



Terms of Reference (ToR)

Research on “ Status of Rights to Freedom of Association and Collective Bargaining in the Ready-Made Garment (RMG) Industry of Bangladesh”

1. Summary

This 'Terms of Reference' describes the methodology and working modalities of a research titled "Status of Right to Freedom of Association and Collective Bargaining in the Ready-Made Garment Industry of Bangladesh." Bangladesh Institute of Labour Studies -BILS is the commissioning authority of this research. This consultancy constitutes an essential part of a partnering project between BILS and CARE Bangladesh titled 'USAID's Women Thrive in Bangladesh Activity,' in which USAID is the key funding agency.

2. Brief narratives on the project and research commissioning authority

2.1. Project Brief

Women Thrive in Bangladesh activity is a USAID-funded project, and BILS has been implementing the project as an advocacy partner with the support of CARE Bangladesh. The project focuses on the key barriers and threats to women in Bangladesh, like economic issues, GBV, etc. BILS contributes to knowledge-based actions of stakeholders/ institutions for greater protection and well-being of workers under women thrives in Bangladesh Activities Project.

2.2. BILS (Commissioning authority)

BILS is the only NGO-registered Labour Research Institute in Bangladesh. Functionally, BILS is the center for labor market research and policy development for the 13 National Trade Union Centers (NTUCs), which formally represent the political views of the 13 main political parties of Bangladesh. The press and development stakeholders have consistently valued BILS as one of the most reliable and authentic sources of information on labor market aspects. The government in several past instances partnered with BILS in developing a few core labour policies and laws.

3. Problem Statement and Rationale

The right to freedom of association and collective bargaining are fundamental rights for workers. ILO Conventions 87 and 98 have established the same. This is recognized and obligated by all stakeholders through Bangladesh's legal framework. Developed economies and partners, e.g. the USA and EU countries, which are the main destination countries of Bangladesh's garment

export, consistently emphasize these rights to Freedom of Association and Collective Bargaining. Strong workers' organizations are recognized as a must to uphold good and harmonious industrial relations in an industrial setup.

Laws at the national level also provide a robust foundation for the rights to freedom of association and collective bargaining. In the Labour Law 2006, two chapters, including 56 sections, are completely dedicated to addressing trade unions, industrial relations, and industrial dispute settlement. Besides, a few other legal instruments address industrial relations, like the labor rules, the Tripartite Consultative Council for RMG, and the EPZ law. Workers, too, are consistently mobilized to bring about effective changes in the legal framework to better address these rights in the workplace. While trade union representation in the RMG sectors are very low (according to the DoL (2024) [1], there are 1306 active trade unions and 61 TU Federations existing in the RMG factories). Anecdotal information, though, suggests that only a poor percentage of the existing TUs are active in the real sense of the term.

Despite, having the legal mechanism in place to protect the workers' rights to freedom of association and collective bargaining, Bangladesh's RMG industry remains persistently marked as one of the most disadvantaged in terms of both unionization and collective bargaining. It's worth noting that RMG contributes to more than 85% of the total export earnings, with the majority of its workforce being women. However, when it comes to freedom of association and collective bargaining, the initiatives in place tend to be reactive rather than proactive. After the Rana Plaza collapse and the Tazreen Fire incident, an increase in trade union registrations is being observed. However, the effectiveness and functionality of these unions remain critical concerns, as the tangible impact of their active presence is rarely felt. Despite the surge in registrations, challenges persist in ensuring meaningful representation and rights for workers.

Circumstantial information suggests that, despite some collective bargaining practices, they fall short of comprehensive standards. Formal charters of demands are rarely submitted, time-bound negotiations are absent, and agreements lack meaningful action. Industry owners still view freedom of association as a challenge, and any attempts in this direction are often met with coercive reactions.

