

**DISSERTATION**

**ON**

**Right to Trade union in Bangladesh: A National and  
International Law Perspective**

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## **Consent Form**

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## **Declaration**

I am Mahmuda Akter Eva, ID: 2017-2-66-048 solemnly declare that the work presented herein is original work and that any part of it has not been submitted anywhere else. As this is a course, the purpose of this research is to fulfill my undergraduate degree. Any source of information or work by others that has been cited within this thesis has been properly acknowledged and is listed in the reference section.

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## **Abstract**

The research primarily seeks to determine if the right to trade union of workers in Bangladesh is legally ensured. For this, at first, the research locates the obligations of Bangladesh and its commitment to ensuring workers right to trade union in the national level under the ratified international treaties. Then, critically analysing the national legal frameworks of Bangladesh concerning the right to trade union of workers identifies that the legal frameworks dealing with the right to trade union have notable incompatibilities with international legal frameworks such as ILO conventions. The research also considers relevant national and international case laws and the decision of the UN human rights committee in relation to the right to trade union of workers where necessary.

## **List of Abbreviations**

ILO	: International Labour Organization
UN	: United Nation
TU	: Trade Union
TGWU	: Transport and General Worker Union
IBC	: The Industrial Bangladesh Council
NCCWE	: National Coordination Committee for Workers Education
EPZ	: Export Processing Zone
ICCPR	: International Covenant on Civil and Political Right
CEDAW	: Convention on the Elimination of All Forms of Discrimination Against Women
UNDHR	: Universal Declaration of Human Rights

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# Chapter 1

## Introduction

### 1.1 Background of the Study

A fundamental human right that is vital to a democratic function of a country and a prerequisite to the enjoyment of other human rights is the right to freedom of association.<sup>1</sup> Associations are crucial catalysts in promoting the protection of human rights and play a significant role in attaining goals that are in the public interest.<sup>2</sup> Freedom of association safeguards the right to start or join a group of like-minded individuals to pursue shared goals, such as the advancement and defence of human rights.<sup>3</sup> Trade union, in this regard, is a proper forum for disadvantaged workers to successfully voice their concerns against employers is the trade union. The national legal system must strongly encourage trade unionism if it is to succeed.<sup>4</sup> It also serves as the cornerstone of a participatory governance framework based on democracy, human rights, the rule of law, and pluralism, along with other rights that are related to it.<sup>5</sup> A stable democracy also needs the support of trade unions. They give voice to worker-citizens within the polity as well as to workers in the workplace. One of the finest ways to give worker-citizens a genuine and powerful voice is through trade

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<sup>1</sup> Dr Farmin Islam and Md Asaduzzaman, 'Legal Framework for Trade Unionism in Bangladesh' (2015) 20 IOSR Journal of Humanities and Social Science 13, 19.

<sup>2</sup> Organization for Security and Co-operation in Europe, 'Guidelines on Freedom of Association' (OSCE, 2015) <<https://www.osce.org/odihr/132371>> accessed 14 July 2022.

<sup>3</sup> UN OCHCR, 'The Rights of Women and Girls to Peaceful Assembly and Association: A Defender's Toolkit', <<https://www.icnl.org/post/tools/toolkit-on-the-rights-of-women-and-girls-to-peaceful-assembly-and-association>> accessed 14 July 2022.

<sup>4</sup> Tamanna Nur, 'The Role of Trade Unions in Protecting Rights of Labourers in the Readymade Garments (RMG) Sector of Bangladesh: A Comparative Analysis of Bangladesh, Chinese and Indian Laws' (2019) 9 Thammasat Business Law Journal 73, 96.

