPs) on Trade Union Registration are facilitative. However, there are still many debates and controversies on various provisions on trade union formation, mainly on scope/coverage,<sup>2</sup> protection of TU representatives and many others. There is also debate on effective application of labour Act provisions concerning TU. Based on the report of the ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) 2018, ITUC (2019) concluded that, despite mentioned repeatedly, "there has been no progress at all on cases of anti-union violence. The adoption of standard operating procedures (SOPs) for union registration and investigation of unfair labour practices have had no meaningful impact; indeed, most union registration applications are still denied. ... And despite the GOB's simply incredible claims to the contrary, unfair labour practices continue apace without resolution. Simply put, the GOB has failed its workers and the international community once again."<sup>3</sup> Islam and Asaduzzaman (2015) mentioned that the legal framework of the TUs in Bangladesh is not conducive for trade union activities.

The already transformed labour market would experience further changes in the days ahead due to economic and policy shift, in nature and pattern of employment opportunities and work-relationships/industrial relations. Bangladesh has been transforming from agriculture-based to manufacturing and service-based economy. In addition, emphasis is now on private sector development that will lead economic growth as well as employment generation. Integrating the country with global supply chains (GSC), and, for stimulating export-led growth, leveraging foreign direct investment (FDI) are important strategies of national development plan (7<sup>th</sup> Plan). To this end, special attention has been given to establishment of special economic zones (SEZs)

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<sup>2</sup> For example, in the RMG sector, there are more than 3,500 exporting factories. Around 4.2 million workers (of which 50-60% women) are working in these factories. Only 3.5-4% of these factories have presence of TU (ITC 2018). [https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-dhaka/documents/publication/wcms\\_615874.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-dhaka/documents/publication/wcms_615874.pdf)

<sup>3</sup> ITUC (2019). ILO COMMITTEE OF EXPERTS' 2018 REPORT CONFIRMS - NO REAL PROGRESS IN BANGLADESH, Clean Clothes Campaign, ITUC CSI IGB. Retrieved from: [https://www.ituc-csi.org/IMG/pdf/bangladesh\\_evaluation\\_ilo\\_experts\\_2018\\_final\\_ituc\\_ccc.pdf](https://www.ituc-csi.org/IMG/pdf/bangladesh_evaluation_ilo_experts_2018_final_ituc_ccc.pdf), Last accessed 06.02.2020 22.16

and export processing zones (EPZs) that will host employment for millions. There is also increased emphasis on promoting self-employment opportunities. Consequently, it is also envisaged that, beyond formal employment informal employment would also expand. Besides, priority on technological development and ICT would foster and encourage new arrangements of employment.

Changes in the economy and employment in Bangladesh will bring along profound consequences for already battered TUs. Trade unions will encounter new opportunities as well as challenges. Scope of organizing the workers will be affected deeply. TUs therefore need to have vision and preparation to capture the opportunities and to overcome the challenges. Activities, policies, programmes, and strategies of TUs need to be re-oriented, in changing context, and capable of meeting the imminent challenges and needs. The legal landscape regarding TU is also needed to be facilitative so that they could deal with the forthcoming encounters effectively. Overall, in the changing context it is needed to revisit the existing provisions of Labour Act on TU formation as well as the policies and condition of practices of TU. However, in the context of labour movement in Bangladesh, very little attention has been given to address these issues. Efforts to explore and analyze the condition ahead for TU and to determine the strategic options have not been evident. Present study intended to fill in that gap.

### **1.3 Objectives and scope of the study**

Overall, the study intended to explore and analyze the legal environment of TU formation and practice, as well as the challenges the TUs would face in the context of economic transition and future of work in Bangladesh. More specifically, objectives of this study were:

- 1) To analyze TU related provisions in labour laws of Bangladesh including examine the scope and process of TU formation and explore the facilitative as well as obstructive provisions in the labour laws and how these are compliant with international standards.
- 2) To review the state of practice of TU rights in Bangladesh regarding the extent of implementation of the legal provisions and the barriers and challenges the TUs are encountering in real situation.
- 3) To investigate into TU's participation in tripartite forum's and policy formulation. Specifically, to explore the opportunities for TUs as well as pinpoint the strengths and weaknesses.
- 4) To analyze the challenges for TUs in the context of Bangladesh's transition as well as the future of work and examine TU's own preparation to address those challenges.
- 5) To prepare a set of recommendations for the required legal architecture for expanding scope of TU formation, ensuring practice of TU rights, and equip TUs to deal with the challenges of economic transition and future of work.

## 1.4 Study approach and methodology

This study adopted qualitative approach. Information was collected through desk review, key informant interviews (KIIs), focus group discussions (FGDs) and consultation workshops. *Desk review* included a comprehensive analysis of the labour code/law of the country. Scope of the review included policies of the government especially the employment generation, inclusive growth, industrial policy, SDGs, and future of work and relevant documents. *KIIs* aimed at exploring expert opinion on the different issues of this study. All together two KIIs were conducted. FGDs were conducted to have real pictures at the basic level regarding TU formation and practice, Four *FGDs* were conducted with the workers and basic union leaders; two with formal sector workers (RMG-2) and basic union leaders of those sectors and remaining two with informal sector workers (Construction and Beauty Parlour). In each FGD 10-12 participants took part in discussions and shared their opinion and views on practice of TU rights.

Four (4) *consultation workshops* were conducted to collect information as well as determining the future course of action for TUs. The workshops were conducted on different themes/issues (Table-1.1) and enlisted multi-stakeholder participation. Representatives from NCCWE, SKOP, nation level trade union federations, government (MoLE, DoL, DIFE), employers, Civil Society organization, and academicians participated in different workshops.

**Table 1.1: Consultation workshops**

Workshops	Themes
Workshop 1	TU formation and practice: issues and challenges
Workshop 2	TUs' Participation in Workplace Related Decision Making: opportunity, strengths and weaknesses
Workshop 3	Bangladesh's Labour Market Transition and Implication for T
Workshop 4	Positioning Bangladesh's TU in context of Future of Work

The study followed an implementation process that included three distinguished phases: i) conceptualization and identification of issues; ii) information collection and analysis, and draft report preparation; and iii) finding sharing and finalization. In the first phase, the study started with conceptualization and issue identification brainstorming inception workshop. The workshop finalized the strategy including methodologies and an initial list of issues to be covered. The second phase was the implementation phase. At this phase information have been collected through active utilization of different data collection techniques. After collection of data those were categorized and analyzed, and a draft report was prepared. In the third phase findings of the draft report were shared in a sharing workshop/meeting. Upon receiving feedback on draft report, necessary revisions were made, and the study report was finalized.

## *Chapter Two*

### *Trade Union Rights in International and National Instruments*

Trade union right is a fundamental human right as well as labour right. There are number of international standards related to TU formation and TU practice. ILO Convention, Universal Declaration of Human Rights (UDHR), International Covenant on Civil and Political Rights (ICCPR), International Covenant on Economic, Social and Cultural Rights (ICESCR), ILO Declaration on Fundamental Principle and Rights at Work, Decent Work agenda have recognized the TU rights. International standards of TU rights have also been reflected in national level instruments of Bangladesh. This chapter has focused on both international and national instruments which are the basis of workers' rights to form and join trade union in Bangladesh.

#### **2.1 TU rights in the international instruments**

International instruments (conventions, recommendations, regulations, etc.) are vital for the safeguard of the workers throughout the world. International instruments of rights protection have firmly stipulated TU rights of the workers. The UN Universal Declaration of Human Rights (UDHR), 1948 mentions that everyone has the right to freedom of peaceful assembly and association and also has the right to form and to join trade unions for the protection of his interests.<sup>4</sup> According to the UN International Covenant on Civil and Political Rights (ICCPR), 1966, everyone has the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests.<sup>5</sup> Moreover, International Covenant on Economic, Social and Cultural Rights (ICESCR), 1966, has proclaimed, 'The State parties should ensure the right of everyone to form trade unions and join the trade union of his choice, subject only to the rules of the organization concerned, for the promotion and protection of his economic and social interests.'<sup>6</sup> Freedom of association and recognition of right to collective bargaining has the first among the four core labour principles in the ILO Declaration on Fundamental Principles and Rights at Work adopted in 1998 and endorsed by the international community. Freedom of association means that workers and employers can set up, join, and run their own organizations without interference from the State or one another (ILO 2003<sup>7</sup>).

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<sup>4</sup> United Nations (1948). Universal Declaration of Human Rights (UDHR), Article 20(1) & 23(4). Retrieved from: <https://www.un.org/en/universal-declaration-human-rights/>. Last accessed: 09.02.2020.

<sup>5</sup> United Nations (1966). International Covenant on Civil and Political Rights (ICCPR), Article-22(1). Retrieved from: <https://treaties.un.org/doc/publication/unts/volume%20999/volume-999-i-14668-english.pdf>. Last accessed 09.02.2020.

<sup>6</sup> United nations (1966). International Covenant on Economic, Social and Cultural Rights (ICESCR), Article-8(1-a). Retrieved from: <https://www.ohchr.org/Documents/ProfessionalInterest/cescr.pdf>

<sup>7</sup> ILO (2003). The International Labour Organization's Fundamental Conventions, Geneva: International Labour Office, ILO.

In the preamble of the Convention 87 ILO states, recognition of the principle of freedom of association are directly related to trade unionism. As to be a means of improving conditions of labour and of establishing peace. According to this Convention, workers have the right to establish and, subject only to the rules of the organisation concerned, to join organisations of their own choosing without previous authorization (Article 2) and these organisations have the right to establish and join federations and confederations and any such organisation, federation or confederation shall have the right to affiliate with international organisations of workers and employers (Article 5). The Convention articulates that workers' and employers' organisations have the right to draw up their constitutions and rules, to elect their representatives in full freedom, to organise their administration and activities and to formulate their programmes (Article 3[1]). The important point in this regard is that public authorities shall refrain from any interference which would restrict this right or impede the lawful exercise thereof (Article 3[2]). That is, it is State's responsibility to guarantee this right by the law of the land. While mentioning the responsibility of the labour organisations to respect the law of the land it indicates that "the law of the land shall not be such as to impair, nor shall it be so applied as to impair, the guarantees provided for in this Convention."<sup>8</sup> The Convention states, "each member of the ILO for which this Convention is in force undertakes to take all necessary and appropriate measures to ensure that workers may exercise freely the right to organise."<sup>9</sup> In 1949, ILO adopted Convention 98 'Right to Organise and Collective Bargaining Convention'. This convention ensures that the workers engaged in organizing and participating in TU activities are not subject to any discrimination "workers shall enjoy adequate protection against acts of antiunion discrimination in respect of their employment."<sup>10</sup> The Convention specifically mentioned that there shall be no employment condition that a worker shall not join a TU or relinquish TU membership and there shall be no dismissal or otherwise prejudice a worker by reason of TU membership or participation in TU activities.

## 2.2 TU rights in the national instruments

Since Bangladesh is a signatory of/ratified UDHR, ICCPR, ICESCR, and ILO<sup>11</sup>, it is obligatory for the State to provide workers with the opportunity to enjoy and exercise TU rights. The

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<sup>8</sup> ILO Convention 87 [Article 8].

<sup>9</sup> ILO Convention No. 87 [Article 11]

<sup>10</sup> ILO Convention No. 98 [Article 1]

<sup>11</sup> Bangladesh have ratified seven of the eight fundamental and two of four governance (priority) ILO conventions:

### Fundamental

- 1) C029 - Forced Labour Convention, 1930 (No. 29)
- 2) C087 - Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87)
- 3) C098 - Right to Organise and Collective Bargaining Convention, 1949 (No. 98)
- 4) C100 - Equal Remuneration Convention, 1951 (No. 100)
- 5) C105 - Abolition of Forced Labour Convention, 1957 (No. 105)
- 6) C111 - Discrimination (Employment and Occupation) Convention, 1958 (No. 111)
- 7) C182 - Worst Forms of Child Labour Convention, 1999 (No. 182)

### Governance

- 1) C081 - Labour Inspection Convention, 1947 (No. 81)

constitution of the People' Republic of Bangladesh declares the rights to organise as fundamental rights of its citizens.<sup>12</sup> Besides, the predominant instrument through which Bangladesh guarantees TU rights of workers is the Bangladesh Labour Act (BLA) 2006. This Law was enacted as a comprehensive law incorporating the earlier 25 laws covering different labour issues (Chowdhury & Rahel 2018). As presented above, BLA 2006, in line of the ILO conventions 87 & 98, provides right to the workers to form and join TU of their own choice for the purpose of regulating the relations between workers and employers, or between workers and workers (Section 176a). The Law allows the TUs to form and join federations and TUs to form confederation. The law also allows the TUs, federations and confederations to affiliate with international organization and confederation of workers (Section 176c). Provisions of the BLA 2006 also provide protection to the TU representatives from anti-union discrimination.

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2) C144 - Tripartite Consultation (International Labour Standards) Convention, 1976 (No. 144)

[https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200\\_COUNTRY\\_ID:103500](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:11200:0::NO::P11200_COUNTRY_ID:103500)

<sup>12</sup> Constitution of the People's Republic of Bangladesh, Article 38

## *Chapter Three*

### *Legal Landscape on Trade Union in Bangladesh*

This chapter of the report has presented a critical analysis of the trade union (TU) related legal provisions of the labour laws enacted in Bangladesh so far. It examines the legal provisions for forming and practicing TUs — the facilitative and obstructive aspects of the labour laws and problems faced in practicing the TU rights as per the legal provisions. In doing so, the laws and related documents and data collected through FGD, consultative workshops were considered.

### **3.1 The laws and trade unionism in Bangladesh**

#### *3.1.1 Laws relating to TU in Bangladesh*

The supreme law of the country, the Constitution of Bangladesh, provides the fundamental right that all forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law (Article 34). It guarantees the ‘freedom of association’ as fundamental right (Article 38). Within this purview, the basis of present legal landscape of the TUs in Bangladesh is the Bangladesh Labour Act 2006 (BLA 2006) which has been amended four times in 2009, 2010, 2013 and 2018. Recently enacted the Bangladesh EPZ Labour Ordinance, 2019, which also includes the SEZs, has also implications for TUs. Other instruments have implications for shaping TU formation and practice are: Labour Welfare Foundation Law, 2006 and its amendment in 2015; Labour Welfare Foundation Rules, 2010; and Bangladesh Labour Rules, 2015. Before BLA 2006, there were around 46 work and industrial sector related laws. Of which 25 were repealed by the BLA 2006. Thus, there are 21 labour and industrial laws in operation (Chowdhury and Rahel 2015). This study, however, has considered the laws related to TU movements, formation, and practice, mostly the BLA 2006 and thereafter.

#### *3.1.2 Genesis of the TU related laws in Bangladesh*

Despite there were sporadic TU/worker related laws in this region earlier, the first law regarding TU the Indian Trade Union Act was passed in 1926. The Act provided provisions for registration of trade union and granted immunity to registered unions from civil and criminal liability. Another law regarding TU the Trade Union Dispute Act passed in 1929. This Act had provisions for trade union dispute settlement. It explicitly prohibited strikes and lockouts in the public utility services and general strikes affecting community as a whole and, thus, impliedly recognized the right to strike and lockout in other sectors. During the Pakistan period, the East Pakistan Trade Union Act, 1965 was more restrictive in case of TU practice. The Industrial Disputes Act was passed in 1965. These laws were later replaced with the Industrial Relations Ordinance (IRO), 1969. The IRO recognized collective bargaining agents (CBA) for establishments or group of establishments (Islam and Asaduzzaman 2015).



After the independence, the Labour Policy of 1972 replaced the TUs in welfare organisations.<sup>13</sup> Right to strike and collective bargaining was prohibited for six months by Presidential Order No. 55<sup>14</sup> and, in 1973, the right to strike and lockout withdrawn. Rules under the Emergency Power Act, 1974, banned all sorts of TU activities including strikes, lockouts, collective bargaining (Taher 1997) and finally restricted through the Industrial Relations (Regulation) Ordinance, 1975. The ban on TU activities was withdrawn through the Industrial Relations (Amendment) Ordinance, 1977. The subsequent Labour Policy of 1980 made registration of TUs mandatory (Rahman and Langford 2012; Islam and Asaduzzaman 2015). The right to exercise TU was again restricted through the Industrial Relations (Regulation) Ordinance, 1982. Meanwhile, the amendment of the Bangladesh Export Processing Zone Act, 1980 passed and in 1984 exempted such zones from application of labour laws. As a result, TU activities was not allowed in EPZs. In 2004, the EPZ Workers Association and Industrial Relations Act, 2004 recognized the workers' right to form association for regulating and settlement of disputes between employers and employees in the EPZs (Islam and Asaduzzaman 2015). However, this law has been repealed by the EPZ Workers Welfare Association and Industrial Relations Act, 2010.<sup>15</sup> The law restricted TU activities in the form of Workers' Welfare Association (WWA). It also prohibited any links of TUs with NGOs. In the face of criticism from national and international rights groups, this Act has been repealed by the Bangladesh EPZ Labour Act, 2019.<sup>16</sup> This Act provides more opportunity to enjoy freedom of association through WWAs, which are supposed to work as TU. Despite many positive changes have been made in different areas like appointment and service conditions, maternity benefits, working conditions and occupational health securities, working hour and leave, wages, so on, there was not enough provisions for ensuring freedom of association and other rights as per international instruments. The International Labour Conference, held in Geneva in 2019, complained that Bangladesh was not following the ILO Convention 87, 98 and 81 on 'freedom of association', 'right to organise and bargain collectively' and 'labour inspection' respectively. The existence of two different labour related laws in a country also criticized (The Financial Express, 24 January 2020).<sup>17</sup>

At present, the BLA 2006 provides the basis of TU formation and practice at workplaces. Despite the BLA 2006 and its amendments and other related laws and policies allow freedom of association of the workers and TU activities, it also instituted compulsory registration for TU and rigorous conditions for getting registration apparently with a motive to control trade unionism. The

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<sup>13</sup> Labour Policy, 1972, Ministry of Law and Social Welfare, Government of Bangladesh.

<sup>14</sup> The Bangladesh Nationalised Enterprises and Statutory Corporations (Prohibition of Strikes and Unfair Labour Practices) Order, 1972. Retrieved from: <http://bdlaws.minlaw.gov.bd/act-391.html>. Last accessed, 11.02.2020 7:08.

<sup>15</sup> It also amends the Bangladesh Export Processing Zone Authority Act, 1980 in terms of the "workers association" to "workers welfare society".

<sup>16</sup> <http://bdlaws.minlaw.gov.bd/act-details-1285.html>

<sup>17</sup> <https://thefinancialexpress.com.bd/trade/epz-labour-act-to-protect-rights-of-workers-owners-1569731945>

Bangladesh Labour (Amendment) Act, 2013<sup>18</sup> was enacted to, among others, simplify the registration process and inclusion of women worker representation in the executive committee of the TUs. The Bangladesh Labour (Amendment) Act, 2018, again, enacted to make some stringent provisions like membership threshold simpler, from 30% to 20%. But, as already stated and presented in the following sections, provisions of these laws are not ensuring full exercise of freedom of association and right to form and to join in TUs in both formation and practice.

## 3.2 Trade unionism under the BLA 2006

### 3.2.1 Scope of the BLA 2006

The scope of BLA 2006 is very wide. It has 21 chapters, 354 articles and five schedules. Despite it applies to whole Bangladesh, some establishments are excluded from its application.<sup>19</sup> Thus, by default, the Act does not include all workers of the country.<sup>20</sup> Chapter 13 of the Act (sections 175-208) exclusively describes the provisions of trade union and industrial relations.<sup>21</sup> According to the BLA 2006, the main purpose of TUs is to regulate the relations between workers and employers, or between workers and workers. The rights of the workers to form and to join TU is guaranteed by this Act and allows the workers to join TU of their own choice.<sup>22</sup> The Act further provides right to the workers to form and join federations and any such union or federation to affiliate with any international organisation or confederation of organizations of workers.<sup>23</sup> As per the Act, TUs enjoy the rights to: i) making own constitution and rules; ii) elect their own representatives with full independence; iii) organize their administration and activities; and iv) formulate programmes.<sup>24</sup>

### 3.2.2 Formation and registration procedure of TU

The BLA 2006 directly does not mention anything about the process of formation of TUs but sets the procedure of registration which is mandatory. According to the Act, TUs with no registration or cancelled registration shall not function as a trade union.<sup>25</sup> TUs with cancelled registration, however, can function until the disposal of appeal, if any.<sup>26</sup>

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<sup>18</sup> Act No. 30 of 2013, Bangladesh Gazette, additional issue, July 22, 2013. Retrieved from [https://mole.portal.gov.bd/sites/default/files/files/mole.portal.gov.bd/page/7f54da99\\_c409\\_4b5a\\_bed3\\_3591a9224356/Bangladesh%20Labour%20Law%20\(Ammendment\)%202013.pdf](https://mole.portal.gov.bd/sites/default/files/files/mole.portal.gov.bd/page/7f54da99_c409_4b5a_bed3_3591a9224356/Bangladesh%20Labour%20Law%20(Ammendment)%202013.pdf), Last

<sup>19</sup> BLA 2006 (Section 1[4]).

<sup>20</sup> Yet there is another Act for the EPZ/SEZ

<sup>21</sup> However, there are other sections in other chapters applied to trade unionism.

<sup>22</sup> BLA 2006, Section 176 (a)

<sup>23</sup> BLA 2006, Section 176 (c)

<sup>24</sup> BLA 2006, Section 176 (d)

<sup>25</sup> BLA 2006, section 192.

<sup>26</sup> BLA 2006, section 191[2].