Moreover, different arrangements such as trade unions, participation committees, and worker welfare committees have been provisioned, and they simultaneously exist in a single enterprise. There are ambiguities in the legal scope and limitations of the above mechanism, and labor stakeholders have critical concerns about these. On top of that, structural barriers prevail in this sector, including patriarchal norms, limited access to skills and education, and social stigma around women's participation in the union, which hinder women's ability at large to efficiently engage in collective bargaining processes.

Given the context, this research aims to assess the current state of freedom of association and collective bargaining rights in Bangladesh's Ready-Made Garment (RMG) industry. Additionally, the study will specifically focus on women as a core aspect of the research.

4. Research Objectives

The research aims to analyze the current state of freedom of association and collective bargaining in Bangladesh's RMG industry, explore the challenges, and barriers, and identify the root causes of the increase in the number of Trade Unions in the RMG sector. To this extent, this research will develop a comprehensive set of strategies and recommendations to improve the Freedom of Association (FoA) and collective bargaining rights in the RMG industry.

More specifically, this research aims to the following:

- To assess the current status of freedom of association (FoA) in Bangladesh's RMG industry in terms of growth, participation, and efficacy, as well as to identify challenges in terms of TU organizing, registration, and functioning in the current environment in the industrial belts.
- Assess the challenges of placing COD and signing a CBA in the existing environment. Review the charter of demands (CoD) and collective bargaining agreements (CBA) in the RMG industry and identify the status, loopholes, and gaps.
- To review the BLA, identify gaps in terms of FOA and CBA, and also sketch specific recommendations to make the BLA comply with 87 & 98.
- Analyze the role of different right-bearer stakeholders (e.g., the Department of Labor, workers, employers, buyers and brands, the government, the ILO, diplomatic missions, and donor communities) and specifically discuss whether those have been effective or not and where the efforts are falling short.
- To formulate a comprehensive set of recommendations for effectively addressing freedom of association and strategies to improve collective bargaining agreements in Bangladesh's RMG industry, alongside scope for leveraging other civic and political spaces to boost social dialogue and trust-building among the stakeholders.

5. Research Questions

Relevant to research objectives, this research is expected to deal with the following four (4) main sets of research questions:

5.1. What is the current status of rights to Freedom of Association? Where are the gaps? How do we address those gaps?

- How many registered and non-registered trade unions exist? What about existing other mechanisms like PC and WWC? Are there any registration issues?
- What is the trend of growth for TU in the RMG industry?
- If there is only a poor or negative growth trend, what are the challenges/barriers? What are the root causes of the increase /decrease in the number of trade unions in the RMG industry?
- What are the persistent opportunities and challenges in the industrial belts to TU organizing and registration?
- What are the persisting opportunities and challenges for independent unions to operate in the industrial belts?

- What is the status of women involvement in trade unions? What are the strengths, opportunities, weaknesses, and threats to women workers participation in trade unions?

5.2. What is the current status of rights to collective bargaining? Where are the gaps? How do we address those gaps?

- How many active unions?
- How many Collective Bargaining Agents (CBA)?
- What are the challenges of placing a Charter of Demand (COD)?
- How many CODs were submitted in the last year? What is the trend?
- How many collective bargaining agreements were signed?
- What about the trend and growth?
- What about the quality?
- What are the challenges in placing a COD?
- What are the challenges of signing a CBA?
- What is the status of women involvement in collective bargaining? What are the opportunities and gaps?
- What are the strategies/recommendations to address gaps?

5.3. What is the status of the BLA concerning the right to FoA and collective bargaining in the RMG industry? What are the legal standards relevant to FoA and Collective bargaining? Does the BLA comply with sections 87 and 98? What are the positive aspects, and what are the gaps? What about the legal awareness of workers? What about the legal implementation? What about the participation of worker representatives in legal framing and implementation? What are the ambiguities that exist in the BLA? What are the challenges? What are the strategies and recommendations to address those gaps?