<sup>5</sup> UNHRC, 'General comment no. 37' in 'Note by the Secretariat, Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies' UN Doc CCPR/C/GC/R.37.



unions.<sup>6</sup> Given the significance of associations, state laws and regulations must properly safeguard both the right to the freedom of association and the role and objectives of associations.<sup>7</sup>

However, although Bangladesh has seen an increase in the number of trade unions the years, in practice most unions still essentially operate to safeguard the interests of political parties or large international NGOs.<sup>8</sup> Researchers discovered considerable gaps in the labour regulations despite the fact that the majority of manufacturers in Bangladesh have signed up to international frameworks, especially in employment. Even when international agreements have been incorporated into national legislation, many employers disregard them and rarely enforce them. It was discovered that company-conducted compliance audits in factories were mainly unsuccessful, with over 20% of social compliance auditors failing to include women's equal rights problems in their audits and 40% failing to assess the right to trade union. One of the main challenges regarding the implementation of workers' right to trade union in Bangladesh is that there is a lack of amendments to the labour laws to with international standards. For example, despite pressure from rights organizations and international organizations, the government is unlikely to amend the statute governing trade union (TU) registration.<sup>10</sup> As a result, there was a complaint made under Article 26 at ILO, Bangladesh was accused of not following Conventions 87 on freedom of association and the right to organize, 98 on the right to organize and collective bargaining, and 81 on labour inspection.<sup>11</sup>

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<sup>6</sup> Barbara J. Fick, 'Not Just Collective Bargaining: The Role of Trade Unions in Creating and Maintaining a Democratic Society', *The Journal of Labour and Society* (2009) 12(2) 249, 264.

<sup>7</sup> (n 1).

<sup>8</sup> Moinul Haque, 'Trade Unions in Bangladesh Benefit Workers Little Now', (New Age Bangladesh, May 2022)  
<<https://www.newagebd.net/article/169476/trade-unions-in-bangladesh-benefit-workers-little-now>>  
accessed 16 July 2022.

<sup>9</sup> Jehangir Hussain, 'Apparel Workers are still worst suffers from Covid-19', (The Financial Express, August 2022)  
<<https://thefinancialexpress.com.bd/views/apparel-workers-still-worst-sufferers-from-covid-impacts-1661356165>> accessed 26 August 2022.

<sup>10</sup> Monira Munni. 'Trade Union Law Unlikely to be Amended Despite Pressure' (The Financial Express, March 2021)  
<<https://www.thefinancialexpress.com.bd/trade/trade-union-law-unlikely-to-be-amended-despite-pressure-1615529737>> accessed 16 July 2022.

<sup>11</sup> Ibid.

## **1.2 Research Question**

While a few questions can be framed for this research topic, the topic has been subject to the following question only:

Is the right to trade union of workers ensured within the legal frameworks of Bangladesh?

## **1.3 Scope**

The research only deals with the right to trade union of workers. The right has been discussed by considering the workers in general and does not focus on any particular group of workers. The research critically examines the nationals of Bangladesh namely the Labour Act 2006. For this, it also looks at Bangladesh's obligations towards international law in implementing the right to trade union of workers at the domestic level. Relevant case laws have also been discussed where necessary.

## **1.4 Limitation**

The data available on the research topic is extremely limited. Among the available works, a few of them does not seem to be reliable. Reliable findings on the topic of trade union in Bangladesh is almost non-existent and only a number of NGO reports are available. Also, while conducting the research the testimony of trade unions could not be taken due to the challenges of arranging a meeting with the union members.

## **1.5 Methodology**

This research follows a qualitative approach. It also incorporates a theoretical or descriptive perspective. The research is based on previous studies and tries to find new information as well. Both primary sources and secondary have been mainly used to conduct the research. Primary sources such as national and international legal frameworks, and secondary sources such as books, journals, research articles, and newspaper pieces have been cited have been used.

## Chapter 2

# Conceptual Framework of Trade Union: A Global and National Historical Background

### 2.1 Definition of Trade Union

Trade unions or labour unions are associations founded by employees in related occupations to advance the interests of their constituents. They offer support to workers on issues like pay parity, fair working conditions, and benefits. They serve as a bridge between management and employees and represent a group of workers. The role of the unions is to investigate employees' complaints and represent their collective viewpoint to management.<sup>12</sup> As a result, it serves as a channel of communication between management and employees. The role of trade unions also includes relations regulation, grievance redress, advancing new demands on behalf of workers, collective bargaining, and negotiations.<sup>13</sup> There is no clear definition of trade union. A trade union is usually an organisation comprised of members who are primarily workers. Safeguarding the interests and advancing the interests and rights of the workers is a primary goal of a trade union. In most cases, there is no employer in a trade union.<sup>14</sup>