3.2.2.1 Application for TU registration: To get registration, a TU must apply, duly signed by TUs Chairman and Secretary,<sup>27</sup> to the Registrar of the Trade Union of the concerned area mentioning the following information in the application:<sup>28</sup>

- i) The name of the trade union and the address of its head office;
- ii) The date of formation of the trade union;
- iii) The name, father's name and mother's name, age, address, occupation and the posts in the union of the TU officers and identity card with photograph of the institution or national identity card or birth registration certificate for workers of informal sector;<sup>29</sup>
- iv) a list of all members paying subscriptions;
- v) the name of the establishment to which the trade union relates, and the total number of workers employed or working therein; and
- vi) in case of a federation, the names, addresses and registration numbers of its member-unions.

Some particulars are also required to submit along with the application. These are:<sup>30</sup>

- i) three copies of the constitution of the TU together with a copy of the resolution by the members of the TU adopting such constitution bearing the signature of the Chairman of the meeting;
- ii) a copy of the resolution by the members of the TU authorizing its Chairman and Secretary to apply for registration; and
- iii) In case of a federation of TUs, a copy of the resolution by each of the constituent TUs agreeing to become a member of the federation.

3.2.2.2 Requirements for registration of TU: The constitution of a TU must include the followings to be entitled for registration:<sup>31</sup>

- a) name and address of the TU;
- b) the purpose of the formation of the TU;
- c) the way a worker may become a member of the TU;
- d) the sources of the fund of the TU and description of the purposes for which such fund shall be utilized. The TU must inform the government if it collects funds, other than members' subscription, from domestic and international sources;<sup>32</sup>
- e) the conditions under which a member shall be entitled to any benefit assured by the constitution of the TU and under which any fine or forfeiture may be imposed on any member;

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<sup>27</sup> BLA 2006, Section 177(1)

<sup>28</sup> BLA 2006, Section 178(2a)

<sup>29</sup> Father's & mother's names inserted the Bangladesh Labour (Amendment) Act, 2013 [section 50(a)] and Replaced the article 178[2Ka(3)] of BLA 2006 in the Bangladesh Labour (Amendment) Act, 2018 [section 21(Ka)].

<sup>30</sup> BLA 2006, Section 178(2b-d)

<sup>31</sup> BLA 2006 Article 179(1).

<sup>32</sup> Added in BLA 2006 Article 1796 (Clause 1[Gha]) in the Bangladesh Labour (Amendment) Act, 2013 (Section 22Ka[Aa]).

- f) the maintenance of the list of the members of the trade union and adequate facilities for inspection thereof by its officers and members;
- g) the way the constitution may be amended, varied or rescinded;
- h) the safe maintenance<sup>33</sup> of the funds of the TU, its annual audit, the manner of audit, and adequate facilities for inspection of the books of account by the officers and members of the trade union;
- i) the manner of dissolution of the TU;
- j) the manner of election of officers of the TU by its general members and the term of the officers and tenure [Not more than 2 years for TUs and not more than 3 years for group of establishments. In case of no election within stipulated time due to state of emergency (Force majeure) or like reasons the committee shall not be declared illegal.<sup>34</sup>];
- k) the number of the officers which shall not be less than 5 (five) and not more than 35 (thirty-five) as may be prescribed by rules;
- l) the manner of expressing no confidence against the officers of the TU; and
- m) the meetings of the executive committee and of the general members of the TU which shall be, in the case of the executive committees, at least once in every 3 (three) months, and, in the case of the general members, at least once every year.

3.2.2.3 Membership and proportion of member required for registration of a TU: A worker may become member of only one TU at a time at the same establishment.<sup>35</sup> Pre-requisite proportion of the total workers' membership in a TU of an establishment is one of the most significant requirements for registration. Now, it is fixed as minimum 20%.<sup>36</sup> However, for a TU in a group of establishments, it is 30% of the total number of workers employed in establishments included in such group<sup>37</sup> and it is 50% for the civil aviation establishments where only one TU is allowed to form.<sup>38</sup>

3.2.2.4 Registration of federation of TUs and confederation: For registration of federation of unions at sectoral and nation level, the Labour Act also has set a minimum number as pre-requisite. Five<sup>39</sup> or more TUs of the workers of same or identical industry and the TUs of more than one administrative division may constitute a federation, if their general meetings so resolved, by executing a deed of federation and apply for its registration duly signed by the Chairman and General Secretary of all TUs included in the federation and accompanied by three copies of deed

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<sup>33</sup> The word "maintenance" was substituted for the word "custody" by section 51(a)(i) of the Bangladesh Labour (Amendment) Act, 2013.

<sup>34</sup> Inserted by section 51(a)(ii) of the Bangladesh Labour (Amendment) Act, 2013.

<sup>35</sup> BLA 2006, section 193.

<sup>36</sup> Section 179(2). Reduced from 30% in the BLA 2006 by the Bangladesh Labour (Amendment) Act, 2018 (Section 22Kha).

<sup>37</sup> BLA 2006, Section 183 (6)

<sup>38</sup> BLA 2006, section 184(2 & 3).

<sup>39</sup> This was two or more in the BLA 2006 [Section 200(1)] changed in the Bangladesh Labour (Amendment) Act, 2013 [Section 55 Ka].

of the federation.<sup>40</sup> The provisions for TU are also applied for the TU federation.<sup>41</sup> Furthermore, at least twenty (20) registered TUs of more than one industry and the TU of more than one administrative division<sup>42</sup> may jointly or by joining themselves constitute a federation of TU at national level<sup>43</sup> and at least ten national based TU federations may, by joining themselves together, constitute a national based confederation.<sup>44</sup>

**3.2.2.5 Membership and officers of TU:** No worker is eligible for being a member of a TU if s/he is not employed or working in that establishment where the TU formed.<sup>45</sup> In case of election of TU officers/leaders, however, there are three different provisions in this regard for three different types of establishments, i.e., private sector industries/establishments, nationalized industrial sector, and group of establishments. For the private sector industry/establishment, a person is ineligible to be selected as an officer of a TU if s/he is not employed or working in that particular establishment. For the nationalized industrial sector, the members of a TU may, if they desire, elect 10% of the total officials of the executive committee of that TU from amongst the persons who are not working in the concerned establishment.<sup>46</sup> In the cases of a TU formed in a group of establishments, if the constitution of the TU provides, a person who is not employed in that establishment included in the said group of establishments is eligible to be elected as an officer of that TU. However, the number of such persons shall not be more than one-fourth of the total number of officers.<sup>47</sup> It is worth mention that a person who has been convicted of an offence involving moral turpitude or an offence under section 196[2d]) of the BLA 2006 (compelling employers to accept a demand by means of coercion, threat, or like) or section 298 of the BLA 2006 (misappropriation of provident fund and TU fund) and unless two years have elapsed from the date of his release is not eligible to be an officer.<sup>48</sup>

**Table 3.1: Scope of electing leaders from outside**

Type of establishments	Scope
Private sector industries/establishment	0%
Nationalized industrial sector	10% of the executive members
Group of establishments	25% of the executive members

<sup>40</sup> BLA 2006 [Section 200(3)].

<sup>41</sup> BLA 2006 [Section 200(4)].

<sup>42</sup> Added in BLA 2006 as Article 200(5) in the Bangladesh Labour (Amendment) Act, 2013 [Section 55(c)].

<sup>43</sup> BLA 2006 [Section 200(5)].

<sup>44</sup> Added as BLA section 200[6] in the Bangladesh Labour (Amendment) Act, 2013 [Section 55(Ga)].

<sup>45</sup> BLA 2006, section 180 [1b]

<sup>46</sup> Inserted at the end of the section 180[1b] of the BLA 2006 in the Bangladesh Labour (Amendment) Act, 2013 [Section 52].

<sup>47</sup> BLA 2006, Section [183(7)].

<sup>48</sup> BLA 2006, section 180[1(a)].

Another important requirement in terms of women officer of TU is, if the proportion of women worker/member of an establishment is 20% or more, 10% of the TUs executive committee member should be women. However, it is applicable only for the TUs registered under the Labour Act.<sup>49</sup>

### *3.2.3 Number of TUs in an establishment*

The Labour Act has set a maximum limit of the number of unions to be registered in an establishment or group of establishments. According to the Act, no registration shall be provided to more than three TUs at any time in an establishment or group of establishments.<sup>50</sup> In some cases, however, only one TU is allowed for registration in an establishment; for example, civil aviation establishments<sup>51</sup>, seamen<sup>52</sup>, port authorities (Chittagong and Mongla)<sup>53</sup>. Moreover, despite workers in port authorities work under different categories, i.e., users of the Chittagong Port and the Mongla Port, berth-operators, ship handling operators and other establishments related to the ports, they are allowed to form only one TU collectively.<sup>54</sup> As per the provision, to become a member of a TU, workers or employees of the Chittagong and Mongla Port Authorities require: i) one year continuous employment in any port user, berth operator, ship handling operator, and other port related authorities; and ii) a letter of appointment as a worker or employee.<sup>55</sup> Above all, government can control in any manner the activities of the TUs formed under above condition and, even, can take measures to cancel the registration of any TU under section 190.<sup>56</sup>

### *3.2.4 Operation of TU*

After registration, a TU can operate legally under certain conditions.

**3.2.4.1. Maintaining registers:** Registered TUs have to maintain certain registers or books in such form as may be prescribed by Rules, namely: (a) a register of members, which shall contain the particulars of subscriptions paid by each member; (b) an accounts book, in which the receipts and expenditure shall be shown; and (c) a minute book, in which all kinds of minutes shall be recorded.<sup>57</sup>

**3.2.4.2. Submission of returns:** Submission of specified returns are essential: i) a general statement, prepared and audited in the manner prescribed by Rules, of all receipts and expenditure and of the assets and liabilities of a TU during the preceding calendar year and the name of the federation (if member)<sup>58</sup> shall be sent to the Director of Labour after the end of a Gregorian calendar year, by

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<sup>49</sup> Added in BLA 2006 as Article 176(Clause Uma) in the Bangladesh Labour (Amendment) Act, 2013 [Section 48].

<sup>50</sup> BLA 2006, section 179[5].

<sup>51</sup> BLA 2006, section 184[2].

<sup>52</sup> BLA 2006, section 185[3].

<sup>53</sup> Inserted by Bangladesh Labour (Amendment) Act, 2009 [section 2] in the BLA 2006 as section 185A[2].

<sup>54</sup> Inserted by Bangladesh Labour (Amendment) Act, 2009 [section 2] in the BLA 2006 as section 185A[3].

<sup>55</sup> Inserted by Bangladesh Labour (Amendment) Act, 2009 [section 2] in the BLA 2006 as section 185A[5].

<sup>56</sup> Inserted by Bangladesh Labour (Amendment) Act, 2009 [section 2] in the BLA 2006 as section 185A[8].

<sup>57</sup> BLA 2006, section 181.

<sup>58</sup> BLA 2006, section 201[4].

the 30th April of the following year is essential;<sup>59</sup> and ii) a statement showing all changes of officers in the TU during the year of general statement and a copy of the constitution of the TU corrected up to the date shall with the said general statement, be sent to the Director of Labour.<sup>60</sup> It is obvious that if a TU fails to send the statements within stipulated and extended (30 days upon receipt a notice form authority) time the registration may be cancelled.<sup>61</sup>

### *3.2.5 Protection of TU representatives*

There are provisions in the BLA 2006, aiming to protect trade unionism and leaders and members of TUs. To protect the trade unionism of the workers the definition of worker includes a person who has been laid off, retrenched, discharged, dismissed or otherwise removed from employment in connection with or as a consequence of industrial dispute or whose lay-off, retrenchment, discharge, dismissal, or removal has led to that dispute.<sup>62</sup> The Act declares that conditions of service of the union officers shall not be changed without prior permission of the DoL while formation of TU in progress or application for registration of TU is pending.<sup>63</sup> An employer is also not entitled to terminate the employment of any worker who is a member of such TU, while the application of registration is pending.<sup>64</sup> The law also restricts transfer of chairman and any officer, including General Secretary, of any TU from one district to another without their consent.<sup>65</sup> BLA 2006 aims at providing protection against victimization and discrimination when joining, forming and carry out TU or CBA activities terming as unfair labour practices on the part of the employers (Box 3.1).<sup>66</sup>

Anti-union discrimination is a major concern for TU movements in Bangladesh. The Bangladesh Labour (Amendment) Law, 2018 has added the section 196[A] titled Anti-trade union discrimination. According to this provision, if employers violate the service conditions and take any action as retaliation against any worker during the process of TU formation or pending application for registration or after registration, that will be treated as anti-trade union discrimination from the employers' part.<sup>67</sup>

The Law limits the application of section 120B(2) of the Penal Code 1860 to the officers or members of TUs or CBA as they shall not be punishable under section 120(B) of the Penal Code for any agreement made between the members thereof for the purpose of furthering any such object of the TU as is specified in its constitution referred to in section 179, unless the agreement is an

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<sup>59</sup> BLA 2006, section 201[1].

<sup>60</sup> BLA 2006, section 201[2].

<sup>61</sup> BLA 2006, section 201[4].

<sup>62</sup> BLA 2006, section 175.

<sup>63</sup> BLA 2006, section 186[1].

<sup>64</sup> BLA 2006, section 186[2].

<sup>65</sup> BLA 2006, section 187.

<sup>66</sup> BLA 2006, section 195.

<sup>67</sup> Inserted by Bangladesh Labour (Amendment) Act, 2018 [section 29] in the BLA 2006 as section 196A[1].

agreement to commit an offence, or otherwise it violates any law or provision other than the provisions of this Chapter.<sup>68</sup>

The Law also provides immunity to the TU or CBA or its officers or members in respect to civil suit in respect of any act done or action taken in contemplation or furtherance of an industrial dispute to which the trade union is a party on any of the following grounds only, namely:

- (a) such act or action induces any person to break a contract of employment;
- (b) such act or action interferes with the trade, business, or employment of some other person;  
or
- (c) such act or action fails the right of any person to apply his capital or labour at his discretion.<sup>69</sup>

**Box 3.1: Protection against victimization and discrimination**

*(BLA 2006, section 195)*

No employer or union of employers or any person acting on their behalf shall:

- (a) impose any condition in a contract of employment restraining the right of the worker concerned to join a trade union or continue his membership of a trade union;
- (b) refuse to employ or refuse to keep in employment any worker on the ground that such worker is, or is not, a member or officer of a trade union;
- (c) discriminate against any worker in regard to any employment, promotion, conditions of employment or working conditions on the ground that such worker is, or is not, a member or officer of a trade union;
- (d) dismiss, discharge or remove any worker from employment or threaten to do so, or threaten to do any harm to his employment by reason that he is, or proposes to become, or persuades any other person to become, a member or officer of a trade union, or that he participates in the formation, activities and expansion of a trade union;
- (e) induce any worker or any other person to refrain from becoming a member or officer of a trade union or to quit such post, by conferring or offering to confer any advantage or by procuring or offering to procure any advantage for him;
- (f) compel or attempt to compel any officer of the collective bargaining agent to arrive at a settlement or to sign a memorandum of settlement by intimidation, coercion, pressure, threat, confinement to a place, physical injury, disconnection of water, power and telephone facilities or by any other means;
- (g) interfere with or in any way influence the election held under section 202 (CBA);
- (h) recruit any new worker during the continuance of strike under section 211 or during the continuance of strike which is not illegal, except where the Arbitrator is satisfied that the complete cessation of work is likely to cause serious damage to the machinery or any other installation, he may permit temporary employment or a limited number of workers, in the department or section of the establishment where the damage is likely to occur;
- (i) deliberately fail to take measures recommended by the participation committee;
- (j) fail to give reply to any communications made by the collective bargaining agent in respect of any industrial dispute;
- (k) transfer the Chairman, general secretary, organizing secretary or treasurer of any trade union in contravention of the provisions of section 187; or
- (l) commence or continue or instigate others to take part in any illegal lock-out

<sup>68</sup> BLA 2006, section 197.

<sup>69</sup> BLA 2006, section 197(1).



Furthermore, a TU shall not be liable in any suit or other legal proceedings in any civil Court in respect of any tortuous act done in contemplation or furtherance of an industrial dispute by an agent of the TU, if it is proved that such agent acted without the knowledge of or contrary to the clear instructions of the executive committee of the trade union.<sup>70</sup>

Any agreement between the members of the TU members is also protected by the BLA 2006, section 199 as “Notwithstanding anything contained in any other law, an agreement between the members of a trade union shall not be void or violable by reason only that any of its objects is a restraint for any trade and commerce: Provided that nothing in this section shall enable any civil Court to entertain any legal proceedings instituted for the purpose of enforcing, or recovering damages for the breach of, any agreement concerning the conditions on which any member of a trade union shall sell or shall not sell his goods, transact or not transact business, or do or not do any work, or render or not render any service.”<sup>71</sup>

### *3.2.6 Collective bargaining agent (CBA) authority, jurisdictions, representativeness*

Collective bargaining agents (CBA) plays important role in protecting rights of the workers and settle disputes. Section 202 of the BLA 2006 has specified the provisions for formation and operation of CBA. In case of only one TU in an establishment, the TU is supposed to work as CBA of that establishment.<sup>72</sup> In cases of more than one TU in an establishment, they shall elect the CBA through an election directed by an election commissioner nominated among themselves<sup>73</sup> or the DoL holding a secret ballot vote within a period of 120 days from the date of receipt of application made in this behalf by any such TU or by the employer and determine which TU shall be the CBA of the establishment.<sup>74</sup> The CBA is entitled to carry out or entitled to perform specific functions<sup>75</sup> as presented in Box 3.2.

The CBA union can request the employer to deduct subscription from the wages of the workers working in establishment and member of that CBA for CBA fund upon the approval of each worker in the demand statement by the CBA union and keep the sum separately.<sup>76</sup> The employer is supposed to deposit the entire amount in the account of the CBA union within 15 days of deduction.<sup>77</sup> In addition, workers outside the CBA union can contribute through receipt.<sup>78</sup> There shall be an office room for the CBA in the establishment allotted by every employer in his establishment as prescribed by the rules.<sup>79</sup>

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<sup>70</sup> BLA 2006, section 197(2).

<sup>71</sup> BLA 2006, section 199.

<sup>72</sup> BLA 2006, section 202[1].

<sup>73</sup> Inserted in the BLA 2006, section 202[2] by the Bangladesh Labour (Amendment) Act, 2013 [section 53a].

<sup>74</sup> BLA 2006, section 202[2].

<sup>75</sup> BLA 2006, section 202[24].

<sup>76</sup> BLA 2006, section 204[1].

<sup>77</sup> BLA 2006, section 204[2].

<sup>78</sup> Added to the BLA 2006, section 204[1] by the Bangladesh Labour (Amendment) Act, 2018 [section 31].

<sup>79</sup> Inserted as section 201[26] by the Bangladesh Labour (Amendment) Act, 2013 [section 56(56b)].

### **Box 3.2: Functions/entitlements of CBA**

A collective bargaining agent in relation to an establishment to which it relates shall be entitled to:

- a) bargain with the employer in matters of the state of jobless, conditions of work or environment of work of the workers;
- b) represent all or any of the workers in any proceedings;
- c) give notice of, and declare, a strike in accordance with the provisions;
- d) nominate representatives of the workers in any welfare institution or provident fund and in the board of trustees of the workers participation fund; and
- e) conduct cases on behalf of any individual worker or a group of workers.

### **3.2.7 Cancellation of TU registration**

BLA 2006 empowers the DoL to cancel the registration of a TU, if a TU—<sup>80</sup>

- a) applies for registration cancellation based on resolution of general meeting;
- b) ceased to exist;
- c) obtained registration by fraud or by misrepresentation of facts;
- d) committed any unfair labour practice;
- e) membership has fallen short of the stipulated number of memberships; and
- f) contravened any provision of this TU related Chapter or the rules.

After deciding through enquiry that the registration of a TU should be cancelled, the DoL submits an application to the Labour Court for cancellation of the registration for permission and, upon receiving permission, cancels the registration within 30 days.<sup>81</sup>

### **3.2.8 The participation committee (PC)**

There should be a participation committee (PC)<sup>82</sup> in every establishment having more than 50 ordinarily employed workers.<sup>83</sup> However, there shall be no PC in the establishments having TU.<sup>84</sup> PC is to be constituted by the employer through direct involvement of the workers as per Rules.<sup>85</sup> The PC is composed of representatives of both employers and workers. Number of worker representative in the PC is more than that of the employer representative. Workers representatives

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<sup>80</sup> BLA 2006, section 190[1].

<sup>81</sup> BLA 2006, section 190[2&3].

<sup>82</sup> If any establishment has different sections, there shall be Section Participation Committee too.

<sup>83</sup> BLA 2006, section 205[1] and BLR 2015 sections 183-202.

<sup>84</sup> Added to the BLA 2006, section 205 as sub-section 12 by the Bangladesh Labour (Amendment) Act, 2013 [section 32Ga].

<sup>85</sup> Added to the BLA 2006, section 205[1] by the Bangladesh Labour (Amendment) Act, 2013 [section 53a].

are to appoint through election according to the Rules<sup>86</sup>. The PC may carry out the activities related to the interests of the workers until TU is formed.<sup>87</sup> Officer or members of the participation committee enjoy protection like TU during the tenure of the committee.<sup>88</sup> However, it is significant that the owner or a person empowered by him shall be the chairman and the personnel officer or the welfare officer of the establishment shall be the member-secretary of the PC.<sup>89</sup>

Functions of the PC: As seen in Box 3.3 functions of the PC are similar to the functions of TUs, i.e., maintaining harmonious industrial relations and increase productivity. However, the approach of the PC is different than that of the TUs.

**Box 3.3: Functions of participation committee**

The main function of the participatory committee is to inculcate develop a sense of belonging to the establishment among the workers and employers and aware the workers of their commitments and responsibilities to the establishments -

- 1) to endeavour to promote mutual trust and faith, understanding and co-operation between the employers and the workers;
- 2) to ensure the application of labour laws;
- 3) to foster a sense of discipline and to improve and maintain safety, occupational health and working condition;
- 4) to encourage vocational training, workers' education and family welfare training;
- 5) to adopt measures for improvement of welfare services for the workers and their families; and
- 6) to fulfill production target, increase productivity, reduce production cost, prevent wastage and raise quality of products.