5.4. What is the status of the governance of the rights to FoA and Collective Bargaining? What are the different institutions involved? Who are the main right-bearing actors and stakeholders? What are their roles and practices? What are the positive roles? Where are the efforts falling short? Where is the accountability? What different roles are expected for the desired improvement, and why?

6. Methodology:

6.1 Area coverage

This research shall cover 80 factories of BGMEA and BKMEA in Dhaka, Gazipur, Naryanganj, and Chottogram Metropolitan Areas only .

6.2 Methods and Tools/Techniques

Considering the nature of the study as described above, it is expected that a combination of both quantitative and qualitative research approaches and their respective tools and techniques will be employed for this research work. Data deserves to be collected both from primary and secondary

sources. Among others, opinion/ quantitative surveys, literature reviews, content analysis of major laws/ policies, focus group discussions (FGD), key informant interviews (KII), in-depth interviews (IDI), and consultation methods and tools to be used to generate data, facts, and evidence. Preferred research methods against each of the above four main research questions have been mentioned here for further consideration:

| Research Questions | Preferred methods ,tools and techniques |
|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| <p>What is the current status of rights to Freedom of Association? Where are the gaps? How to address those gaps?</p> | <ul style="list-style-type: none"> - Survey - Literature review - Consultation with TU leaders - FGD with women workers - Interview with employers - Interview with GOV - Interview with experts - Case study collection |
| <p>What is the current status of rights to collective bargaining? Where are the gaps? How to address those gaps?</p> | <ul style="list-style-type: none"> - Survey - CBA review - Consultation with TU leaders - FGD with women workers - Interview with employers - Interview with GoV - Interview with experts - Case study collection |
| <p>What is the status of the BLA concerning right to FoA and collective bargaining in the RMG industry? What are the legal standards relevant to FoA and Collective bargaining? Do the BLA comply to 87 and 98? What are positive aspects and what are the gaps? What about the legal awareness of workers? What about the legal implementation? What about the participation of workers representatives in legal framing and implementation? What are the ambiguities existed in the BLA? What are the challenges? What are the strategies and recommendations to address those gaps?</p> | <ul style="list-style-type: none"> - Law/policy review - Survey - Consultation with TU leaders - Interview with employers - Interview with GoV - Interview with employers |
| <p>What is the status of governance of the rights to FoA and Collective Bargaining? What are the different institutions involved? Who are the main right-bearing actors and stakeholders? What are their roles and practices? What are the positive roles? Where the efforts are falling short? Where are the accountability? What different roles are expected for the desired improvement and why?</p> | <ul style="list-style-type: none"> - Literature review - Consultation with TU leaders - Interview with GoV - Interview with employers - Interview with experts |

This is only an indicative research methodology. The lead/ principal researcher is required to develop a detailed methodology and a research plan in consultation and agreement with the project team (comprised of BILS and CARE representatives) before administering the research.

7. Timeline:

The total duration of this study is two months, commencing from the date of the contract. The consultant is expected to commence the services on July 1, 2024, and will complete the entire assignment by August 31, 2024. The lead consultant is requested to develop a detailed timeline outlining the various stages of the research and share it with the project team as per schedule.

8. Deliverables:

The consultant has to develop and deliver the following outputs:

- A detailed inception report by July 10, 2024
- Data collection tools and a plan of fieldwork for approval by July 15
- A comprehensive research report. This includes a narrative analysis along with data presented in the form of tables, GIS maps, infographics, etc. The first and second draft reports are to be shared for input from the project team. The final version is to be made ready for print and e-pub by August 25, 2024.
- Appropriate presentation format (ppt, prize, etc.) to deliver at the dissemination seminar by August 30, 2024

9. Style and Length of Report:

It is mandatory to prepare and submit both an electronic version and a signed hard copy. The document should be very precise, address all research objectives, and include a short executive summary. The main body of the report should not exceed 35–40 pages, including a 3-5 page executive summary. The executive summary is expected to be transformed into a briefing paper with graphs and tables to disseminate immediately among the respective stakeholders. Key supplementary information like data analysis, transcripts of interviews, case studies, and references is to be attached in the annexure. All reports need to be prepared following the USAID style guide by a professional writer.