### **3.2.9 Rights to strike**

Right to strike by CBA has been allowed only after certain conditions are fulfilled (Box 3.4). The right to strike for the workers and lockout for the employers are same. In case of strike, The CBA must inform in written the employers of possible dispute between labour and employer. Then with the initiative of the employer, representatives of both parties shall arrange meetings to settle the issue within 15 days. If, within one month of the first meeting or within an extended period agreed by both parties, the parties failed to reach in any settlement, the CBA may request, in written, the conciliator<sup>90</sup> to settle the dispute through conciliation. If the conciliation fails within 30 days or continues for an extended time agreed by both parties, and the parties disagree to refer the dispute

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<sup>86</sup> BLR 2015, sections 187-193.

<sup>87</sup> Section 205[6a], was inserted by section 58(c) of the Bangladesh Labour (Amendment) Act, 2013.

<sup>88</sup> Sections 205[9&10], were substituted for original section 205[9] by section 58(d) of the Bangladesh Labour (Amendment) Act, 2013.

<sup>89</sup> BLR 2018, section 194.

<sup>90</sup> The government, through official Gazette notification, constitutes the conciliator (person and number) for specific area, or establishment or industry (BLA 2006 [4]).

to an Arbitrator, the CBA shall get a certificate of failure from the conciliator within three days (BLA 2006, section 2010). Within 15 days of receipt the failure certificate, a CBA can serve notice to the employer informing the commencement of strike with a space of minimum 7 and maximum

**Box 3.4: Conditions of strike and lockout**

(1) The party which raises any industrial dispute may, within 15 (fifteen) days of receipt of the certificate of failure under section 210 (11), give a notice to the other party, of strike or lockout, as the case may be, in which the date of commencement of such strike or lockout shall be mentioned, which shall not be earlier than seven days and later than 14 (fourteen) days of the date of giving such notice, or the party raising such dispute may make an application to the Labour Court for adjudication of the dispute:

Provided that no collective bargaining agent shall serve any notice of strike, unless 1[two-thirds] of its members give their consent to it through a secret ballot, specially held for that purpose, under the supervision of the Conciliator, in such manner as may be prescribed by rules.

(2) If a strike or lock-out begins, either of the parties to the dispute may make an application to the Labour Court for adjudication of the dispute.

(3) If any strike or lock-out lasts for more than 30 (thirty) days, the Government may, by order in writing, prohibit it: Provided that the Government may, by order in writing, prohibit a strike or lock-out at any time before the expiry of 30 (thirty) days if it is satisfied that the continuance of such strike or lock-out is causing serious hardship to the public life or is prejudicial to the national interest.

(4) In case of any public utility service, the Government may, by order in writing, prohibit a strike or lock-out at any time before or after the commencement of the strike or lock-out.

(5) If the Government prohibits a strike or lock-out under sub-section (3) or (4), it shall forthwith refer the dispute to the Labour Court for settlement.

(6) The Labour Court shall, after giving both the parties to the dispute an opportunity of being heard, make such award as it deems fit as expeditiously as possible but not later than 60 (sixty) days from the date on which the dispute was referred to it :

Provided that the Labour Court may, if it deems necessary, make an interim award on any matter of the dispute:

Provided further that an award shall not be invalid due to delay in making such award.

(7) An award of the Labour Court shall remain in force for such period as may be specified in the award, which shall not be more than 2 (two) years.

(8) The strike or lock-out shall be prohibited in an establishment for a period of 3 (three) years from the date of commencement of production therein, if such establishment is a new one or is owned by foreigners or is established in collaboration with foreigners, but other provisions of this Chapter relating to resolution of any industrial dispute shall apply to such establishments.

14 days with a consent of 51%<sup>91</sup> of the members through secret ballot, specially held for the purpose, under the supervision of the Conciliator.<sup>92</sup>

### 3.3 Compliance with international instruments

It appears that the legal instruments of the country tend to recognize the fundamental rights of the workers to form and to join TUs. Nevertheless, international organisations, like ILO, and local and international labour activist groups mentioned many aspects of BLA 2006 limiting the freedom of association and right to collective bargaining and are not in compliance with international instruments.

The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) continuously monitoring the labour standards of the country regarding its instruments. Regarding the freedom of association and collective bargaining, the CEACR report 2017 noted its observation and expressed deep concern over anti-union violence and anti-union measures. The Committee requested GoB to make the registration simple, objective and transparent so that workers can form TUs without previous authorization; lower the membership requirement for TU registration through meaningful dialogue with social partners; reduce the requirement to establish an agricultural TU from 400 (section 167[4]). CEACR is requesting for many changes in the BLA for several years to ensure conformity with C-87 which were either not or partially addressed.<sup>93</sup> A summary of the sections, subjects, nature of recommendation and actions taken so far regarding these has been presented in Table 3.2.

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<sup>91</sup> Changed from original ‘three-fourths’ in BLA 2006 through section 59 of the Bangladesh Labour (Amendment) Act, 2013.

<sup>92</sup> BLA 2006 (211[1])

<sup>93</sup> Annex 1 provides details of these observation and requests which also includes the recommendations and opinions of SKOP and NCCWE submitted to the Secretary, Ministry Labour & Employment, Government of Bangladesh on 14 July 2019.

**Table 3.2: CEARC recommendations and actions taken**

Sl.	Section	Subject/About	Nature	Action
1	2 [4(e), (h), & (n)]	Inclusion of restricted sectors.	Repeal	Only ‘seamen’ included
2	175	Exclusion of the workers (watch and ward or security staff, fire-fighting staff, and confidential assistant) from special definition.	Deletion	None
3	178 [2(a)(iii)]	ID card of informal sector worker requirement	Clarification	ID/NID/BC
4	179 [1(d)]	Govt. approval for reception fund from national or international source other than members’ subscription	Replacement	Approval replaced by ‘inform’
5	182 [1, 2, 4]	Time limit for DoL to register a TU	Reduction	<ul style="list-style-type: none"> <li>• Certificate from 60 to 55 days</li> <li>• Inform TU about deficient by DoL from 15 to 12 days</li> <li>• Disposal the application from 60 to 55 days</li> </ul>
6	182[7]	Adopt SOP for registration of TU	Add	Added
7	184[2-4]	Restriction and monopoly of TU for civil aviation workers	Repeal	Replaced (Only for affiliation with international organization)
8	185	Restriction and monopoly of TU for seamen	Amendment	None
9	190[1(c)]	Registration by fraud or by misrepresentation of facts	Repeal	Not done. Instead (d) repealed
10	202[22]	Registration cancelation due to obtain <10% vote in CBA representative election	Repeal	Repealed
11	211[8]	Prohibition of strike in new, or foreign ownership or cooperation for three years	Repeal	None

According to ITUC (2019), the government of Bangladesh has failed to observe internationally recognized core labour standards. ITUC mentions that the GoB has failed to take adequate measures to guarantee freedom of association and collective bargaining, freedom from forced or compulsory labour and freedom from discrimination in employment and occupation. It observed that the labour laws create significant obstacles to the exercise of the right to freedom of association and the right to bargain collectively. There are large number of provisions in the BLA 2006 contrary to the ILO Conventions 87 and 98 including restrictions on organising, interference in TU activities, interference in union elections, excessive restrictions on the right to strike, the need to promote collective bargaining above the enterprise level, among many others. Even the BLA amendment in 2018 failed to address most of the concerns related to freedom of association and collective bargaining. The reduction of percentage of worker from 30% to 20% has been highlighted as positive change. However, it is still against the spirit of the Convention 87 (ITUC 2019).

Above discussion reveals that labour laws and other provisions of Bangladesh are not fully in compliance with the international instruments. In general, it is observed that Bangladesh labour laws do not adequately provide for freedom of association, the right to collective bargaining and the right to strike (ITUC 2012, Korn 2017). It requires significant changes in the laws and other provisions to ensure the freedom of association and right to form and to join in TUs.

### 3.4 Facilitative provisions for TU and collective bargaining

The BLA 2006 and subsequent amendments are, in general, likely to improve the well-being of the workers. However, as it appears, the fundamental rights, ‘freedom of association’ and ‘to form and to join in TU’ are far realization due to various reasons like, mandatory registration yet excessive conditions, stringent conditions for operation, anti-union discrimination and violence, too much government control, etc. Despite these, the law and provisions have many facilitative aspects for trade unionism.

*Firstly*, the BLA 2006 recognizes the right to form and to form and join in TUs despite there are provisions for regulation of trade unionism.

*Secondly*, the Act provides private informal sector workers (specified 20 sectors such as motor transport, rickshaw, tailor & garments, tea estate & factory, bidi industry, leather industry, printing press, hotels, agricultural farm, etc. with a provision of including more sectors by the government) to form TU in a group of establishment.<sup>94</sup>

*Thirdly*, scope of establishing federation and confederation.

*Fourthly*, the Act has made provision for CBA office room to be provided by the employers with office equipment and amenities.

*Fifthly*, A CBA can plead any federation of trade unions, of which it is a member, as a party to any proceeding to which it itself is a party.

*Sixthly*, there is scope for appointment of specialists by the CBA if it deems necessary for carrying out collective bargaining activities.

*Sixthly*, a federation of trade unions may act as the CBA in any establishment or group of establishments if any of its federated unions in that establishment authorizes it to act as the CBA in that establishment.

### 3.5 Obstructive provisions

It is evident from the ‘compliance with international instruments’ section that the labour laws and provisions of Bangladesh is, in general, not fully conducive for trade unionism. More specifically,

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<sup>94</sup> BLA 2006, section 183.

the following aspects of the labour laws and provisions can be identified as obstructive to trade unionism:

3.5.1. The BLA 2006 excludes millions of workers from fundamental right of ‘freedom of association’: Several categories of workers are excluded from the scope of application of the Bangladesh Labour Act, 2006. That is, these workers are deprived of the fundamental right ‘freedom of association and the right to organize’. These are: government security printing press; ordnance factories; establishments for the treatment or care of the sick, infirm, aged, destitute, mentally disabled, orphans, abandoned children, widow or deserted women, which are not run for profit or gains; shops or stalls in public exhibitions or show which deal in retail trade; shops or stalls in any public fair for religious or charitable purposes; educational, training and research institutions not maintained for profits or gains; hostels, messes, hospitals, clinics and diagnostic centers not maintained for profits or gains; agricultural farms with less than five workers are normally employed; domestic servants; and establishments run by the owner with the aid of members of his family. Moreover, administrative, supervisory officers or managerial employees are excluded within the definition of workers and thereby they are not included within trade unionism. Besides, a member of the watch and ward or security staff, fire-fighting staff and confidential assistant of any establishment are not allowed to join in TU as they are not included in the definition of workers (for the purpose of TU).<sup>95</sup> The EPZs are also excluded from the BLA 2006 denying the workers from these rights. Thus, 360,000 workers in Bangladesh’s export processing zones will remain excluded from protection under the labour law, instead relegated to a separate law that prohibits workers from forming a union.”<sup>96</sup>

3.5.2. Different law and provisions for workers of different sectors: The separate law and provisions for workers of different sectors of the same country is discriminating as well as limiting the trade unionism. Some discriminatory laws and provisions are:

- Separate law for EPZ/SEZ.
- TU leadership provision in government and private sector and group of establishments is different.
- As stated, a significant proportion of the workers have excluded from the law. Moreover, workers of informal sector are not covered by law.
- The membership requirement is different for different sector, i.e., 20% for industry, 30% for group of establishments and 400 for agriculture sector.
- Temporary workers are not eligible for TU leadership.

Korn (2017) noted that TUs demand for one law for all worker, which would apply for workers of all sectors and all over the country.

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<sup>95</sup> BLA, Section 175

<sup>96</sup> <http://www.industrial-union.org/bangladeshi-unions-reject-inadequate-labour-law-changes>. Last accessed 07.02.2020 11:30



3.5.3. TU in group of establishments subject to many conditions: TU in informal sector can form TU in group of establishments. However, conditions set for such TU formations are vague, stringent, and discriminatory:

- Definition of group of establishments is vague.
- Membership requirement is 30% compared to 20% in industrial sector.
- One-fourth of the TU officials may be from outside.

3.5.4. Imposition of membership requirements: Minimum membership requirement to get registration of a TU in a factory has been reduced from 30% to 20% of the total workers in the industrial sector. One can imagine how difficult it is. In a factory with 5000 workers, 1000 membership is required to form a TU. But is there any establishment in Bangladesh with the facility (venue & other) for organizing a general meeting with 1000 members? Although the reduction of percentage of worker from 30% to 20% has been highlighted as positive change by many, it is still against the spirit of the ILO Convention 87.

Moreover, the minimum membership requirement for group of establishments has remained 30% and for the agricultural workers 400. This is also discriminatory.

3.5.5. Limiting the number of unions: Three (3) unions are allowed in an establishment or group of establishments. This is, again, limiting the fundamental right of ‘freedom of association’. Again, for Mongla and Chittagong Ports, only a single TU is allowed. Similarly, only one TU is allowed for seamen, civil aviation worker, etc. These are discriminatory too.

3.5.6. Only permanent workers are allowed in executive committee of TU: BLR rule 169(4) says that only a person employed as a permanent worker is eligible to become a member of the TU executive committee that gives the authorities an excuse to “verify” the nature of the employment contract and can be cited as ground to reject union application.

3.5.7. Length of work is required for membership of TU: No worker or employee shall be a member of a TU unless s/he has been employed for a continuous period of more than 1 (one) year in any port user, berth operator, ship handling operator and other establishments related to the port.

3.5.8. No provisions to create a congenial relation between workers and employers: TUs in Bangladesh often labelled as anti-productivity and anti-employer. Thus, the relation between TUs and employers has always been conflicting. In fact, employers fear TUs as threatening the existence of their establishments. However, in the modern era, workers and employers are complementing forces for the interest of any establishment. This is also focus of industrial relations too. Thus, it is necessary to include provisions in the labour laws that would foster the complementary relation between workers and employers.

3.5.9. Penalty for activities of unregistered trade unions: If any person takes part in, or encourages or instigates any other person to take part in the activities, other than activities relating to registration, of an unregistered TU or of a TU whose registration has been cancelled, or collects

subscription, except membership subscription, for the fund of any such TU, he shall be punished with imprisonment for a term of up to 6 (six) months or with fine up to BDT 2,000/- or with both. All workers of establishment may not join to any TU. However, they may like to take part in movement for legitimate workers' rights or contribute to TU activities.

3.5.10. Excessive conditions for registration: The registration procedure is complex and burdened with excessive preconditions or previous authorization. Instead of streamlining registration procedures, the BLR 2015 makes the registration procedure more burdensome. For example, rule 169(4) says that only a person employed as a “permanent worker” is eligible to become a member of the union’s executive committee. Similarly, the definition of “supervising officer” is vague enough to be arbitrarily used by authorities to disqualify certain garment workers from eligibility to join, form, or remain part of union leadership.

Rule 168 states that unions must register in accordance with “Forms,” which require workers identified as members to produce their union membership certificate and provide their national identity numbers. In practice, that may be difficult because workers seldom retain with them the union membership certificates that are in the form of receipts. Before the rules were introduced, workers were simply allowed to state their names and worker identification numbers issued by the factory. Government authorities have been rejecting union registration applications that lack worker receipts and national identification numbers.

The labor authorities conduct “inspection” to “verify” the details in union applications. The authorities often interview workers seeking to form a union in the presence of factory management, even when the factory is engaging in anti-union activities, thus exposing the workers to retaliation.

3.5.11. Prohibition of strike: Strike is a means for realizing the demands of the workers. The BLA and other provisions have imposed so many difficult conditions and severe penalties that it has become virtually impossible. For example, strike is prohibited in a new factory for three years or owned by foreigner or joint venture with foreigner. Provision for support of 51% of the members is also difficult to implement.

3.5.12. Registration cancellation: Yet there is provision for cancellation of registration with so many reasons including the membership fall short of requirement limiting the free exercise of trade unionism.

3.5.13. Too much government control: It is evident that trade unionism in Bangladesh is subject to heavily controlled by the government. The Laws and provisions appear to facilitate that control. The corrupt government officials, government politics (through affiliated TU) and nexus between government officers, government and employers have made trade unionism difficult.

3.5.14. Move to replace TU or Undermine TU activities: It appears that there are initiatives to find out alternatives for TU or undermine TU activities with other non-TU organisations. The following provisions are examples of such initiatives:

*Participation committee (PC):* The provision of PC as an alternative to TU appears is an act of discouraging the formation of TU. However, it is evident that any other organization cannot play the role of TU effectively. The PC, in particular, cannot play the role of TU as the president of this committee is the labour representative nominated by the employer.

*Worker welfare association (WWA) in the EPZ:* The separate law for EPZ itself limits the trade unionism for vast majority of the workers. Moreover, the provision for WWA instead of TU, actually, prohibits formation of TU and hence against the spirit of ‘freedom of association and right to organize’.

### 3.5.15. Requirements leading to resource (financial, human, etc.) burden limiting trade unionism:

*Maintaining register (BLR 168[1]):* Maintenance of different register for the TUs, is good move. However, it is a huge task as there would be thousands of members in a TU according to the requirement of the Labour law. Thus, it requires considerable time and resources, may be full-time human resource. The funds of the TUs build up with the subscription of the workers receiving world’s lowest wage (about \$93 per month) in Bangladesh. Understandably, the capability of the TUs to maintain rigorous registers is limited. It could have been simple as much as possible and left over with the TU itself.

*Return to be audited by chartered accountant (BLR 175):* Yearly return for submission to the labour office requires to be audited by a chartered accountant. This incurs a considerable amount of money which is difficult to manage from the fund created through the subscription of the impoverished workers and appears unnecessary.

*Fees of application for registration (BLR 173):* TUs, TU federations and confederations are non-profit organisations. Preparation of application and fulfill the requirements for registration incur substantial costs. Yet there are fees for submission of application (TU 500/-, Federation within industry 1000/-, national Federation 3000/-, national Confederation 5000/-).

*Advertisement(BLR 168[3]):* Group of establishments require to publish advertisement from their own cost. This also incur cost and seems unnecessary.

## Chapter Four

### Trade Union Rights in Practice — Opportunities and Challenges

Rights to form and join in trade unions is a fundamental right of the workers, which is also incorporated in the labour laws of Bangladesh. However, in practice, everything does not happen as expected. This chapter of the report examines the extent of labour right provided in the labour laws and how it is being exercised. More specifically, whether TUs can exercise the rights given in the laws in reality. Related documents, consultation workshop with the stakeholders, FGD and KIIs were used to collect data in this regard.

#### 4.1 Trade Unions in Bangladesh

Despite there were hurdles, trade union (TU) formation and practice in Bangladesh has been universal throughout the history of organized work, both in government and private sectors. The purpose of TU is to serve the interests of the workers. To do so, their role has been concentrated on bargaining with the employers to realize the interests of the workers. In present Bangladesh, TUs are recognized, regulated, and operated by the provisions of ‘BLA 2006, its amendments’ and subsequent ‘Labour Rules 2015’, and ‘Standard Operating Procedures (SOP) for the Registration of Trade Unions 2017’. Till date, according to the data provided in the Department of Labour (DoL) website<sup>97</sup>, the state of TU registration and related facets are presented in Table 4.1. During the period 27.03.1972 to 09.02.2019, department of labour (DoL) received a total of 8,865 TUs applications for registration. Of which 8,038 (90.6%) got registration and rest 9.4% rejected. There was a total of 2,701,871 members in the 8,034 registered TUs; an average of 837. Beyond these registered TUs, there are 1,613 participatory committees in different factories, i.e., with no TUs. If we consider number of applications for TU and number of participatory committees as total establishments sought, 15.4% are having participatory committee instead of TU. There was only 60 CBA elections and 143 reported anti-TU discrimination so far. The DoL provided registration to 186 sector wise federations and 32 national federations. In the 186 sector wise federations there are 1,589 TUs (average 9) and in the 32 national federations, there are 1,546 TUs, average 48 per national federation (Table 4.2).

**Table-4.1: State of TU registration in Bangladesh**

Application			Cases	Arbitration	CBA election	Anti-TU discrimination	Participatory committee
Received	Registered	Rejected					
8,865	8034 (90.6%)	831 (9.4%)	388	93	60	143	1613

*Source:* Department of Labour website (<http://www.dol.gov.bd/>)

<sup>97</sup> <http://www.dol.gov.bd/>

**Table-4.2: State of Federation in Bangladesh**

Number	Sector wise federation		National Federation		National Confederation
	Number	Average	Number	Average	
Federation	186	-	32	-	0
Number of unions	1589	9	1546	48	-

*Source:* Department of Labour website (<http://www.dol.gov.bd/>)

## 4.2 Facilitative conditions for TU rights practice

The changing legal and policy environment has created wider opportunities for the trade unions to carryout activities at workplace. Besides, the international cooperation and multi-stakeholder initiatives have been instrumental to the unions to work in a comparatively better environment/condition, though not fully conducive yet.

### 4.2.1 Changed national legal and policy environment

With a view to ensure a legal environment favourable for promoting and protecting rights of all workers, the existing labour act (BLA 2006) has been amended several times (2009, 2010, 2013, and 2018) to make it more compliant with international labour standards. The latest amendment, in 2018, brought some significant changes relating to freedom of association and collective bargaining. Previous chapter highlighted details of the facilitative legal provisions of TU rights practices which were the outcomes of BLA 2006 and its subsequent amendments. Along with amendments of BLA, the Labour Rules (2015) has been issued. Formation and activities of safety committee, contribution to worker welfare fund, and provision on festival bonus have been clarified in the rules along with many others. All these have increased greater opportunities for the unions to perform their role.

Not only the legal environment but also the policy commitments and policy focus have been changed over time that may foster the formation and practice of trade unions in the country. The latest labour policy (National Labour Policy 2012) is committed to ensure workers' rights to organize and collective bargaining. Adoption of initiatives to implement the ILO declaration on Fundamental Principles and Rights at Work (where freedom of association and collective bargaining is one of the fundamental principles) is an important policy declaration. Besides, one of the objectives of the present labour policy is to establish decent work, of which TU rights is an inseparable part, in both formal and informal sector work.

More specifically, the policy recognizes that practice of healthy and responsible TU has significant role to bring peace and stability in industry, protect the legal rights of the workers, as well as establish social justice. In this regard government is committed to encourage activities of trade unions following the constitution, labour law and others international standards. The labour policy further declares that government will uphold the principles of tripartite spirit to formulate labour related law and its amendment, and to framing labour policy.

### **4.2.2 Multi-stakeholder and bilateral cooperation**

The scope of work for TUs have expanded not only for the national level law and policy provisions but also due to various initiatives involving multi-stakeholder where The Sustainability Compact, the Accord on Fire and Building Safety in Bangladesh” and the “Alliance for Bangladesh Worker Safety” are worth mentioning.

With the assistance of ILO, Tripartite National Plan of Action was adopted to improve working condition in the RMG Sector. Along with ensuring building and fire safety, strengthening inspection, and rehabilitation of the disabled and injured persons, the Plan also incorporated occupational health and safety related training.

Bilateral relations also played important role in this regard. Germany provided support to establish a legal framework on National Employment Injury Insurance System in Bangladesh. Denmark supported to improve working environment, focusing on Occupational Safety and Health (OSH) in the RMG sector. While Sweden extended cooperation for developing and launching a project entitled “Promoting Social Dialogue and Harmonious Industrial Relations in Bangladesh Ready-Made Garments Industry”.

### **4.3 Obstructive conditions for TU rights practice**

Practice of TU rights is affected by different ways and at different stages — formation of TU, registration/approval stage, and post-approval period. Following section has focused and analyzed the unfavorable conditions that TUs usually go through at these phases.

#### **4.3.1 Before submitting registration application**

Existing labour law of the country requires a TU to be registered. Activities of unregistered unions are not allowed. Generally, a union is needed to be formed, and constitution to be adopted before submission of application. However, formation of union, application preparation and submission for registration by plant level unions are not easy processes. The issues/factors that affect the pre-registration process are multifarious — various from individual worker’s knowledge/attitude to legal constraints.

**4.3.1.1. Recruitment of workers/members in union:** The first challenge is to attract workers to the unions. Workers’ individual knowledge and attitude, social-economic and political context, workplace environment all are the contributing obstructive factors in this regard.

*Firstly*, workers’ lack of awareness on TU and its role and functions. Many ordinary workers do not realize the necessities of TU.

*Secondly*, the fear among workers regarding the possibility of job loss or other repressive measures due to their involvement with unions is very high. As there is always a of fear of job loss due to any sorts of involvement with TU general workers, many workers are not interested to join TUs

despite they understand about role of promoting and protecting the interests of the workers. For example: eighty rural electrification workers were sacked for trying to form a TU.<sup>98</sup> There are abundance of such example which have been presented in different sections of this report.

*Thirdly*, Absence of dedicated and skilled organizer due to ban on outsider's involvement limits organizing TU. Traditionally, relatively unaware, and less-educated workers of Bangladesh were mobilized to join unions by the educated trade unionists from outside. Since outsiders are not allowed to join unions, and factory management does not allow these organizers, recruiting members to unions has become more difficult than before.

“In Bangladesh context, workers do not form TUs spontaneously. Workers demonstrate their spontaneous desire and join movements spontaneously, but no union has been formed automatically. Unions have always been formed as the outcome of some concerted efforts and conscious initiatives. What we have found in our tradition is that a group of people endeavoured and tried to organize workers — starting from filling forms, taking thumb impression of the workers who did not know to sign, preparing documents, organizing meetings, submitting application for registration and so on. All these are done by dedicated and experienced outsiders as workers unable to perform those required activities (KII).”

*Fourthly*, Due to lack of faith on TU leaders, nowadays, many workers do not want to join unions. Often some union leaders are found maintaining unethical liaison with factory management and not protecting the interests of the workers (FGD). Ahmed and Chowdhury (2019) reported that the opportunistic and self-seeking behavior of few leaders has produced a negative image of the TUs among the workers. This has made the workers less interested to join in the unions.

4.3.1.2. Practice of outsourcing: Increasing trend of recruitment through outsourcing, both in public and private sectors, is one of the emerging challenges to attract members and form union. Through this practice employees are mostly recruited on contractual basis and does not enjoy the status of regular or permanent employee (Consultation Workshop). On the other hand, the existing legal provision stipulates that only permanent employees are eligible to be elected as member of executive committee of a union.

4.3.1.3. Drawing constitution: It is a legal requirement that the registration application of a union must be accompanied with constitution of the union [BLA, sec 178(2-B)] along with other documents. However, TUs face difficulties for both drafting the constitution and adopting it. Drafting a constitution requires special skills and knowledge. But workers generally do not have required educational background to serve the purpose. Bangladesh Labour Force Survey shows that 31.85% of total employed population (aged 15 or older) have no formal education; 25% have primary education, and 30.75% have secondary level education. Based on the educational attainment of the workers it is easily understandable that our workers at plant level are not adept

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<sup>98</sup> <https://survey.ituc-csi.org/Multiple-violations-of-trade-union.html>

enough to draft a constitution. As obvious alternative, plant level unions require to seek external support, mainly from TU Federation even often from a lawyer, for preparing their constitution.

After drafting the constitution its adoption is also not an easy-going process. It requires general meeting to adopt the constitution. However, the place of meeting is not available in most establishments. A key informant (labour law expert) highlights that—“*Unions face difficulties to hire spacious venue and holding (two) general meetings with participation of 20% of the total workers prior to submitting application for registrations*”. Moreover, renting a meeting place involves cost burden on workers who are mostly underprivileged economically. Besides, to arrange meeting of a big crowd requires prior approval from the local Police authority. Nevertheless, getting approval from police is not an easy process and subject to consideration of many factors. A labour leader and a representative of DoL, who were participants in a consultation workshop of this study, explains the challenges in following ways:

“The law regarding TU formation is very complex. Specially, the law is designed such a way that no TU will get the registration satisfying all the legal requirements. It is not realistic that a basic union will organize a meeting with 1000 workers for example. Even there is no such hall room to organize such a populous meeting and a basic union is not supposed to have such financial capacity to spend a lot of money. It is neither possible to arrange a meeting in an open place as it requires permission from the local administration which is also difficult to get in the present socio-political context. With these harsh realities, unions compel to hire a community center or like on rent for organizing a general meeting which is not viable due to financial incapacity of a TU.”

4.3.1.4. Application preparation: In order to comply with legal requirements, the process of preparation of registration application turns into a complex process of documentation. It is burdensome for a plant level union to produce so many documents (as required by legal instruments) to be submitted along with the application for registration. Existing process of application preparation is complex and cumbersome considering the educational level and organizing skills of the workers of Bangladesh. During the discussions in FGDs and consultation workshops it has been overwhelmingly argued that it is not possible for the general workers to maintain all the complex legal procedures. Plant level unions are not able to prepare an application by their own. Therefore, TU Federations come forward to start the procedure of forming a union which involves many challenges and requires considerable labour and time including expenses.

“The process of attracting workers to union is not easy. It involves investment of time and money. Often it takes about one year to prepare an application to be submitted for registration. We cannot talk to the workers at the factory premises. Still we do our organizing activities like a banned political party. We work in such a way that till the submission of application for registration, employers cannot know about it— says an official of a TU federation in the garment sector.”



Another difficulty TU organizers face at the time of application preparation is that scarcity of identity card of the workers. Problems are diverse in this regard, many workers lack identity cards, and National Identity Card (NID), some have cards with incorrect information, some may have lost it, and so on. The issue of NID has been explained by a TU leader as: “NIDs of the workers member of a TU are required during registration of the TU which should be changed and the factory ID card must be allowed in case of application for new TU registration. Many of the workers do not have NID and some of them have NID with wrong information which need correction as they do not like to use that wrong information. Moreover, some of them are skeptical about putting NID information considering the information as personal”.

4.3.1.5. Hard and complex legal demand often leads union organizers to adopt malpractice: As an obvious outcome of too much requirements and complex procedure (some cases impossible), and usual bureaucratic hurdles emerges out of these, union organisers often adopt malpractice to fulfill the requirements and get union registration. A union leader states in the consultation workshop: *“Often we are submitting TU application with false information of the membership number and the meeting and government officials are registering them though they are informed about false information. Even though the number of union got registration is low.”*

4.3.1.6. Online application submission: Although online registration process has started, it brings little impact and unable to reduce the burden of application process. The requirements of document to be submitted have remained same as paper-based application requires. Further, there is also instruction to preserve printed copy of all documents. Therefore, to some extent, it has become a double burden to the unions. Moreover, the fear among workers regarding leakage of information from the online application has increased (FGD with plant level union leaders).

### ***4.3.2 In between registration application and approval***

After submission of application the TU/unions usually go through different types of experiences coming mainly from DoL and employers’ end. There is wide allegation that the approval process of TU registration is not transparent always. The recent introduction of SoP and online registration system have not been able to make a big difference. A key informant describes-

“Right after applying for the union, sufferings of the workers start. DoL inspects the form for approval. According to the inspection DoL prepare a report and process it. DoL sometimes delay their assessment which causes complexity for the workers. Some DoL officials take bribe from both workers and employers. DoL sometimes help employer by approving fake TU prepared by the employer.”

An unholy nexus between employers and some corrupt government officials influence the registration process largely. There is widespread allegation that some official of DoL pass the information to the employers immediately after registration application submission. Important to note, information is passed not only to the employers, but often also to other TU federations (Consultation Workshop, FGDs, and KII).

Taking the advantage of the legal provision<sup>99</sup> often efforts are seen from DoL to create some unusual barriers demanding addition documents for approval of registration application (Box 4.1).

**Box 4.1: “No objection letter” was required for Rickshaw-pullers union**

When a union of rickshaw-pullers in Barisal applied for registration, they were told to submit ‘*no objection letter*’ from the public representatives (MP, Upazila Chairman, City Corporation Chairman) of that area for each of the members. It was really difficult for the rickshaw pullers to collect such letter. Organizer approached to MP and City Corporation Chairman for issuing such letter but both of them refused to provide that. Afterwards, the organizers were somehow able to get the ‘no objection letter’ issued by a female MP. Demanding such letter is a deliberate effort to prevent union of the workers (KII).

Employers react in varieties of ways when they get the information of TU application. Their strategies to deal with the condition includes both soft techniques like discouraging the workers engaged in organizing union through discussion; and hard/coercive techniques including physical harassment using the local *mastans*, powerful, etc. (Box 4.2).

**Box 4.2: Attack of local *mastans* on TU organizer**

In a factory in Gazipur, Arif, a TU organizer, was trying to form a union and collected 1200 members from more than 2000 workers. When he first started his work, the authority warned him softly. They said, “Arif, don’t go this way. We will look after your necessities and provide you all the facilities you need, but do not organize a union. If you do, we will close the factory. If you want to stay in Dhaka or Gazipur, do not do this”. But Arif continued his work. So, one day when he was coming back from office, 4-5 *mastans* captured him and started beating him harshly. His co-workers and colleagues took him to hospital. After receiving primary treatment, he returned to home. Two days after that incident, he went to the factory and again started work to form union. Authority again warned him— “you have been tortured once, why are you doing the same now?” Arif replied, “Sir, I am not doing any injustice or oppression to anyone. Rather, you are doing injustice to me”. One day (July 2017), some people, by calling him from his home, took him to a secluded place in Gazipur Chourasta and beat him mercilessly injuring him from head to toe and he had to hospitalized for 7-8 days (FGD with plant level union leaders..

Often employers provoke TU leaders and officials of DoL to adopt unethical practices. They offer bribe to both parties to stop the registration process. A Key Informant states that there are some instances where application for new TU formation has been withdrawn after bribing by the owner of the factory. Furthermore, employers offer illegal/discriminatory benefits for union leaders to keep refrain them from organizing TU. Participants of an FGD informed that after union formation

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<sup>99</sup> Article 182 of labour law mentions about approval ‘subject to satisfaction’ of Registrar of Trade Union for registration.

wage of the two top officials was increased by the factory management. If employers cannot convince union leaders, they start harassment in a different way (Box 4.3).

**Box 4.3: Undue privilege or harassing the TU organizers by the management**

In Mirpur area, workers of a factory submitted registration application for their TU with the help of a federation. Factory management asked the president and secretary and told them: “You get high salary and other benefits regularly. What is the need to do these union activities?” Management offered the president undue privileges and monetary benefits and told to leave the post of president. He received the money and left the job. After that, he never communicated with the federation. However, the management failed to convince the secretary in that way. So, he was transferred from Mirpur to Ashulia, Savar (FGD).

Employers often force to change top officials of the union. A federation leader expressed her experience as below:

“In a factory, I submitted a union for registration several times, but all every time leaders of the union were expelled/discharged from job. Finally, I talked to the authority and they asked me to select the president and secretary of the union according to their choice. I formed union in that factory accepting their proposal. However, these leaders are not getting scope to take part in union activities. Without the permission of the employers they cannot even talk to me. This is how employers are obstructing the function of TUs (FGD).”

Some more common allegations about TU registration process came out through consultation workshops and FGDs are:

- Allegations that worker signatures on union membership forms did not match with those in salary/wage sheets, although formatting, space, and other considerations were probably not taken into account.
- A requirement that local police verify that the workers had met and elected the union on the date cited in the application.
- Rejection of the application without giving the union members opportunity of being heard about deficiency.
- Management refusal to allow labor officials access to the factory to “investigate” applications, even though unions met registration requirements.
- The trends of the RTUs to consider as standard the documents like wage-sheet, workers ID, total number of workers of the factory and other material information supplied by factory.
- Collection of material information from the factory following submission of application make the owners aware of the workers attempt to registration and opportunity to resort to preemptive actions to defeat registration.

Finally, it could be said that, at the stage of registration, due to interplay of different factors (e.g. employers’ influence, alleged faulty application) many unions fail to get registration. Information of Solidarity Centre shows that in between 2010-2018 government rejected 46 percent of

registration application for reasons like lack of a union members' ID or other employer-provided documents (which is not required by the law), or because the factory ID number does not match with factory records (even though it is up to management to provide correct ID numbers), etc.<sup>100</sup>

#### ***4.3.3 Problems of TU rights practice after registration/approval***

**4.3.3.1. It is difficult/challenge to recruit new members:** Increasing the number of union members is important since it is one of the quantitative indicators of union effectiveness (Frege 2002). However, TUs in Bangladesh are facing challenges to increase their member. A study on newly formed TU in the RMG sector shows that generally unions have not been able to recruit more workers after their registration. To fulfill the legal bindings all the unions showed one-third membership of all workers of their respective factory. However, unions generally have not been able to increase the membership since its formation period. Even the startling feature is that some unions have less members than they showed during registration (Hossain and Ahmed, 2017). The fear of job loss among workers caused reduction of number of members even after the TU got registration. TU leaders explains the situation as “*Many workers do not join union as they think employer will fire them from job. Many even scared to talk to union representatives at workplace*”.

**4.3.3.2. Unfavorable workplace structure:** Strong and favourable workplace structures are needed for effective practice of TU rights where regular contact between union representatives and members; a balance of power in the workplace where the union is seen as having enough power to make difference to employer's decisions; and employer support for the union role are key elements. From the discussions of consultation workshops and FGDs in this study it has been found that workplaces lack a structure where union representatives can frequently contact the members. Hossain and Ahmed (2017) quoted TU leader as “we are still facing difficulties to communicate the members at workplace. Both job nature and employers' attitude are creating obstacles. We generally meet the worker members at the community, often at their residence.

Struggle of the unions with the asymmetric power relations at workplace is also remarkable. Employers have close ties with politically influential persons, police, and local administration and even with local *mastans*. They use these powers to prevent union activities at workplace (FGD and KII). This power imbalance very often leads to anti-union discrimination against the union leaders and committee members.

**4.3.3.3. Difficulties in operation of union:** TUs face multiple challenges and difficulties to carry out its operational activities. It becomes difficult for them to maintain an office and meets expenses due to resource constraints. There are extreme scarcities of payee members in most TUs. A TU becomes more vibrant when its members pay their contribution regularly. Basic/plant level unions are generally characterized by low proportion of payee/contributing members. Alternatively, it is the union leaders (committee members) who spent money to meet the day-to-day expenses and for

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<sup>100</sup> <https://www.solidaritycenter.org/bangladesh-garment-workers-new-blocks-to-form-unions/>

special purposes (like day observance) they need to contribute more amount. Often, they try to collect money through donations (FGD with construction sector leaders). Since the financial burden of a TU is met mostly by its leaders, it creates a scope for them to establish more control over the TU. Difficulties in return submission is a common character. On the other hand, the legal requirement has made the process burdensome also as it requires that yearly return to be audited by a chartered accountant.

4.3.3.4. Difficulties in holding elections: TU participants in a consultation workshop of this study mentioned that by law only subscription payee members can vote. Since TUs severely lack payee members it is not possible to hold election. Besides, there are other barriers also — unions face difficulties to arrange venue for election; need to take permission from local authority. Moreover, the election even not always free from employers’ interference. The incidence at Berger Paint is an illustration in this regard (Box 4.4):

**Box 4.4: Employer’s interference in union election**

Berger Paints sacked the general secretary of the Berger Paints Employees’ Union just before he was due to be re-elected for a third consecutive term. The company then pressured the remaining workers to hold a union election shortly afterwards. IndustriALL reported that the result of the election was “heavily influenced by the clearly illustrated risk of being sacked for raising a strong voice in defense of workers”.

(Source: <https://survey.ituc-csi.org/Employer-interference-with-trade.html>)

4.3.3.5. Availability of CBA and right to strike: Data from DoL shows that 8034 TUs are registered; and total of 60 CBA elections held. In 2018-19, DoL arranged only six (06) CBA elections, whereas during the same period 302 TUs got registration.<sup>101</sup> Therefore, it is easily understandable that a very tiny portion of TUs can call a legitimate strike. In one hand workplaces lack CBAs, and in the other hand the legal procedure of strike is complex, dilatory, and cumbersome also. Therefore, calling strike following legal procedure has become next to impossible for the TUs in Bangladesh.

4.3.3.6. Very few unions submit charter of demands (CoD): Although there are over 8,000 unions in different sector, examples of submitting ‘charter of demand’ to employers are not that much available. It is really difficult to get the actual information due to lack of readily accessible data. Even the TU leaders are not up to date about the number of charter of demands submitted (Consultation Workshop). Data of Solidarity Center showed that for the period 2013-2017 TUs in RMG sector submitted several (more than fifty) charter of demand and signed more than forty collective bargaining agreements. For the same period more than 400 TUs got registration. From that data, it is evident that less than 10% Of TUs of RMG sector at that period could sign collective

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<sup>101</sup> <https://dol.portal.gov.bd/site/page/83693dac-41ef-4655-b90e-89023dd5d13e>

bargaining agreement (Solidarity Centre 2017). Absence of CBAs in most workplaces is one of the main reasons of very few numbers of charters of demand and collective bargaining agreement. It is also evident that at the plant level, TU representatives do not have clear understanding about carter of demand and collective bargaining agreement (Consolation workshop and FGD).

4.3.3.7. Firing of workers is still common: Scope to strike is very limited not only due to stringent legal provisions but also because most workplaces lack unions and CBAs. Consequently, workers often participate in mass protests and demonstrations spontaneously ultimately results in firing of workers. It is reported that, due to participation in wage related protest in December 2016, in Ashulia (a hub of RMG factories near Dhaka), garment manufactures immediately sacked some 1,600 workers.<sup>102</sup> Again, 750 garment workers were immediately sacked when they participated wage related strikes in December 2018 and January 2019, and by the February 2019, over 11,600 workers had lost their jobs.<sup>103</sup>

4.3.3.8. Police interference (harassment/case): Activities of the TUs are often impeded by interventions of the law enforcing agencies by means of harassments, intimidation, threat, arrest and filing cases against workers and TU leaders. Such incidences become widespread during mass labour movements in the country. Even there are instances that police shut union offices and put bar to carryout TUs' regular activities including workers' training. The wage related protests of RMG workers in Ashulia in December 2016 saw arrest of many garment workers and union leaders; ransacking and vandalizing of union offices and documents.<sup>104</sup> Many unions could not open their offices more than two months. Due to the strike of RMG workers over wage issue in December 2018 and January 2019 many workers faced criminal charges after employers and the police filed cases against over 3,000 unidentified workers and about 70 workers were arrested.<sup>105</sup>

Interference of law enforcing agencies and management authorities has been intensified recently through a new way. Levelled-up surveillance by a newly formed unit under the Department of National Security (NSI) to monitor activities of TU federations have been reported, and since September 2019, the offices and staff of the federations, their affiliates and partner organisations have been visited by officers of the new unit, industrial police and local administration to inspect their activities, members' participation, as well as their budget and pending labour cases.<sup>106</sup>

The above discussion of TU rights practice clearly reveals that anti-union discrimination prevails commonly in Bangladesh. DoL website provides an estimation of 143 anti-union discrimination cases. Taking into consideration the prevailing condition, the CEACR of ILO expressed deep concern over anti-union violence and anti-union retaliation (arrest, detention, surveillance, violence, false criminal charges, and intimidation, threats, physical assault, and other coercive

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<sup>102</sup> <https://survey.ituc-csi.org/Further-intimidation-and-arrests.html>

<sup>103</sup> <https://survey.ituc-csi.org/RMG-workers-face-further.html>

<sup>104</sup> <https://survey.ituc-csi.org/Further-intimidation-and-arrests.html>

<sup>105</sup> <https://survey.ituc-csi.org/RMG-workers-face-further.html>

<sup>106</sup> <https://survey.ituc-csi.org/Multiple-violations-of-trade-union.html>

measures) and emphasizes that a truly free and independent TU movement can only develop in a climate free from violence, pressure and threats of any kind against the leaders and members of such organizations (ILO 2018).<sup>107</sup>

#### 4.4 Participation in decision making: opportunities, issues, and weaknesses

TUs are important part in workplace related decision-making. Usually, TUs play this role as making these decisions involving all workers is not feasible. Leaders of the TU/CBA, as representative of the workers, talk/bargain with the owners in need which makes the process convenient. However, despite there are scopes in the labour laws for participation of the TUs in workplace decision-making, it is not clear how far it is being exercised. This section of the report has examined the actual role of the TUs/workers play in workplace decision-making.