Disclaimer: The disclaimer of the report will be “ This study is made possible by the generous support of the American people through the United States Agency for International Development (USAID). The contents of this publication do not necessarily reflect the views of USAID or the United States Government.”

10. Research cost and payment procedures:

The consultant shall develop a budget and submit it to BILS. Research costs shall include, among others: 1) remuneration to the principal researcher; 2) salary/fee to the assistant or associate researcher (if any), 3) wage or salary to the intern data enumerators; 4) data collection

and communication costs; 5) materials costs (printing and photocopy); 6) program design, data entry, and data analysis costs; and 6) Tax/VAT. The consultant/team shall bear all costs associated with the preparation and submission of the proposal.

Payment shall be made in three installments: (i) forty percent (40%) of the contract value shall be paid upon receipt and approval of the inception report; (ii) forty percent (40%) shall be made after receipt and approval of the first draft report; and, (iii) the remaining twenty percent (20%) shall be disbursed upon receipt and approval of the final report.

11. Ethical Considerations and Risks:

- The potential benefits must outweigh any potential harm.
- Every respondent needs to be informed of the purpose and risks, as well as consent, before administering an interview.
- Participation in this research shall be completely voluntary, and participants shall have total freedom not to take part in the research or to withdraw participation at any stage of the research process.
- Research objectives are to be informed before every single interview, and due consent is to be obtained for participation.
- Prior permission needs to be sought from all participants before recording a discussion and/or capturing photographs.
- Confidentiality of the participants, information, and data sources is to be maintained.
- Data enumerators are to be properly trained on gender-sensitive aspects.
- Research reports must avoid all kinds of plagiarism and provide due acknowledgment to the sources. Objectiveness will be the key to mitigating the risks, and researchers have to be strategic and analytic in their arguments without any bias.

12. Documentation:

- Filled-up questionnaires, checklists, and interview notes should be submitted, co-signed, and dated by the consultant or other interviewer(s).
- The final report must provide endnotes and footnote references for all specific facts and statistics used. The report(s) must also include a bibliography of the major references used.
- Primary sources must be used wherever possible over secondary sources. For example, the consultant should refer a statistic to its original report, not where it is cited secondhand by a newspaper or website.

13. Termination of the contract:

The contract shall be terminated automatically upon the expiration of the contract period, and no further notice will be required. However, before the expiry party, one may extend or terminate the contract by giving a notice explaining the reasonable grounds.

BILS may terminate the contract under the following circumstances:

- Work negligence or non-compliance with the agreement or the scope of work of the contract;
 - Failure to submit the documents within the schedule stated in the contract
 - Unsatisfactory documents.
14. **Communication:** On all matters arising from this contract, the consultant shall deal with the Executive Director, BILS, in writing. This contract becomes effective upon its signature by both parties. It shall expire upon fulfillment by the parties of their respective obligations or otherwise following the provisions herein.

15. **General Terms and Conditions:**

15.1. Copyright: Any document, information, or data entrusted to or produced by the consultant in connection with this assignment will be the property of USAID’s Women Thrive in Bangladesh activity. After the completion of this assignment, only BILS and CARE will be eligible to use them. However, in case of any emerging need to use any part by the consultant, prior informing, reusing, and reprinting of the report requires prior approval in writing from BILS and CARE Bangladesh. The copyright of the final product will be endowed with the BILS.

15.2. Rescheduling: In the event of any emerging priorities and needs, the concerned authority at BILS shall enjoy all authority to reschedule the operational framework of this research assignment.

[1] see at <http://103.48.18.197/en/setsector>

Last date of Submission: 21 July 2024