##### 4.4.1 Opportunities to participate in workplace-related decision making

Several councils, board, forum, and taskforces are available under different Ministries in the country that mainly work for improvement of workplace situation and harmonious industrial relations. These bodies formulate and develop workplace related policies and plans. Along with government and employers, representatives of the workers also have the scope of participation in these bodies in order to contribute to decisions affecting the workplace. The existing bodies where TU/workers are provided with the opportunity to participate in workplace-related decision-making process are presented below.

4.4.1.1. Scope under Ministry of Labour and Employment (MOLE): MoLE provides the most available opportunities for TUs to take part in decision making at workplace. Various councils and committees are functioning under MoLE where TU representatives participate.

*Tripartite Consultative Council (TCC):* TCC is a 60-member body incorporating equal representation from government, worker, and employer (20 members from each). The institution hosts discussions on various issues such as formulation of labour policies, amendments of labour laws, adoption of ILO Conventions and recommendations by the government, among others. TCC examines the texts of ILO conventions and recommendations as well as existing laws and practices prevailing in Bangladesh and recommend the government the ratifications of Conventions (Hossain and Akter 2016). In recent years, the institution has contributed to the amendments of the Labour Law 2006 (Amendment in 2010, 2013, and 2018) along with various policies, e.g. the National Labour Policy 2012.

*Minimum Wage Board (MWB):* MWB, the statutory wage-fixing government machinery established under BLA 2006, sets the minimum wage for private sector workers. The Board consisted of six members — a chairman, one independent member, two employer representatives (one permanent and the other representing the specific sector), and two worker representatives

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<sup>107</sup> [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100\\_COMMENT\\_ID:3343756](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID:3343756).  
Last accessed 07.02.2020 23:55.

(one permanent and the other representing the specific sector). Along recommending wage for a particular industry, MWB receives complaints/comments on recommended wage rate; reviews the recommendations; and adjusts the wage of different sectors periodically.

*National Industrial Health and Safety Council:* It is comprised of 22 members including one Chairman and seven members each from government, workers, and employer's organization.

*Bangladesh Labour Welfare Foundation:* The twenty (20) member-foundation is comprised of one Chairman, one Vice-Chairman, one DG, five representatives of the workers and five representatives from employers, seven government officials from different ministries.

*National Child Labour Welfare Council:* The objective of this council is to coordinate and monitor elimination of hazardous and worst form of child labour from Bangladesh. The council is represented by concerned Ministries/Departments, Employers and Workers organizations, non-government organizations, international organizations, lawyers, and experts.

*Crisis Management Committee (CMC):* CMC constituted with one chairman and three members each from government, workers, and employers. CMC mainly acts to prevent labour unrest and instability in RMG sector. CMC resolves problems of this sector, when any dispute arises, through discussion with employers, workers, and workers' representatives. There are eight (8) regional crisis management committees, along with central CMC.

4.4.1.2. Scope under Ministry of Industry: Through the **National Wages and Productivity Commission**, formed under the Ministry of Industry, TUs have the chance to contribute to wage increase of the workers in government industrial sector. The commission is constituted by one Chairman, member secretary, members from MWB, BIDS, MoI, MoJT, One Chartered Accountant, and one representative each from workers and employers.

4.4.1.3. Scope under Ministry of Commerce: TUs can participate in decision through Social Compliance Forum for RMG and Task Force on Labour Welfare in RMG both of which are formed under the Ministry of commerce. **Social Compliance Forum for RMG** aims at ensuring compliance issues (e.g. working hour, weekly holiday, wage and overtime, maternity benefit, safety, welfare) at workplace. The 31-member forum is comprised of 15 members from different Ministries and Departments, 4 members from workers' organizations, 4 members from employers' organizations, 3 members from NGOs, and 4 members from International Organizations. The **Task Force on Labour Welfare in RMG**, on the other hand, is formed including one chairman and 10 other members — 5 members from government, 3 from employers' organization, and 2 from worker organization. The taskforce develops plans on compliance issues including elimination of all sorts of discrimination, removal of all sorts of harassments and abuse, free from child labour, providing appointment letter, working hour, health and hygiene, and freedom of association and collective bargaining.

4.4.1.4. Scope under Ministry of Housing and Public Works: Ministry of Housing and Public Works formed a **Task Force on Occupational Safety on RMG** comprised of total 14 members



including one chairman, seven members from government, 4 members from employer organization, and 2 members from worker organization. The taskforce prepared short-term, medium-term, and long-term work-plan on several safety issues—fire safety, building safety, environment safety, and security and safety.

4.4.1.5. Limited scope in national policy formulation process: Workers’ participation is almost absent at the policymaking level. For example, there is no workers’ representative in the process of formulation of the 5-year plan and SDG related national plans, which are the main areas of policy issues. Even there is no participation of workers in dialogues of annual budgets (Consultation Workshops).

#### ***4.4.2 Issues affecting workers’/TU’s participation in decision making***

Despite having numerous bodies, enlisting representation from workers/TU for decision making, the participation from the part of the workers is not always a very easy-going process, rather is affected by several factors/issues.

4.4.2.1. Formation of tripartite forums: The procedure followed in the formation of different forums/committees is not systematic always. In most cases, committees formed as compliance, at just that moment because it was thought to be made up. These committees have been formed based on the urgency for that moment not on worker’s demand or any far-reaching objectives. The TU members themselves do not know; how many tripartite forums are there. A systematic assessment is needed and based on that assessment, the number should be specified that how many forums are needed at field level and how many at the policy level (Consultation Workshop).

4.4.2.2. Power asymmetry in some forums: There are some committees/bodies that include more representatives from employers than representatives from workers (e.g. Task Force on Labour Welfare in RMG, Task Force on Occupational Safety on RMG). In some other committees, representatives of the government are several times higher than that of worker representatives (e.g. Bangladesh Labour Welfare Foundation, Social Compliance Forum for RMG). These imbalances in number affect the pattern of participant and ability to influence the decision-making process in those committees.

4.4.2.3. Worker representative selection process in tripartite forums: There is no specific selection process for worker representatives in most tripartite forums. In most cases, the ministry selects them according to their own choice. The political affiliation of the TU representatives is a major factor here. No specific criteria have been defined for the selection of representatives. There are many cases where workers have complained against the representatives because their role-playing in tripartite forums were not up to the mark, and there was lack of accountability. Admitting the failure, a TU leader in the consultation workshop, states: *“The representatives we sent there, how much we consider their ability, functioning, experience, how technically sound they are? These issues should be considered. Yes, there are still some exceptions, but limited. But what happens in most cases. We need to make our positions clear.”*

4.4.2.4. Frequency of meetings and discussion issues: Meetings of the tripartite committees are generally not held regularly and according to procedure. TU leaders claim that it is very difficult to say how often issues are discussed or meetings are held. Although there is requirement that TCC meetings should be held between specific time intervals but not held. Meetings are only called when the government decides, not when workers need it. Besides, often meetings are held in case of an emergency. Most TCC meetings are held on issue based. A member of Crisis Management Core Committee says, *“One of the surprising things is that the meetings of core committee are called only when any crisis occurs, not before when there is any possibility of a crisis”*.

4.4.2.5. Process of decision making and workers participation in the process: The process of participation of workers in decision making is affected by several issues. Firstly, very often worker representatives do not know about the issues going to be discussed in the meeting, since specific agenda is not provided before the meetings. Therefore, they attend the meeting unprepared having unclear ideas and failed to contribute effectively. Secondly, as there is a lack of coordination among the worker representatives, they cannot attend the meeting as a team. For example, in a committee, 20 worker representatives participate from 20 different organizations. They do not get chance to discuss the agenda among themselves before attending the meeting. Consequently, they cannot stand unitedly and, at last, the proposals from the government or employers get accepted/formulated. TU representatives claim that in most TCC meetings, decisions are imposed on workers. They further allege: *“There is no scope of quality discussion in TCC. The government officials and employers come with already made decisions and impose those on workers”*. One of the participants of a consultation workshop describes:

“We are taken there for just taking photos and giving signature as proof that worker representatives attended the meeting. But we do not have the right to talk in the meeting. Everything is decided by the government... Despite restrictions, the presence of outsiders in many meetings diverts the discussion to something else. This is one of the reasons which hinders the effectiveness of the discussion.”

Thirdly, often meetings of several committees are called at the same time. Since there are TU representatives who are members of more than one committee, they try to attend one, put sign, and rush for another one. As a result, they cannot take part in discussions on issues effectively and finally, decisions are imposed on them (Consultation Workshop).

#### ***4.4.3 Weaknesses of the TUs to contribute effectively to decision making***

Based on the discussion of the consultation workshops and key informant interviews, the following inherent weaknesses of TUs in participation in the decision-making process have been identified.

4.4.3.1. Unawareness about many forums: Number of forums are many, operating under different ministries and carrying out different functions. However, even most of the TU leaders lack adequate idea and awareness on how many tripartite forums are there at present, what functions and roles they are performing, and who are the worker representatives of these forums are and what is the role of the representatives of the workers.

4.4.3.2. Inadequate knowledge and experience: Often the representatives of workers in different decision-making forums attend the meeting with very inadequate knowledge and understanding of the issues. Many even lack enough experience in trade unionism, and they even lack comprehensive knowledge of the labour law and other relevant legal instruments. Further, it is alleged that many even have limited understating of different methods and techniques of negotiation and bargaining to achieve the goals for promoting and protecting worker rights.

4.4.3.3. Lack of unity among TUs: There is a lack of unity among workers and representatives of different organizations at every level. Korn (2017) argue that activities and sustainability of the TUs have been paralyzed by fragmentation, politicization, and infighting. TU leaders are divided based on their political affiliation. Even their attitudes of non-cooperation among leaders of unions affiliated with different alliances. Consequently, it becomes difficult to reach a consensus.

4.4.3.4. Political consideration in member selection: Selecting the members in decision making forums/bodies on political/party ground is a common practice. RMG wage boards are important examples in this regard. Because of being nominated/selected these members politically, despite having personal desire, cannot take decision beyond the will of the political party they belong.

4.4.3.5. Considering personal interest over workers' common interest by some TU leaders: Some TU leaders consider their personal interest over common interests of the workers and often adopt unfair means to accomplish their own goals. When these leaders become members of the decision-making forums, they fail to perform due roles in favour of workers' common interest. This has been admitted by the participants of the consultation workshop with TU leaders.

4.4.3.6. Lack of financial capacity of the TUs: Generally, the wages of the workers of Bangladesh are low and earn barely sufficient for survival. As a result, they live at their subsistence level. So, it is extremely difficult to build up the financial capacity of TUs with the contribution from workers. Hence, most TUs lack financial capacity.

4.4.3.7. Absence of democratic practice in TUs: Practice of democratic values is very important to maintain dynamism of the TUs and to develop new leadership. However, democratic practice is seldom practiced in the TUs of Bangladesh. There are several reasons behind. Most prominent is the desire of the incumbent leaders to remain forever. Another reason is, as the general workers mostly illiterate, they are unable to lead the TUs through fulfilling many complex legal and procedural conditions. It is also evident that as TUs run with the major financial contribution of the leaders, they hold the control. Run a TU also requires considerable time and political consequences too.

## *Chapter Five*

### *Bangladesh's Transition and Future of Work: Issues for TU*

Bangladesh is now in the trajectory of transition. With many challenges the country has successfully made its footstep towards economic and social transformation. Changes are now evident in areas of demographic composition, employment pattern, and economic structure. On the other hand, the world of work is changing; new technologies and innovation are being introduced; new forms of employment and employment relations are emerging. In the era of globalization Bangladesh would also experience these transformations. This chapter primarily has focused on future issues that will impact the Tu's considering that changing context in the coming days in Bangladesh. The chapter has also discussed the preparation of the TUs of Bangladesh in this regard.

#### **5.1 Structural transformation in Bangladesh**

Bangladesh is in the pathway of economic transformation. The country was among the top 10 fastest growing countries with GDP growth rate of 8% in FY2019 and now in the official process of graduation from least developed country to developing country by 2024 (Ahsan & Satter 2019). The economy has gone through remarkable structural changes recently (Raihan, 2018). The country has been observing a shift in its economic structure over past decades. During the period 1985-86 to 2018-19, share of agriculture in GDP decreased by more than half, from 31.5 percent to 13.60 percent despite growth rate has increased from 3.31 percent to 3.51 percent (Table 5.1). On the other hand, share of industrial sector in GDP has almost doubled from 19.13 percent to 35.4 percent and the growth rate has increased from 6.72 percent to 13.02 percent. Although the share of service sector declines recently, more than half of the GDP comes from this sector. The growth of service sector has increased from 4.10% to 6.50% during the period 1985-86 to 2018-2019. During the recent years the share of manufacturing sector to the GDP also increased significantly, from 17.75% in 2010-11 to 24.21% in 2018-19.<sup>108</sup> The variation in growth and the contribution of major sectors (e.g. RMG, Chemical, rubber, plastic, leather and footwear) has resulted in the economic transformation of the economy.

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<sup>108</sup> Bangladesh Economic Review Dhaka: Finance Division, Ministry of Finance, GoB.  
[https://mof.portal.gov.bd/sites/default/files/files/mof.portal.gov.bd/page/f2d8fabb\\_29c1\\_423a\\_9d37\\_cdb500260002/Ch-02%20%28English-2019%29.pdf](https://mof.portal.gov.bd/sites/default/files/files/mof.portal.gov.bd/page/f2d8fabb_29c1_423a_9d37_cdb500260002/Ch-02%20%28English-2019%29.pdf)

**Table 5.1: Trend of structural transformation of broad sectoral shares (%) in GDP and in growth rate (%) at constant prices**

Sector	Share in GDP (%)											
	1985-86	1990-91	1995-96	2000-01	2005-06	2010-11	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19
Agriculture	31.15	29.23	25.68	25.03	19.01	18.01	16.50	16.00	15.35	14.74	14.23	13.60
Industry	19.13	21.04	24.87	26.20	25.40	27.38	29.55	30.42	31.54	32.42	33.66	35.14
Service	49.73	49.73	49.45	48.77	55.59	54.61	53.15	53.58	53.12	52.85	52.11	51.26
Total	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00	100.00
Sector	Growth Rate (%)											
	1985-86	1990-91	1995-96	2000-01	2005-06	2010-11	2013-14	2014-15	2015-16	2016-17	2017-18	2018-19
Agriculture	3.31	2.23	3.10	3.14	5.50	4.46	4.37	3.33	2.79	2.97	4.19	3.51
Industry	6.72	4.57	6.98	7.45	9.80	9.02	8.16	9.67	11.09	10.22	12.06	13.02
Service	4.10	3.28	3.96	5.53	6.60	6.22	5.62	5.80	6.25	6.69	6.39	6.50
GDP(at producer prices)	3.34	3.24	4.47	5.41	7.18	6.64	6.15	6.54	7.11	7.28	7.86	8.13

*Source:* Bangladesh Economic Review 2019

With the change of share of broad economic sectors, the employment structure has been shifting also. Employment in agriculture is gradually declining. The relative share of agriculture sector in employment has declined about 10 percent between 2000 and 2017. While the share increased moderately (about 2.5%) for the service sector but significantly (about 7.5%) for the industry sector during the same period (Table-5.2).

**Table 5.2: Trend of employment pattern in different sectors**

Sector	1990-2000	2005-06	2010	2013	2015	2016-17
Agriculture	50.75	48.06	47.00	45.1	42.7	40.6
Industry	12.78	14.36	18.00	20.8	20.5	20.4
Service	36.47	37.58	35.00	34.1	36.9	39.0
Total	100.00	100.00	100.00	100.0	100.0	100.00

*Source:* Raihan (2018), Labour Force Survey (2010, 2013), Quarterly Labour Force Survey (2015), Labour Force Survey (2016-17).

Important to note that the shift of the economic structure and the changing composition of employment pattern both have implications for worker rights and trade unions in the country.

## 5.2 Future of Work

The world is changing. New forces are transforming the world of work. Three main drivers of this transition are identified by ILO (2017a) as: (i) demographics, (ii) technological change, and (iii) climate change and environment as presented in Table 5.3. Demographics are changing all over the world. Some countries in the world either have experienced or are experiencing increasing elderly population and declining proportion of working age population while some countries are experiencing, despite increasing proportion of elderly, increased proportion of working age population known as ‘demographic dividend’ like Bangladesh.

Technological changes in the world are rapid nowadays than ever before. Rapid technological advances in the areas of artificial intelligence, automation, robotics and so on are having significant implications for future work. These advances, despite increase productivity and create new jobs, will ultimately cause job losses as these technologies are likely to replace the human being. Moreover, employability in the technological world would require technological knowledge and skills. The term ‘industry 4.0’ (I4.0) is now used to denote application of new technologies in the industrial sector. According to ILO the new technologies are blurring the lines between the physical, digital, and biological spheres that will shape the future of human kind and the future of work — how people work, where they work, what jobs exist (ILO 2019).<sup>109</sup>

Climate change is also having serious impacts on income and livelihood pattern in some parts of the world. An ILO report claims that a large portion of the global workforce derive their livelihoods from the agricultural and allied sectors which are particularly prone to the impacts of climate change. The report has further mentioned that in reaction to environmental and climate change, many countries now promote mitigation and adaptation strategies that are not neutral to the labour market as they create jobs in some sectors or parts of the economy while leading to job destruction in others (ILO 2019).

**Table 5.3: Global Estimations of future labour market transformations**

Technology	Two-thirds of jobs in the developing world are susceptible to automation (World Bank, 2016). Nearly 50 per cent of companies expect that automation will lead to some reduction in their full-time workforce by 2022 (WEF, 2018).
Demographics	By 2050, the total dependency ratio (ratio of population aged 0-14 and 65+ per 100 population aged 15-64) is projected to increase sharply in Europe (by 24.8 percentage points) and Northern America (by 14.4 percentage points) and moderately in Asia (by 8.5 percentage points), Oceania (by 6.8 percentage points) and Latin America and the Caribbean (by 7.6 percentage points). The total dependency ratio for Africa is projected to decrease by 18.7 percentage points and half of the region’s population will be young (0-24). All other regions will have an aged population.
Climate change	Implementing the Paris Climate Agenda is estimated to lead to global job losses of around 6 million and job gains of 24 million.

*Source: ILO 2019b*

It is claimed that the new challenges with the already existing ones are aggravating the overall situation of the working world. In response to the changes and challenges ILO Centenary

<sup>109</sup> ILO (2019). Preparing for the future of work: National policy responses in ASEAN +6, Regional Economic and Social Analysis Unit International Labour Organization, Bangkok.

Declaration for the Future of Work, 2019 has emphasized on a ‘human centred approach’ including three pillars<sup>110</sup>--(i) increasing investment in people’s capabilities; (ii) increasing investment in the institutions of work; and (iii) increasing investment in decent and sustainable work.

### 5.3 Conditions/Issues that will Impact Trade Unions in Bangladesh

#### 5.3.1 Demographic transition, working-age population, and informal employment

TU movement of the country needs to take into consideration the demographic transition that the country is undergoing. The rapid transformation of Bangladesh economy, as discussed in the above section, has come along with its demographic transition. Demographic transition generally refers to the changes in population structure of a country and explained in some stages.<sup>111</sup> This state of a country is known as ‘demographic dividend’, which refers to “the economic growth potential that can result from shifts in a population's age structure, mainly when the share of the working-age population is larger than the non-working-age share of the population” by UNPF. The age structure of population in Bangladesh has also undergone significant transitions and currently the country has large volume of working age people, 62 percent (15-64 years). Among others, 32 percent below 15 years and only 5 percent 65 or older (Table 5.4). It is important to note that, the increase in working population will continue for years to come (Table 5.5).

**Table 5.4: Working age population by sex and year (% of total population)**

Age group	2010			2013			2015			2016-17		
	Male	Female	Total	Male	Female	Total	Male	Female	Total	Male	Female	Total
15-29	25.4	27.7	26.4	27.2	29.1	28.2	24.8	27.8	26.3	24.2	26.9	25.6
30-64	34.9	32.7	34.0	35.1	35.3	35.2	36.0	35.9	36.0	36.9	37.4	37.1
65+	4.2	3.7	4.0	5.6	5.5	5.5	5.2	4.2	4.7	5.7	4.1	4.9
Total	64.5	64.1	64.4	67.9	69.9	68.9	66.1	67.9	67.0	66.8	68.4	67.6

*Source:* LFS 2010, 2013, QLFS 2015, LFS 2016-17

<sup>110</sup> ILO Centenary Declaration for the Future of Work, 2019. <https://www.ilo.org/global/about-the-ilo/mission-and-objectives/centenary-declaration/lang--en/index.htm>

<sup>111</sup> The demographic transition has four stages. The first stage is characterized by high fertility and mortality rates, and overall low population growth. The second stage is experienced with increase in population growth as birth rate remains high while death rate starts declining. In the third stage, birth rate starts declining and population growth starts to reduce slowly. In the fourth stage, both birth and death rate are low and population growth becomes minimal.

**Table 5.5: Estimated share of population below 15 years, working age (15-59 years) and 60 or more years during the period 1950-2050 (in Million)**

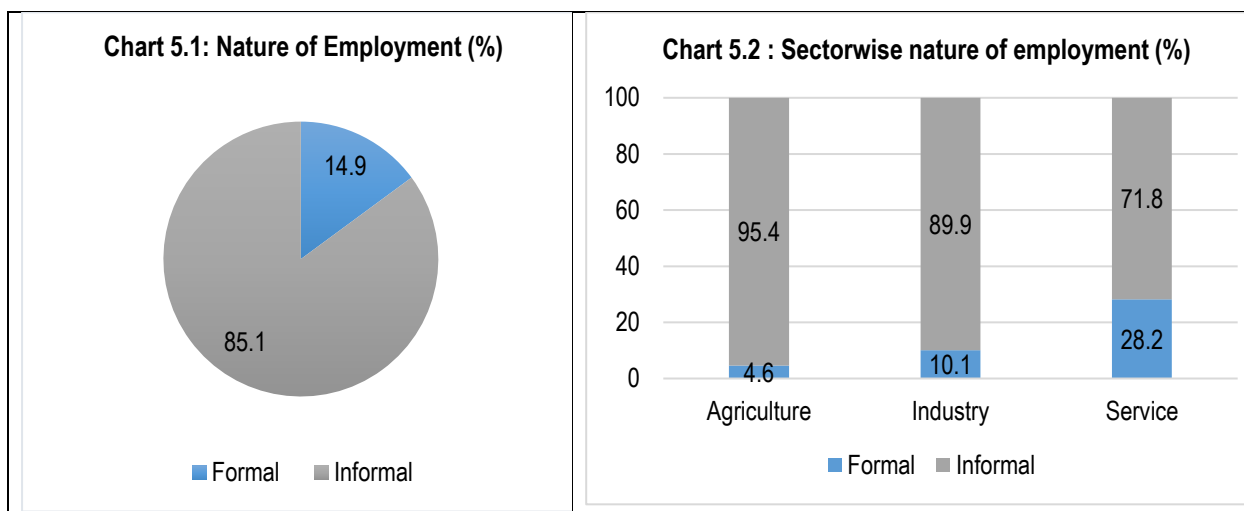
Year	Population aged below 15	Working age population (age 15 - 59)	60 years and above	Total
1950	15.6	20.1	2.2	37.9
1960	21.3	25.6	2.6	49.5
1970	29.6	33.0	3.7	66.3
1980	36.6	41.2	4.7	82.5
1990	45.2	56.1	6.7	107.4
2000	49.1	75.2	8.1	132.4
2010	47.9	93.0	10.2	151.1
2020	45.0	110.9	13.7	169.9
2030	24.2	121.1	21.8	185.1
2040	38.2	125.4	32.2	195.9
2050	34.9	122.0	45.0	201.9

*Source:* UN (2014), Islam (2016)

The large volume of working age population and its increasing trend is both an opportunity and a matter of concern for TU movement. The increased number of labour means that more workers would be available to recruit as members of TU in coming days as they start job/work. However, as data shows, a large proportion of this increased working-age population may not find job in formal sector and become engage in informal sector. In a developing country like Bangladesh, in absence of enough jobs in the formal sector, for increasing number of working age population caused by population dividend, informal sector has been playing an important role in providing employment opportunities and income generation to a vast majority of people (Khondker, 2019). Thus, to absorb this increased labour force, informal sector will also play a vital role, where it is always difficult for TUs to organize the workers.

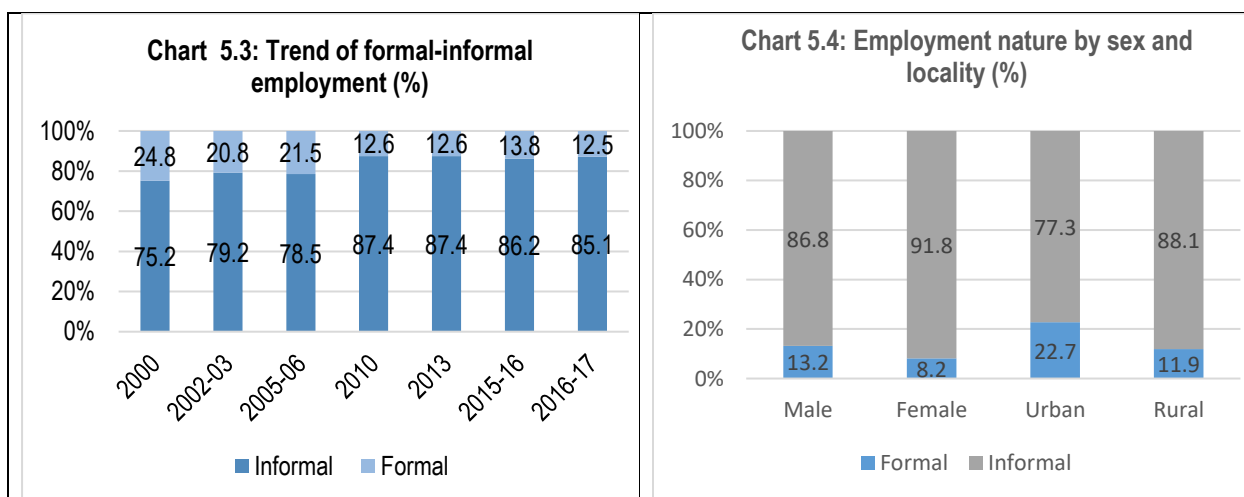
Informal sector is dominant in employment generation in Bangladesh. At present, 85 percent of the total labour force are employed in the informal sector and only 15 percent in the formal sector (Chart 5.1). Almost all (95.4%) employment in agriculture sector is informal by nature. Overwhelming majority of the other two sectors of employment is also informal by nature: 89.9 percent of industry and 71.8 percent of service sector (Chart 5.2). Among the sectors, service sector accounts the highest proportion (28.2%) formal jobs compared to 10.1 percent of industry and 4.6 percent of agriculture sector job.





Source: Labour Force Survey, 2016-17

Employment in informal sector is increasing over the years. The proportion of informal employment was 75.2 percent in 2000 and continuously increased to 87.4 percent in 2013 then slightly declined to 85.1 percent in 2016-17 (Chart 5.3).



Source: LFS 2013, 2016-17

Establishing TU in informal sector is always a challenge due to the legal barriers stated earlier. Taking into account the demographic transition resulting in increase of workforce and limited capacity of formal sector to absorb them, TUs need to think about the upcoming challenges — how demographic transition will impact employment and TU rights including right to organize and collective bargaining and how to overcome these?

### 5.3.2 Increase of youth labour force

Youth workers so far have attracted less attention, despite they hold a significant share in labour force. More importantly their share in labour force is increasing gradually. Bangladesh Labour Force Survey defines the youth as 15-29 years. Accordingly, size of the Bangladesh youth labour force is 20.8

million, which constitutes 33.5 percent of total labour force in the country. In addition, every year about 2 million youth are entering into labour force in Bangladesh. According to Islam (2016), Bangladesh has been experiencing a ‘youth bulge’ which is expected to continue for the next 15–20 years. His prediction says that about 29 million more working age people will be added to the labour force by 2050 which will pressurize the economy for adequate employment opportunities.

The concern of TU needs to focus of the quality of employment of the youths. The important feature is that informal employment among the youth is higher than the national scenario, 90.5 percent against 86.2 percent nationally. Deficits of the decent work of the youths is highly marked, including the condition of freedom of association and collective bargaining, because of the nature of their employment. In a study on youth workers 4 out of 5 youth reported unavailability of TU/organization at their workplaces; and only 6.2% youth reported that they could negotiate with employer through workers’ organization, though not TU always (Ahmed and Fahim, 2019). Trade unions therefore need to think about the possible ways to ensure trade union rights of the youth workers.

### 5.3.3 Government vs. private sector employment

Historically TU movement in Bangladesh was strong in public sector. On the other hand, TU organizers always struggled to organize workers in private sector. Due to policy shifts, (e.g. more focus of private sector development, outsourcing, etc.) it is natural that scope of organizing workers in public sector would face challenges.

According to Labour Force Survey 2016-17, only 3.8 percent of the total employment belongs to government, autonomous and local government category which is higher in urban area at 6.5 percent than rural with only 2.7 percent (Table 5.6). There is no such disparity between male and female participation in government sector employment. The proportion of private sector employees are four times higher than government sector employees, which is 13.6 percent. Private sector employees are higher in urban areas. Only 0.6 percent employees are engaged in NGO sector. The largest share of the employed population (60.9 per cent) belongs to Individual proprietorship category.

**Table 5.6: Distribution of employed population by ownership (%)**

Ownership	Rural	Urban	Male	female	Total
Govt, Autonomous, Local govt	2.7	6.5	3.9	3.4	3.8
NGO	0.5	0.7	0.5	0.7	0.6
Individual Proprietorship	63.1	55.2	72.6	34.4	60.9
Household	24.7	10.7	9.1	47.4	20.8
Private	8.7	26.2	13.4	14.0	13.6
Other	0.3	0.7	0.5	0.1	0.4
<b>Total</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>	<b>100.0</b>

*Source: LFS 2016-17*

As the policy is to establish industry under private sector and attract private investment for industrialization, it is obvious that huge employment will be created in private sector. However, it is a concern that to what extent workers of private sector would get scope to exercise their TU rights since organizing private sector workers is a very big challenge in Bangladesh.

From the TU point of view recruitment in public sector through the outsourcing process has posed a threat to the workers' right to organize which would impact TU movement more seriously in the coming days. Through the process of outsourcing most of the employees are hired on a contractual basis, and the number of permanent employees is reducing which is also resulting in decreasing members of TUSs. For example, a TU leader explains, "For almost two decades banks have stopped recruiting third class employees, except for a few like driver and peon. As a result, the number of union members started declining" as by law officers are not eligible for TU. TU movement need to bring these issues into focus of discussion since, according to opinion of many TU leaders, it is not possible to include these temporary workers of the formal sector under the supervision of TU.

#### *5.3.4 Employment in EPZs and SEZs*

The export-led growth strategy of Bangladesh has emphasized on attracting FDI and integrating the country with global supply chain (GSC). EPZs have already been an attractive place of FDI, and now special attention has been given to establishment of special economic zones (SEZs).

EPZs and SEZs are important source of formal sector employment. Employment pattern of EPZs shows that it has created direct employment for total 2,45,597 people till 2016-17 (Table 5.7). Every year additional employments are being created. BEPZA has created 21,726 new employment opportunities in 2018. It has been playing vital role in reduction of poverty and contributing to socio-economic development of the country.

Although, BLA 2006 provides the right to organize TUs and collective bargaining, EPZs workers are denied since BEPZA has special legislation which do not allow its workers to join TU and therefore, the right of collective bargaining is also absent here. However, they are allowed to form Workers' Welfare Associations (WWA) which does not ensure the workers' freedom of association and collective bargaining rights as already discussed. Therefore, the more employment in EPZs would mean more workers will be denied TU rights in the coming days unless the TU rights are allowed in the EPZs and SZs.

**Table 5.7: Employment pattern of EPZs**

Financial year	Employment (in number)
2009-10	28064
2010-11	43666
2011-12	33598
2012-13	33987
2013-14	15009
2014-15	31084
2015-16	33551
2016-17	26638
<b>Total</b>	<b>245597</b>

*Source: Annual Report, BEPZA 2016-17*



*Source: Annual Report, BEPZA 2016-17*

**10 million jobs in SEZs by 2030:** In order to stimulate economic growth of the country by fostering poverty reduction and generating employment opportunities, Bangladesh Economic Zone Authority (BEZA) has taken an initiative to establish 100 special economic zones throughout the country. At present, there are a total of 88 economic zones across the country, of which 59 are government-owned and 29 are privately owned (BEZA, 2019). By 2030, SEZs will create employment opportunities for nearly 10 million people. However, still it is not clear what would be the rights situation regarding freedom of association and collective bargaining of SEZ workers.

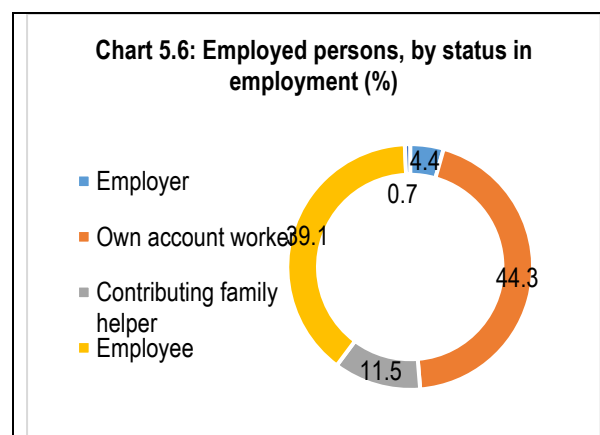
TUs must be aware of the growth strategies of the country since these are directly and indirectly linked with employment generation and have implications for the rights of the workers.

### 5.3.5 Increase in self-employment

Self-employment is increasing rapidly throughout the world. It has become an important source of future job creation and the digital transformation is widely expected to result in a rise in new forms of self-employed work (ILO 2017b). Self-employed generation has been emphasized as part of policy and strategy to poverty reduction. Since the country is unable to provide wage employment for all its growing number of labour force resulted in huge self-employment. Of the total employment of Bangladesh in 2019, 59.34 percent was self-employment; 63.39 percent for female and 55.89 for male.<sup>112</sup> The latest survey reveals that, the largest share of the employed population is engaged in self-employment (60.9%), which constitutes 44.3 percent who worked as own-account workers, 11.5 percent are contributing as family helper and only 4.4 percent are employers (Chart 5.6). Among 60.8 million employed population the number of self-employed populations is around 36.6 million, with 23.9 million male and 12.7 million females (Table 5.8). There are

<sup>112</sup> <https://www.indexmundi.com/facts/bangladesh/self-employed>, Last accessed 22.02.2020 10:50

more males in all categories except among contributing family workers, where there were more than three times employed females (5.3 million) than employed males (1.7 million).



Source: LFS 2016-17

Table 5.8: Self-employed population by sex and area (in 000)

Categories of Self-employment	Rural	Urban	Male	Female	Total
Employer	1881	824	2585	120	2705
Own-account worker	20903	6051	19620	7333	26953
Contributing family helper	6199	798	1708	5289	6997
<b>Total</b>	<b>28983</b>	<b>7673</b>	<b>23913</b>	<b>12742</b>	<b>36655</b>

Source: LFS 2016-17

Forming and establishing TU is a real challenge for self-employed workers. As a matter of fact, self-employed workers are deliberately excluded from many labour and social laws and are mostly not covered by compulsory social security systems (ILO 2017b). Though in some parts of the world TUs have started organizing self-employed workers, there is dearth of reliable current data on the existence or number of such trade union in Bangladesh. Another fact is that, as they are self-employed, employment relationship is absent here.

### 5.3.6 Digitalization and new forms of employment

Digitalization has become another important aspect of the economy and employment. It builds platform economy and employment. Number of labour in these digital platforms in different sectors are increasing rapidly throughout the world with development of new type of industries and jobs and occupations. Flexibility in work arrangement is an important feature of digital platforms. It creates new opportunities in the labour market and access to new skills. The workplace arrangements of these digital platforms are different than that of the traditional employer-worker relationship (ILO 2019a). Workers work now remotely an online using new technologies. ILO (2019c), mentions ‘gig economy’ jobs, where workers have multiple short-term jobs or contracts with multiple employers online, unlike the traditional — more permanent single employer-employee relationship — provide opportunities for workers to earn income and for enterprises to organize work in new ways.

Online work platforms are eliminating many of the geographical barriers previously associated with certain tasks; Bangladesh contributes 15 percent to the global labour pool online by means of its 650,000 freelance workers.<sup>113</sup> Ride-sharing has become popular in the country over the past few years. Uber, Pathao, OBHAI, Pickme, SAM, Shohoz and some other ridesharing firms are operating in Bangladesh have provided employment and earning opportunity to hundreds of

<sup>113</sup> World Bank (2019). *World Development Report 2019*, p.19

thousands of people. Pathao, the largest ridesharing organization that has almost 300,000 registered riders working with them. More than one lakh is earning via Uber and Obhai, has around 85 thousand registered riders.<sup>114</sup>

Expansion of e-commerce and online based business has employed thousands of workers. Hundreds of e-commerce sites like Daraz, Picakoo, Chaldal, Othoba, and so on are operating in Bangladesh. Besides, most popular super shops and food chains now have of online purchase and home delivery facility. This shift in buying-and selling practice has also created employment of delivery workers. It is expected that this type workers will increase in the coming days. However, these workers are still unorganized and deprived of the TU rights. Some of the major challenges presented by several ILO research on future of work are, how the basic rights of these digital labours can be ensured (including proper and safe working condition, and fair wage), how they can achieve and practice their collective bargaining rights, their access to social protection services and how these overall situation can affect the decent work (ILO, 2019c). TUs require huge work in this area. In a study 100% of online-business sector workers reputed unavailability of TU or any workers' organization at their workplaces (Ahmed and Fahim 2019). Therefore, TUs need to pay attention to the needs and problems of these workers.

### *5.3.7 Automation-led jobless*

Automation is taking place in our workplace. According to the report “A Future That Works: Automation, Employment, and Productivity” published by McKinsey in 2017, automation will affect 1.1 billion employees globally (McKinsey Global Institute, 2017). The World Bank finds that emerging and developing economies will be at a higher risk than developed countries, with 77 per cent of jobs at risk of displacement in China, 72 per cent in Thailand, and 69 per cent in India (World Bank 2016, ILO 2019<sub>a</sub>).

In Bangladesh context automation will impact jobs of every major export earning sectors. An estimate of Bangladesh Garments Accessories and Packaging Manufacturers and Exporters' Association (BGAPMEA) shows that every year around 100 new factories are beginning operation and are using advanced technology in the entire apparel making process.<sup>115</sup> Another projection, according to government's a2i project, shows that around 60 per cent (5.38 million) of garment workers in Bangladesh will become unemployed by 2030 and be replaced by robots due to automation in the RMG sector. The significant job loss may take place not only in RMG sector but also in tourism, footwear, furniture, and agro-processing industries (Table 5.9).

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<sup>114</sup> Dhaka Tribune, May 05, 2020

<sup>115</sup> The Financial Express, October 11, 2019

**Table - 5.9: Automation and possible job loss in Bangladesh**

Sectors	Possible job loss by 2041	Occupations at risk
<b>RMG</b>	60% (2.7M)	<ul style="list-style-type: none"> <li>• Designer, production manager</li> <li>• Knit and sewing machine operator</li> <li>• Quality control executive</li> </ul>
<b>Furniture Industry</b>	55% (1.4M)	<ul style="list-style-type: none"> <li>• Floor in charge</li> <li>• Charge hand</li> <li>• Helper</li> </ul>
<b>Agro-processing industry</b>	40% (1M)	<ul style="list-style-type: none"> <li>• Secondary processing</li> <li>• Sorting, mixing</li> <li>• Temperature and quality control</li> <li>• Processing and packaging</li> </ul>
<b>Tourism and hospitality</b>	20% (0.6M)	<ul style="list-style-type: none"> <li>• Bakery and pastry maker</li> <li>• Food mixers</li> <li>• Front desk officer</li> <li>• Product designer and developer</li> <li>• Marketer</li> <li>• Travel organizers</li> <li>• Business operation managers</li> </ul>
<b>Leather industry</b>	35% (0.4M)	<ul style="list-style-type: none"> <li>• Chemical processing</li> <li>• Leather cutting</li> <li>• Lasting and finishing</li> </ul>

*Source: (GoB 2019)*

Discussion during consultation workshop also highlighted the possible threats of job loss due to automation in the Banking and pharmaceutical sector. TU representative of Banking sector claims that despite the increase in transactions by 100 times, the workforce is declining to almost 60% to 80%. On the other hand, TU representative from pharmaceutical sector informs that 18 workers were needed to complete the total packaging procedure of medicines of a section, now with the help of machines, it only needs 6 workers.

Overall, the automation and its possible consequences need to be taken seriously by the TUs of the country. The challenges for TU are how to deal with these upcoming changes due to labour market transitions and technological changes in Bangladesh and how to organize workers. TUs need to explore and focus on ways to cope with this changing nature of work and to upgrade the skills of workers so that they can equip themselves in technologically developed workplace.

## 5.4 Trade unions' own preparation to address future of work challenges

The discussion of above section clearly reveals that the upcoming changing context in Bangladesh would come along with as an opportunity as well as threats for TU movement. The increased working age population including youth workforce resulted by demographic transition, should be considered as a scope since more workforce in labour market means more opportunity for unions to organize them. However, it is evident that the largest section of these workforces may not be able to get employment in formal sector. Majority of them will be employed in informal sector and even a large proportion will be self-employed and the activities of organizing them into TUs would face challenge due to the legal barriers. Formal employment in private sector will expand; nevertheless, based on the present experience of organizing in private sector, it could be said that ensuring TU rights for them would not be an easy task due to political environment, power relations, employers' attitudes and influence. Employment in EPZs and SEZs will increase resulting in denial of rights to freedom of association for more workers. Although digitalization and automation will create new opportunities of employment, new forms of employment many pose new threats because of new employment relations; on the other hand, automation may impact the job security of large number of workers across many sectors.

Overall, the challenges of TU in the coming days are diverse and to be addressed through concerted efforts based on pragmatically developed policies and plan. However, TUs' attention in this regard is not noteworthy yet. Even the future of work issues, as TU agenda, are not discussed regularly and systematically. A TU leader, participant of consultation workshop, states: *"It is not like that discussions are not held at all in trade union level. But it is also true that we have not been able to take bring these issues as agenda in our discussions; nor have we been able to take any initiative. We often talk about automation and future of work in our weekly meeting, but so far we have not taken any initiative that we can implement or engage ourselves in advocacy."*

In general followings are the deficits and weakness in TU's preparedness in Bangladesh to address the upcoming challenges in the context of Bangladesh's transition and future of work.

***Lack of strategic planning:*** Information received from TU leaders in consultation workshop and from the KIIs it has become evident that unions mostly do not have well-developed and well-written strategic plan of their future activities. Rather, unions operate activities based on short-term and day-to-day issues/demands. However, strategic planning is important for a TU to be effective and reach its goal efficiently. Boxall and Haynes (1997) argued that when TUs formulate and adopt more effective strategies then they become more effective.

***Inadequate knowledge base:*** In order to prepare a union to combat the upcoming challenges it must know what kind of transformation are going on and analyze how these will impact. It is required to go through the government policies and plan as well as international research and publications on the transforming nature of work. Further these issues to be discusses among TUs. Nevertheless, TUs lack these practices. A key informant informs that most TUs do not have



resource cell, and except few none of them arrange ‘study circle’; overall a gap has been created in knowledge-based practice of TU.

***Absence of research initiative:*** Comprehensive research is needed to understand the pattern and trend of transformation and its implications for unions. Research is needed to strengthening knowledge by providing information; as well as it is instrumental to develop strategic plans and actions for TU. It is understandable given the background of workers that basic level union are not able to do research. It is the national level federation that should undertake research. However, these initiatives are not notable in the country.

***Lack of communication strategy:*** One of the means of achieving goals and targets of TUs is communication. Communication serves many purposes — it supports to carry out union tasks; it is a tool to strengthen the whole organization; and it is also a part of the total union activities. Communication plays a vital role in the process of recruitment of new member and acts as a tool for educating the members of the union. Communication strategy of a union need specific, systematic, and up to date. In changing context, the role of communication would be more vital. Unions are mostly weak in this regard and lacks lack well planned communication strategy. Even there is lack of sufficient publications of necessary posters, leaflet, booklet which are needed to disseminate knowledge among workers (KII).

***Less attention on young leadership development:*** Youth labour force is entering into labour market with a higher rate and they need special attention as their challenges are different. However, unions are not focusing much attention to bring youths in leadership positions in union and develop their skills (Consultation Workshop).

***National level initiative and dialogue among TUs are absent:*** Future issues and challenges are diverse for the TU movement in the country which need to be tackled collectively. The changes would impact TU practices both at national level and sectoral level. However, TUs, so far, have not brought these issues as part of broad agenda of social dialogue. Whereas discussion and dialogues among both national and sectoral level unions would have been instrumental to fix actions and strategies to be adopted and implemented unitedly to overcome the challenges.

## *Chapter Six*

### *Conclusion and Way Forward*

“NO UNION = NO RIGHTS” is the slogan of the International Union, United Automobile, Aerospace and Agricultural Implement Workers of America (UAW).<sup>116</sup> Thus, the real ‘way forward’ for the TU movement in Bangladesh is to implement the right ‘to form and to join in TUs’ for all workers, under one law throughout the country, without any pre-condition. The TU movement in Bangladesh have both successes and failures in this regard. Being labelled as anti-productivity in general by the vested interested group of employers, both in private and public sectors, and political forces with ill motive of controlling the workers, trade unionism in Bangladesh has been largely marginalized and, now, subject to many preconditions, both legally and in practice. The inherent weaknesses of the TUs including personal motive, unfair and corrupt practices and political motives of the leaders have significantly contributed to this situation. Besides legal and practical obstacles, workers — who constitute TUs — have lost their interest in trade unionism. Rapidly changing economic structure, employment pattern and future work also creates a huge challenge for trade unionism in Bangladesh. Alternative practices like ‘participation committee’, ‘worker’s welfare association’, are also evident. Thus, trade unionism in Bangladesh is facing multifaceted challenges nowadays than ever before. These challenges can be grouped as: i) unfavourable legal provisions ii) obstacles in practice; iii) TUs’ inherent weaknesses and lack of workers’ confidence and interest in TUs, and iv) challenges of changing work pattern and future of work. Following section presents the actions needed to address these challenges.

#### **6.1 Towards a more TU-friendly law**

Existing labour law is obstructive in many ways to realize the rights to freedom of association. The law is unable to provide all workers with the rights to join TU. Even, many provisions tend to control the TU rather than facilitating it. Therefore, it is required to change the notion of the law from ‘control of trade unionism’ to ‘workers and TU friendly’. Followings are some broad recommendations in this regard.<sup>117</sup>

***One inclusive law for all workers:*** Rights to form and join TU is a universal right. Different laws and provisions for workers make difference among different groups of workers. Moreover, by leaving various categories of workers out of the coverage of labour law and defining the term ‘worker’ inconsistently, that universal rights has been denied. The law must bring all workers under its purview/coverage. All workers (e.g. government and private sector workers; EZP

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<sup>116</sup> <https://uaw.org/organize/no-union-no-rights/>. Last accessed 23.02.2020 6:24.

<sup>117</sup> The specific changes recommended in the legal instrument has been placed in Annex 2.

workers; workers of administrative and supervisory positions) must be provided with opportunity to form and join TU under one law.

***Ensuring full compliance with international standards:*** Despite the member number requirement to form TU has been amended (reduced from 30% to 20%), still it contradicts with international standards. Labour Act must be compliant fully with international labour standards (ILO Conventions) ratified by Bangladesh.

***Removing self-contradicting and discriminatory provision:*** Provisions on prerequisite number of workers for registration of TU for factory and establishments; and freedom to choose union representation between private and public sector workers are discriminatory and therefore should be removed. Moreover, law has also discriminated workers regarding enjoying the rights to strike and there are also discriminatory provisions concerning the TU numbers in factories and establishments. Removing these discriminatory provisions, the law should be made applicable equally for workers of every workplace.

***Making registration process more rational considering the socio-economic context and level (education/awareness/knowledge) of workers:*** Workers of Bangladesh are generally illiterate, socio-economically impoverished, do not have experience of organizing and unaware about their rights. The complex process of TU formation and hazards associated in practicing trade unionism discourages these workers to involve in TU activities. It is necessary to make the process such simple that workers understand easily and feel interested to join in TU.

***Launching campaign movement to form trade/sector-based TU instead of plant-based TU:*** According to the present labour law plant-based TU are formed and practiced. If trade or sector based TUs are formed that would more effective and powerful in promoting and protecting the rights of the workers.

## **6.2 Towards favourable environment for TU rights practice**

Lack of favorable workplace structure; anti-union mind set of employers; unholy nexus between employers and government officials; anti-union violence, anti-union retaliation, and violent crackdown by *mastans* and police have made the practice of trade unionism very difficult task (Annex 3 provides a list of obstacles in practice and opinion derived from TU participants in Consultation Workshops, FGDs, KIIs). In this context following actions are suggested to be taken by the TUs to improving the situation.

***Regular social dialogue with different stakeholders to change attitude towards TU:*** Negative attitude towards TU among the employers and, to some extent government, has made practice of TU rights more difficult. Beyond the legal constraints, practice of TU rights faces lots of difficulties coming from various sections including employers, government officials, and law enforcing agencies. To addresses these TU should arrange social dialogue with different

stakeholders. Dialogues could be arranged at national, regional, and local level. These dialogues would be helpful to change attitude toward union as well as create an environment of trust.

***Broadening solidarity:*** Solidarity is power. TUs need to increase their partnership not only with the federations and global unions but also with civil society organizations, government organizations, and labour and human rights-based organizations. A broader network and strong solidarity would definitely contribute to enrich trade unionism.

***Advocacy for TUs inclusion in process of preparing development plans/annual budget:*** The processes of budget making and preparing national development plans usually involve series of dialogues with different stakeholder. Though national budget and development plans affect the life of the workers in multiple ways, workers' representatives/TUs do not have scope of to provide their opinion as no such dialogue is held with them. Advocacy is needed on inclusion of TU/workers representatives in budget and national plan preparing process to make those more worker sensitive.

***Surfacing the issue of standard procedures for tripartite forums/councils:*** Tripartite forums are opportunities for TUs to play role in decisions that affect workers and workplace. However, wide allegation exists that these forums are not operating systematically. Worker representative selection process and their tenure, frequency of meeting, meeting agenda, decision making process and scope of participation all are limited for the worker representatives. To address these issues standard operating procedure (SOP) to be formulated including the issue surfaced by TUs.

***Developing media strategy/partnership:*** To diminish the anti-union propaganda, TUs should take measures by disseminating facts to the mass people using different media. They should take initiative to make it public, their role and contribution to economy and society, as well as the systematic oppressions and violation of rights that the workers and TU face. To this end media partnership should be developed to disseminate contribution of TUs in the economy and promoting the interests and protecting the rights of the workers.

### **6.3 Towards overcoming TUs' inherent weaknesses and achieving workers' trust**

TU movement never be successful unless the workers join in TUs and participate in TU activities. No doubt, nowadays, many workers do not find any interest in trade unionism due to the failure of the TUs to promote and protect the rights of the workers and fulfil their expectations. It is true that continuous initiatives of the vested interested groups and unfavourable legal provisions have contributed significantly to this situation. However, it is also true that the inherent weaknesses of the TU movements are also largely responsible for this situation. Some specific aspects of inherent weaknesses of the TUs include: i) internal division in the labour movements; ii) inter and intra union rivalry; iii) corruption of the leaders; iv) multiplicity of TUs; v) partisan role of the TUs; vi) failure of upholding workers' rights beyond their political obedience; vii) Use of TUs as means of prestige, political gain and personal luxury of the leaders; viii) failure to practice democratic culture and develop young devoted leader; ix) absence of honest, committed and dedicated TU

organisers; x) no experience of the workers in participation in organization; xi) presence of feudal or patron-client relationship; and xii) unawareness of the general workers. TUs require to honestly address their inherent weaknesses to unite the workers, bring confidence among workers on TUs, and attaining the goal collectively. Following initiatives are suggested in this regard.

***Form a national confederation:*** There is no alternative other than united movement by the TUs. One of the means of united movement could be forming a confederation. Since there is scope of forming confederation in the Law, TU movement in the country should try to capitalize it. The confederation should be non-political; move for a single and worker friendly law (not employer friendly as now) for all workers in the country and face anti-union violence unitedly. It is to be noted here that SKOP is working like a confederation since 1983 despite having no registration.

***Reducing gap between TUs and developing common agenda:*** Due to political affiliation and other reasons, TUs have conflicting interests which affects the rights situation of workers negatively. These difference between TUs should be minimized through continuous dialogue within shortest possible time. In this regard, unions should set a common agenda on which they all would work together.

***Democratic and accountable practices:*** Unions' regular election, regular meeting, publication, annual report, disclosure of income-expenditure, opinion/view sharing meeting etc., could be instrumental in this regard.

***Worker-focused/interest-based programs:*** Massive campaign and activities should be taken towards making general workers aware about their rights and need of TU towards that end so that they join in TU movement. Besides, the general workers' need-based/interest-based activities/programs should be taken. Programs/activities should address different needs and interests of the different group of workers e.g. women, young, elderly workers.

#### **6.4 Towards shaping strategies for TUs in changing context and future of work**

***Social dialogue among unions to determine responses to future demand/change:*** To address the future challenges TU movement in the country need to have a comprehensive preparedness. Therefore, dialogues among unions (sectoral and national level) are needed incorporating 'future of work' as agenda. From these dialogues, unions should identify and determine the issues that will affect them; prioritize those issues; and fix their response mechanism. These dialogues would be instruments to determine on which TUs would require to respond urgently, and on which issues they will work on long-term basis. Dialogues would also help them to determine responses required at sectoral level, and which actions to adopt for national level.

***Strategic planning (short-medium-long term):*** TU should engage efforts to assess future needs and prepare their strategic plan, incorporating the vision and mission of the unions, accordingly. The plan should fix issues and agendas; determinate activities; set goals and targets; fix time limits for target achievement. The plan should also focus on resource requirement, resource availability,

and resource constraints for the planned activities and target. Further, the probable challenges of implementing the plan and the strategies to address those challenges should also be taken into consideration.

***Developing communication strategies:*** In the changing context, TUs should rethink their ways of information collection and sharing. Along with the traditional methods (e.g. publishing and distributing posters, leaflet, booklets, pamphlets; in-person gathering, and meeting) TU need to equip themselves with using of social media and virtual platforms.

***Training and educating workers:*** The skill demands emerging through transformation of economy and advancement of technology requires prepare the workers to face the challenge. TUs can play an important role in this regard through making provisions of continuous or lifelong training.

***Young leadership development for TU:*** Considering the changing context developing new, young, and devoted leadership is necessary. The young leaders need to be equipped with the up-to-date knowledge on labor market transition and contemporary labour movement; and required skills of negotiation and bargaining. Therefore, initiatives are needed in this regard to train young leaders to uplift their knowledge and skill.

***Subject-wise expertise development:*** The modern era is the era of specialization. To get desired result through bargaining, TU representatives require to be expert in different specialized sectors. The proposed confederation may prepare a pool of experts and train them with the help national and international agencies like BILS, ILO and supply them on demand from the CBAs.

***Undertaking research and developing research partnership:*** Initiatives should be taken to conduct comprehensive research since this could play a vital role in order to understand the pattern and trend of transformation in the coming days and how this impact workers' rights including TU rights. Research would also be helpful to determine the strategic positions of TUs and well as their responses required in chaining context. However, since research capacity of TUs is limited, they could carry out research with partnership research organisations and civil society organizations. Some potential research issues many include 'relationship between productivity and TU', 'analysis of service sector in gender perspective', 'analysis of rural urban dynamics of TUs', 'possible ways of organizing online-based workers, automation led challenges in different sector.

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### **Annex 1: CEACR observation on Freedom of Association and Collective Bargaining**

The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) continuously monitoring the labour standards of the country regarding its instruments. Latest report of this committee would depict a clear picture of the international labour standards in Bangladesh. The CEACR report 2017<sup>118</sup> noted the following observations:

Civil liberties: The Committee expressed deep concern over anti-union violence and anti-union retaliation (arrest, detention, surveillance, violence, false criminal charges, and intimidation, threats, physical assault, and other coercive measures) and emphasized that a truly free and independent TU movement can only develop in a climate free from violence, pressure and threats of any kind against the leaders and members of such organizations.

Right to organize and registration of trade unions: CEACR observed that rejection of application for registration remains high and reasons behind are not explicit. The Committee requested GoB to make the registration simple, objective, and transparent so that workers can establish TUs without previous authorization.

Minimum membership requirements: Noting the minor reduction of the membership requirement (30% to 20% in 2013 amendment) to get and continue registration, the CEACR requested to review the sections 179[2] (about membership requirement [20%] and definition of establishment), 179[5] (number of TU[max. 3] in an establishment) and 195[f] (registration cancellation due to fall of TU's membership below stipulated percentage) of BLA 2006 to lower it through meaningful dialogue with social partners. CEACR also requested to reduce the requirement to establish an agricultural TU from 400 (section 167[4]).

Right to organize, elect officers and carry out activities freely: The CEACR is requesting for many changes in the BLA for several years to ensure conformity with C-87. The sections, subjects, nature of recommendation and actions taken so far regarding these has been presented in Table A-1.1.

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<sup>118</sup> [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100\\_COMMENT\\_ID:3343756](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID:3343756).  
Last accessed 07.02.2020 23:55.

**Table A-1.1: CEARC recommendations and actions taken**

Sl.	Section	Subject/About	Nature	Action
1	2 [4(e), (h), & (n)]	Inclusion of restricted sectors.	Repeal	Only 'seamen' included
2	175	Exclusion of the workers (watch and ward or security staff, fire-fighting staff, and confidential assistant) from special definition.	Deletion	None
3	178 [2(a)(iii)]	ID card of informal sector worker requirement	Clarification	ID/NID/BC
4	179 [1(d)]	Govt. approval for reception fund from national or international source other than members' subscription	Replacement	Approval replaced by 'inform'
5	182 [1, 2, 4]	Time limit for DoL to register a TU	Reduction	<ul style="list-style-type: none"> <li>• Certificate from 60 to 55 days</li> <li>• Inform TU about deficient by DoL from 15 to 12 days</li> <li>• Disposal the application from 60 to 55 days</li> </ul>
6	182[7]	Adopt SOP for registration of TU	Add	Added
7	184[2-4]	Restriction and monopoly of TU for civil aviation workers	Repeal	Replaced (Only for affiliation with international organization)
8	185	Restriction and monopoly of TU for seamen	Amendment	None
9	190[1(c)]	Registration by fraud or by misrepresentation of facts	Repeal	Not done. Instead (d) repealed
10	202[22]	Registration cancelation due to obtain <10% vote in CBA representative election	Repeal	Repealed
11	211[8]	Prohibition of strike in new, or foreign ownership or cooperation for three years	Repeal	None

*Source:* Prepared based on CEARC 2017 recommendations.

As seen in the Table 2.2, CEACR observed that requested changes either not or partially addressed, the committee reiterates to review the BLA for conformity with Convention 87.

- (a) scope of the law – restrictions on numerous sectors and workers remain (sections 1(4), 2(49) and (65) and 175); (2) restriction on organizing in civil aviation (section 184(1));
- (b) restrictions on organizing in groups of establishments (sections 179(5) and 183(1));
- (c) restrictions on trade union membership (sections 2(65), 175, 193 and 300);
- (d) interference in trade union activity (sections 196(2)(a) and (b), 190(1)(d)–(e) and (g), 192, 229, 291 and 299);
- (e) interference in trade union elections (section 180(1)(a) read in conjunction with section 196(2)(d), and sections 180(b) and 317(4)(d));

- (f) interference in the right to draw up constitutions freely (sections 179(1) and 188 (in addition, there seems to be a discrepancy as section 188 gives the DoL the power to register and, under certain circumstances, refuse to register any amendments to the Constitution of a trade union and its Executive Council whereas Rule 174 of the BLR only refers to notification of such changes to the DoL who will issue a new certificate));
- (g) excessive restrictions on the right to strike (sections 211(1) and (3)–(4) and 227(c)) accompanied by severe penalties (sections 196(2)(e), 291(2)–(3) and 294–296); and
- (h) excessive preferential rights for collective bargaining agents (sections 202(24)(c) and (e) and 204).

Penalties: Despite the periods of imprisonment for unfair labour practices (291[2-3]), illegal strike (294), instigating illegal strike (295), taking part in or instigating go-slow (296) and participation in activities of unregistered trade unions (sections 291(2)–(3), 294–296 and 299)] reduced by half, the committee requested GoB to eliminate such penalties from the BLA and to let the penal system address any possible criminal acts.

Export Processing Zones (EPZs): EPZs are excluded from the BLA. Instead Bangladesh EPZ Labour Ordinance, 2019 has been enacted. Under this law, EPZ workers are not entitled to form TUs. Rather, they can form Worker’s Welfare Association (WWA) which does have same rights as TUs. The CEACR Committee identified numerous provisions which violate Conventions 87 and 98 including any space for collective bargaining (ITUC 2019). As ITUC concluded “despite the repeated observations of the ILO and the demands of trade unions, the new EPZ Law failed to address most of these concerns. Importantly, the new law continues to deny EPZ workers the right to form or to join a union.” (2019). More specially -

- No right to form TU, instead WWA which does not have rights like TU including CBA
- WWAs are not allowed to maintain linkage with NGOs or federations/TUs outside EPZ
- A worker has no right to file a case in case of illegal termination
- Effective functioning of the law heavily dependent on framing rules by the government and regulations by the BEPZA
- The terms and conditions of service for the workers are regulated by the BEPZA
- The Department of Inspection for Factories and Establishments (DIFE) requires prior permission of the Chairman of BEPZA for any inspection. Bottom of Form

The CEARC report (2014) expressed the following concerns regarding EPZ:

- officers of the WWA shall not be dismissed without prior approval of the BEPZA Executive Chairmen.
- BLA has been amended to repeal the provision requiring the Director of Labour to send the list of officers of trade unions requesting registration to the employer.
- there is no complaint of anti-union discrimination presented by EPZ workers before EPZ tribunals.

- EPZ Workers' Welfare Fund will cover the expenses of counsellors, conciliators, and arbitrators, as well as the establishment of the tribunals. The BEPZA had already appointed conciliators and arbitrators, they did not continue as there were very few cases requiring their attention. The Government provides further information from the BEPZA that 90 counsellors under the BEPZA authority are working with a prescribed form to look after labour-related issues.

Collective Bargaining Agent:<sup>119</sup> Despite requested in the previous CEACR report no amendment in 2013 and report of interference by the employers or employer's organisations, the Committee once again requests the Government, in consultation with the social partners, to review the BLA.

*Promotion of collective bargaining (A 4).*

- How the provision of appointing experts for assistance in collective bargaining not clear (Section 202a)
- the Committee had once again requested the Government to amend sections 202 and 203 of the BLA to clearly provide that collective bargaining was possible at the industry, sector, and national levels. Observing that the amendments adopted in July 2013 do not address this issue, the Committee once again requests the Government to consider, with the social partners, the necessary measures to ensure that collective bargaining can effectively take place at all levels.

There were two amendments in this regard in 2018 amendment but not enough.

- The Committee requests the Government not to take any measure that participation committees are not used to undermine the role of trade unions. ITUC expressed concerned that PC may undermine take the role of TUs and demanded amendment of BLA 205(6a) "In an establishment where no trade union exists, the worker representatives of the participatory committee may carry out the activities related to the interests of the workers until a trade union is formed in that establishment". 120

*Promotion of collective bargaining in the EPZs.*

- The Committee requests the Government to transmit in its next report a few representative examples of these agreements, indicating the number of workers covered.
- Encouraged by the discussion in the Committee on the Application of Standards in June 2013 concerning the application by Bangladesh of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), in which the Government expressed its willingness to review the EWWAIRA and consider the manner in which EPZ workers could be brought under the coverage of the BLA, the Committee requests the Government to indicate the progress made in this regard.

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<sup>119</sup> Observation (CEACR) - adopted 2013, published 103rd ILC session (2014)  
Discrimination (Employment and Occupation) Convention, 1958 (No. 111) - Kenya (Ratification: 2001)  
[https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100\\_COMMENT\\_ID:3142557](https://www.ilo.org/dyn/normlex/en/f?p=1000:13100:0::NO:13100:P13100_COMMENT_ID:3142557)

<sup>120</sup> Inserted in BLA amendment 2013 by section 58(c).

### *Tripartite wages commissions in the public sector*

- Taking due note of the Government's indication that there is no bar on the development of free and voluntary collective bargaining, the Committee requests the Government to provide statistics on the number and nature of collective agreements concluded in the public sector, including the approximate number of workers covered under each agreement.

The ILO CEACR observation 2017 (published in 2018) called GoB to:

- (i) ensure that the Bangladesh Labour Act and the Bangladesh Labour Rules (BLR) are brought into conformity with the provisions of the Convention regarding freedom of association, paying attention to the priorities identified by the social partners;
- (ii) ensure that the draft EPZ Labour Act allows for freedom of association for workers' and employers' organizations and is brought into conformity with the provisions of the Convention regarding freedom of association, with consultation of the social partners;
- (iii) continue to investigate, without delay, all alleged acts of anti-union discrimination, including in the Ashulia area, ensure the reinstatement of those illegally dismissed, and impose fines or criminal sanctions (particularly in cases of violence against trade unionists) according to the law; and
- (iv) ensure that applications for union registration are acted upon expeditiously and are not denied unless they fail to meet clear and objective criteria set forth in the law.

The CEACR Committee requested the GoB to review the following provisions of BLR to ensure that workers' organizations are neither restricted nor are subject to interference in the exercise of their activities and internal affairs, that unfair labour practices are effectively prevented and that all workers, without distinction whatsoever, may participate in the election of representatives (ILO 2018):<sup>121</sup>

- Rule 188 (employer participation in the formation of election committees which conduct the election of worker representatives to participation committees in the absence of a union);
- Rule 190 (prohibition on certain categories of workers to vote for worker representatives to participation committees);
- Rule 202 (general restrictions on actions taken by trade unions and participation committees);
- Rule 350 (broad powers of inspection of the DoL);
- lack of provisions providing appropriate procedures and remedies for unfair labour practice complaints; as well as the possible impact of Rule 169(4), which limits eligibility to the union executive committee to permanent workers, on the right of workers' organizations to elect their officers freely.

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<sup>121</sup> [https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100\\_COMMENT\\_ID:3328833](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:13100:0::NO::P13100_COMMENT_ID:3328833)

## **Annex 2: Specific changes required in the legal instruments**

- 1) Change the notion of the law from ‘control of trade unionism’ to ‘worker and TU friendly’.
- 2) Remove the following provisions making discrimination among workers:
  - Some of the formal sectors excluded.
  - Informal sector that employs 85% of workers excluded.
  - EPZ/SEZ workers excluded by separate law (WWA is not a replacement of TU).
  - Some categories of workers excluded (administrative, supervisory officers or managerial employees, etc.).
  - Membership in TU bar for workers less than one year.
  - Proportion of membership requirement is different for different sector (20% for industry, 30% for group of establishments and 400 for agriculture sector, etc.).
  - Three TUs in an establishment and group of establishments, one in port, seamen, civil aviation.
  - Provision for TU officer in government and private sector and group of establishments is different. For example, 10% outsider allowed for government but not in private sector, one-fourth of the TU officials may be from outside for group of establishments.
  - Only permanent workers allowed to executive committee.
  - Provisions for TU formation in group of establishments are vague, stringent, and discriminatory.
- 3) Incorporation of separate law for EPZ and SEZ into the BLA, one law.
- 4) Repeal all provisions that exclude certain workers except army and police.
- 5) Include all workers remain outside the coverage of law such as informal worker, self-employed workers, temporary worker, worker without workplace, etc.
- 6) Too many decisions lie with government in case of TU formation in group of establishments. For example, vague definition of group of establishments, area for group of establishments, industries to be included in the group of establishments.
- 7) Repeal all provisions through which government officials and employers can interfere into the TU activities.
- 8) Repeal the stringent conditions for TU membership and election of CBA leaders.
- 9) Repeal too many stringent conditions to form TU. Registration process should simple and without any prior authorization.
- 10) Operation of TU should be left on TUs themselves with simple guidelines in the law.
- 11) Repeal the number bar (maximum three) and make provisions so that vested interested groups shall not be able to form TU exploiting or misleading the general workers.
- 12) Repeal the minimum membership provision fully.
- 13) Amend too many restrictions on strike and lockout.
- 14) Amend the provision for severe punishment and excessive penalties to none or minimum.
- 15) Add effective provisions to combat anti-union violence and anti-union retaliation (arrest, detention, surveillance, violence, false criminal charges, and intimidation, threats, physical assault, and other coercive measures).
- 16) SOP should be made more stringent for the part of the DoL, so that rejection of TU application would be difficult.



- 17) Maximum reduction of the time limits for DoL for different steps of registration such as certificate, inform deficiency in application, disposal of application, etc.
- 18) Repeal the provision for informing government of foreign fund reception. Rather, provisions should be made to formalize such reception and use within the TU constitution.
- 19) Repeal the provision of single TU for Seamen, civil aviation, and port users & workers.
- 20) Repeal prohibition of strike in new, foreign owned establishments for three years.
- 21) Repeal all provisions in the law that allow interference in TU activity, including elections of TU officers, by DoL officers, employers, etc.
- 22) Repeal provisions that interfere in the right to draw up constitutions freely without any interference from DoL.
- 23) Amend excessive restrictions on the right to strike and severe penalties to minimum.
- 24) Amend excessive preferential rights for collective bargaining agents.
- 25) Eliminate the periods of imprisonment for unfair labour practices, illegal strike, instigating illegal strike, taking part in or instigating go-slow and participation in activities of unregistered trade unions to let the penal system address any possible criminal acts.
- 26) Provisions of all sorts of alternatives of TU (PC, WWA) should be repealed.
- 27) Clarify how the provision of appointing experts for assistance in collective bargaining. Do the TUs have enough money to hire an expert?
- 28) Add provisions for effective collective bargaining at all levels equally (industry, sector and national).
- 29) Repeal of the Labour Law (Amendment) Act, 2013 as they viewed it as against trade unionism.
- 30) Amend the provisions of punishment for misconduct and conviction, and procedure of punishment.
- 31) Expenses required to process registration application and other purposes should be abolished or reduced to minimum.
- 32) The provision of 10% members of EC from outside should be repealed or made equal to all sectors.
- 33) Too much or indefinite power to DoL officer in registration should be abolished. For example, 'on being satisfied' in section 182 (1).
- 34) Bring conformity between BLA and BLR with the provisions of ILO. For example, Rule 204: Only subscription-paying workers can vote in a ballot to issue a strike, whereas section 211(1) of the BLA refers to union members.

### **In the Bangladesh Labour Rules following changes are recommended**

- 1) *Maintaining register (BLR 168[1]):* Maintenance of different register for the TUs, is good move. However, it is a huge task as there would be thousands of members in a TU according to the requirement. Thus, it requires considerable time and resources, may be full-time human resource. The funds of the TUs build up with the subscription of the workers receiving world's lowest wage (about \$93 per month). Understandably, the capability of the TUs to maintain rigorous registers is limited. (BLR 168[1]).

- 2) *Return to be audited by chartered accountant (BLR 175)*: Yearly return for submission to the DoL office requires to be audited by a chartered accountant. This likely to incur a considerable amount of money which is difficult to manage from the fund created through the subscription of the impoverished workers and appears unnecessary.
- 3) *Fees of application for registration (BLR 173)*: TUs, TU federations and confederations are non-profit organisations. Preparation of application and fulfill the requirements for registration incur substantial amount of money. Yet there are fees for submission of application (TU 500/-, Federation within industry 1000/-, national Federation 3000/-, national Confederation 5000/-).
- 4) *Advertisement (BLR 168[3])*: Group of establishments require to publish advertisement from their own cost. This also incurs cost and seems unnecessary.
- 5) *Appointment of expert*: Provision for appointment of expert by the CBA is seen as facilitative for the CBAs as the CBA may have limited capacity of bargaining. However, this is also a matter of involving substantial amount of costs as experts are not likely to be volunteer.
- 6) Repeal the Rule 188: Employer participation in the formation of election committees which conduct the election of worker representatives to participation committees in the absence of a union.
- 7) Repeal the Rule 190: Prohibition on certain categories of workers to vote for worker representatives to participation committees.
- 8) Repeal the Rule 202: General restrictions on actions taken by trade unions and participation committees.
- 9) Repeal the Rule 350: Wide and vague powers of inspection of the DoL.
- 10) Rule 169(4): Limits eligibility to the union executive committee to permanent workers should be left with the workers' organisations as their right to elect their officers freely.
- 11) Rules that restricts workers' TU activities and discriminate or distinction among workers should left with the members of the TU without any intervention by the public authorities.
  - Rule 2: Administrative and supervisory officers who are excluded from the BLA.
  - Rule 85, Schedule IV, sub-rule 1(h): Prohibits members of the Safety Committee from initiating or participating in an industrial dispute.
  - Rule 204: Only subscription-paying workers can vote in a ballot to issue a strike.
- 12) Rule 169(4): Only a person employed as a "permanent worker" is eligible to become a member of the union's executive committee should be repealed.
- 13) Rule 168: Unions must register in accordance with "Forms," which require producing workers' union membership certificate and NID. In practice, that may be difficult because workers seldom retain with them the union membership certificates that are in the form of receipts.
- 14) BLR 175[2]: The provision for bearing the expenses of CBA election by the employer would be the reverse of the beat as financing authority always tends to control the actions.
- 15) BLR 168[1]: Certificate of membership certificate to attached with registration application shul be abolished as the declaration at the end of form 55(ka) and 55(kha) should be enough in this regard.

The SKOP and NCCWE put forward the following recommendations for amendments in the BLR, 2015:

- 1) BLR section 167: The provision of submission of the copy of membership form (sub-section 1 & 3) should be abolished. Because the declaration at the end of form 55(ka) and 55(kha) should be enough in this regard.
- 2) 167[4]: Define the area of group of establishments for TU in agriculture sector for trade union formation should be made clearer.
- 3) BLR 167[4]: Conditions of trade union formation in the existing law should be applied for agriculture farm too.
- 4) BLR 167 [4]: In case of group of establishments, how 30% members will be determined and what will be the process of forming CBA should be made specific as the number of such farm is not known and there is no owner association.
- 5) BLR 168[1]: Certificate of membership certificate to attached with registration application shul be repealed.
- 6) BLR 168 [3]: In case of group of establishments, after getting registration, the applicant should arrange a public notice at own cost should be repealed.
- 7) BLR 169[1]: Replace the present number of members in the EC with Industrial Rules 1977.
- 8) BLR 169[3]: The conditional part of the rule should be deleted.
- 9) 169 [4]: Repeal the provision of permanency for being member of EC.
- 10) BLR 177: (Submission of annual report): Add a new sub-section 4 if case pending in the court or in case of reasons beyond the capacity of the TUs, after six months of the end of that condition return will be submitted.
- 11) Rule 177: (Election of CBA after tenure): Within 15 days of end of tenure of CBA unions will hold CBA election by nominating an Election Commissioner. Here to be added:
  - (i) The EC will complete all election related activities of election including Ballot paper and the Rule 177(3) shall not be applicable in this regard. Because as the TUs to nominate the EC, the EC can complete all election activities including printing of ballot paper. There is no necessity of application of Rule 178.
  - (ii) Section 202(8): If any dispute regarding the list of workers should submit within 15 days. In Rule 177(3), the process dispute resolution and timeframe should be specified.
- Rule 187 & 188: Provision of participation committee should be abolished.
- Rule 202 (Avoid certain activities by members of TU, TU Fed, TU Confed, CBA, PC): Should be repealed as there is specific direction in the section 349 and 202 of the BLA.
- Form 56 cha [Section 178(2)(3) and Rule 168(5) NB] (Description of TU officers): Serial no., Name Father and Mother/Husband name.... Replace 'Name Father and Mother/Husband' by 'Mother and Father/Husband Name'.
- Form 56 Chcha [Section 178(2)(3) and Rule 168(5) NB] (Description of Fed officers): Name, Father and Mother/Husband name.... Position in establishment should be repealed.
- Rule 204 (Secret vote for giving notice of strike):
  - Within 7 days of reception of failure certificate according to Section 211(1) of BLA, the CBA will put written request to the Arbitrator for arranging secret vote;
  - Withing 15 days of receiving the notice, the CBA will make necessary arrangements for secret vote among the subscribed members of the CBA as per advice of the Arbitrator;

- In the ballot paper there should be “in favour of strike – ‘yes’ ‘no’ or two boxes with symbols; and
- Every member participating in the vote by tick or thumb or push.

The description of this Rule should be brought in compliant with Labour Law:

- Sub-rule 1: 7 days should be replaced by 3 days;
- Sub rule 2: 15 days should be replaced by 7 days; and
- Sub-rule 3 and 4: instead of provision of writing ‘yes’ and ‘no’ replace with ‘cross’ mark and ‘tick’ mark.
- Rule 350 (Responsibility and authority of the Labour Director): Reviewing this rule, it appears that some authorities are beyond the purview of the BLA and intervention in the independent TU activities. Thus, this rule should be made in compliant with the democratic values and ILO conventions.
- Rule 351 (Activities and authority of the Labour Inspector):
  - ❖ The compliance of Form 14 with BLA should be verified.
  - ❖ There should be provision for putting opinion by the TU if the TU dissatisfied with the inspection report or anything against the TU interest in the report.
- **New rule recommended:**
  - ❖ BLA 2018 348 ka: Tripartite Consultation Committee: The TCC should formed with equal number of representatives of govt., owner and worker as follows:
    - i) Member of the TCC should selected from the nominated persons by govt. employer and national TU fed. But workers representatives should be from national feds as much as possible and women in the committee should be ensured.
    - ii) Number of members of the TCC should not be more than 60.
    - iii) President should be honourable Minister/State Minister/Deputy Minister of Labour and Employment Ministry and Member-Secretary should be Deputy Chief (Labour) of the Ministry.
    - iv) At the foist meeting of the TCC three vice-presidents should be selected; one each from govt., owner, and workers.
    - v) In absence of President, vice-presidents of the TCC shall preside the meeting by rotation.
    - vi) With the permission of the President, the Member-secretary may invite, if feels so, any national or international personality/organization having expertise in the meeting.
    - vii) Meeting should be:
      - At least once in every month;
      - President sha have the authority to convene meeting anytime in case of need;
      - If members of any party requests for an emergency meeting in an emergency president shall convene meeting. In that case emergency meeting, the agenda of the desired party should be including;
      - The president, through discussion with the vice-presidents should fix the meeting agenda and serve notice 10 days before the meeting.

- viii) President will decide the place and time of the meeting through discussion with the vice-presidents.
- ix) Tasks/activities of the TCC:
- Considering the advice of the employer and worker organisations, help and advice the government in formulation of law, rules, principles and planning in the field of labour
  - To advice government in eliminating crises evolved in industrial relations and industry
  - Advice the government according to the members of the committee on matters presented for advice
  - Inform government about labour problem in general
  - Advice on welfare of the backward (women, children, ethnic minority, immigrant, etc.) working class
  - Advice in formulation and planning in the areas, including development, that influence the life of the workers
  - Reviewing the international labour standards, advice to ratify and implement those
  - Form opinion for new convention at international level
- x) Office maintenance: A full time officer and permanent office/division, desk/cell to coordinate and continue the activities of the TCC
- xi) Enough budget for the activities of the TCC
- xii) Proceedings:
- Provision of forming sub-committees in need by the TCC;
  - There shall be equal number of members from govt., owner, and workers in the sub-committees;
  - If necessary, sub-committees can invite experienced person in an issue for opinion.
- ❖ Different establishments under same owner:
    - i) Specify who is the owner and different establishments under same owner;
    - ii) There shall be separate TU in different factories under same limited company.
  - ❖ Formulate separate rules for four levels of TU organisation, i.e., basic union, industrial federation, national federation, and national confederation.
  - ❖ Meeting, council, and election of national federation: Separate rules in this regard. The directives of DoL regarding formation of election commission is contradictory with the constitution of union / federation.

### **Annex 3: Obstacles in TU rights practice and opinion derived from TU participants in Consultation Workshops, FGDs, KIIs**

- 1) There should be a move to minimize the gap between the employers and workers as so that they are not competing parties rather completing.
- 2) Anti-union violence, anti-union retaliation, violent crackdown by *mastans* and police have made the practice of trade unionism almost impossible. There is no alternative other than united movement by the TUs.
- 3) Yellow unionism is another ill technique of the employers to antagonize the genuine TUs. Yet there is existence of fake union too. Some vested groups take chances to procure money from the employers using their normal fear about TU. Genuine TUs and workers require to be vigilant in this regard and government authorities should extend their full support.
- 4) Digital monitoring, threat for dismissal and scarcity of employment have made the workers vulnerable. They become anxious about their survival and joining in TU movements. To overcome this situation, more jobs, less monitoring is required.
- 5) The TU movement should ensure outside support for their purpose as present socio-political and economic structure hardly provide any space for realizing the rights of the workers through their own efforts.
- 6) Effective measures (advocacy/movement) requires to be taken so that government authorities cannot be sided with the employers or against the workers.
- 7) Provisions should be incorporated to stop all anti-union violence and retaliation.
- 8) Practice of minimum membership requirement of 20% of workers is impractical and often impels workers to submit forged documents and falsify signatures should be repealed.
- 9) Arrangement of separate venue for meetings, conferences and get together.
- 10) Provision of police permission for meeting, conference, etc. and a requirement that local police verify that workers had met and elected the union on the date cited in the application should be abolished.
- 11) Provisions for prevention of the scope of unholy alliance with authority and employer or yellow trade unionism / TU.
- 12) Provision for permanency of the workers inspires the employers hiring more and more people on temporary basis making the workers ineligible for TU.
- 13) Definition of “supervising officer” in BLR is vague enough to be used by the authorities to arbitrarily disqualify certain garment workers from eligibility to join, form, or remain part of union leadership.
- 14) Rule 168: Provision for producing membership certificate together with NID. It should be repealed and simply allowed to state their names and worker identification numbers issued by the factory.
- 15) Abolish all sorts of investigation by DoL officer regarding TU application, if unions met registration requirements.

- 16) Too much government control: It is evident that trade unionism in Bangladesh is subject to heavily controlled by the government. The Laws and provisions appear to facilitate that control. The corrupt government officials, government politics (through affiliated TU) and nexus between government officers, government and employers have made trade unionism difficult ever before.
- 17) The operation of TUs is heavily controlled by the government officials (DoL). However, as revealed the officers often pass *the news of new TU formation to the factory owners by some corrupt officials. The owners bribed the corrupt officials and the TU leaders to stop that union registration. So, TU leaders need to be changed as well as the corrupted officials. Even there are some instances where application for new TU formation has been withdrawn after the distribution of money from the owner of the factory.*
- 18) *When DoL send some papers to factory owners to justify then owners get informed that a TU is getting formed in his/her factory and tries all the way out to stop it. This is a loophole in the legal protection.*

#### Annex 4: List of participants of the Consultation Workshops

Name of the participants	Position & Organisation
Shah Md. Abu Zafar	President, BLF
Md. Zafrul Hasan	Executive Director and Joint Secretary General, BILS
Kohinoor Mahmood	Director, BILS
Nazma Yesmin	Director, BILS
Khandokar A. Salam	Consultant, BILS
Wajedul Islam Khan	General Secretary, BTUC
Anwar Hossain	Vice Chairman, BILS, President, BJSD
Qamrul Ahsan	President, JSF
K. M. Azom Khasru	General Secretary, JSL
Kabir Hossain	Advisor, BJSD; Secretary, BILS;
Anamul Haque	Department of Labour
Shakil Akhter Chowdhury	Joint General Secretary, BLF
Shirajul Islam Rony	President, Bangladesh National Garments Workers Employees League (BNGWEL)
Kazi Rahima Aktar Shathi	General Secretary, JSL (W. C.), CMCC Member
Md. Giash Uddin	Director, DoL
Monirul I khan	Professor. Department of Sociology, Dhaka University
Dr. Khondaker Golam Moazzem	Research Director, CPD
Md. Nazrul Islam Bhuiyan	BEPZA
Ruhul Amin	President, Industriall Bangladesh Council
Towhidur Rahman	Bangladesh Apparel Workers Federation- BAWF
Advocate Amina Akter Dewan	Vice president, Bangladesh Labour Federation-BLF
Advocate Nazrul Islam	Program Officer, Solidarity Center Bangladesh
ASM Hafizul Hossain	Vice President, PGCB Sramik Karmachari Union (PGCBSKU)
Masuda Sultana	Asst. Director, DoL
Md. Saidul Islam	Program Officer, ILO
Md. Shahabuddin	General Secretary, BSF
Abdul Wahed	General Secretary, JSJ
Abul Khayer Khaja	Former G.S., Adamjee Jute Mills Jatiyatabadi Sramik Union
Engr. Khondokar Monjur Morshed	General Secretary , IEB
Md. Rifat Hossain	Assistant Controller (Research Officer), Ministry of commerce
A B Siddique Mintu	General Secretary, Nirman Sramik League
Fazlul Haque	President, Grameen Phone Employees Unioon (GPEU)
Nargis Jahan	Titular Member, PSI and Member, Ex-co. BJSD
Md. Morshed Alam Khan	General Secretary, PGCBSKU
Md. Shahid Ullah Bhuiyan	GS, Bangladesh Chemical Employees Federation.
Harun or Rashid	President, Bangladesh Rickshaw Van Owners Association
Md. Hanif Khokan	Dhaka Auto Rickshaw Sramik Union
Musfiq Tajwar	Action Aid
Rifat Tanjila	OXFAM