Black Law Dictionary defines trade union as a group or organization of persons engaged in the same work—usually, one requiring manual labour or machinery—who have joined forces to establish prices and control the standards and procedures in their industry.<sup>15</sup> That means, managing the relations between employers and employee is fundamental for a trade union. It protects the rights and interests of the workers. According to International Labour Organisation, trade union refers to a group or

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<sup>12</sup> The Economic Times, 'What is Trade Union?' (The Economic Times)  
<<https://economictimes.indiatimes.com/definition/trade-union>> accessed 17 July 2022.

<sup>13</sup> Ibid.

<sup>14</sup> Nidirect Government Services, 'Introduction to Trade Union'  
(<https://www.nidirect.gov.uk/articles/introduction-trade-unions>) accessed 18 July 2022.

<sup>15</sup> Black Law Dictionary, 2<sup>nd</sup> Edition.

related group of workers who get together voluntarily and collectively on their own initiative in order to maintain and improve working conditions or elevate workers' economic and social standing.<sup>16</sup> However, Section 2(15) of the Labour Act, 2006, provides that trade union means a trade union of workers or employers that has been constituted and registered under chapter XIII of this Act.<sup>17</sup> Overall, it can be said that trade union is based on the membership of workers and it always works to protect and promote the rights and interests of the workers. In the context of Bangladesh, registration is essential for setting up a trade union. Now, the next discussion will analyse different kinds of trade unions and identify what kinds of trade unions are most common in Bangladesh.

## 2.2 Classification of Trade Union

Trade union works to represent the employees. Although there is a wide range of unions that contribute to bringing a change to the wages, workplace or even the relationship with employees in industries, four kinds are trade unions that are most noticed across the world.

### a) Craft/Occupational Union:

A craft union is a group of wage employees who are employed in a single craft or occupation or a group of closely related crafts or vocations. Weavers, crane operators, plumbers, electricians, and carpenters are among the trade unions.<sup>18</sup> Here, employees are with the same particular skill. Here, occupation, not a place of employment, is the determining factor. Their collective conscience underlies their union membership, which enables them to act as a unifying force within society. Unions for musicians, for instance. Craft unions have a number of critical benefits, including a prime location, strong bargaining strength, a close-knit community, and the ability to effectively protect and advance the interests of its members. A professional or occupational union is primarily a group of workers with specific knowledge, such as one teachers, doctors, engineers, or chartered accountants. At the corporate, regional,

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<sup>16</sup> Trade Union and Labour Relations Adjustment Act 1997, s 4

<sup>17</sup> The Labour Act, 2006, s 2(15).

<sup>18</sup> Jayna B, 'Trade Union'

<<https://www.accountingnotes.net/human-resource-management/trade-union/trade-union/17572>>  
accessed 15 July 2022.

industrial, local, and even national levels, craft unions can be formed.<sup>19</sup> Craft unions are quite prevalent in the US and the UK. These unions are not common in Bangladesh. Craft unions and occupational/professional unions have a tight relationship.

### **b) General Union:**

General Union mostly represents unskilled people across a range of professions. Regardless of their craft, occupation, industry, or place of employment, all worker types are welcome to join. General unions in Bangladesh are mainly limited to local groups, with a few notable exceptions. These unions often have as its members workers at small enterprises and jobs. These employees generally have more or less common problems. Employees at a single business find it difficult to properly pressure the owner on their own, so they join a larger neighbourhood union in the hopes of achieving better outcomes. Local employers who run small firms often form their own groupings to offer a cohesive front in negotiations.<sup>20</sup> In numerous countries, including the UK, general unions have been established at higher levels. A prominent example of a general union is the Transport and General Workers' Union in the UK. TGWU (Transport and General Workers' Union), The Industrial Bangladesh Council (IBC), and other general unions can be found in Bangladesh.<sup>21</sup>

### **c) Industrial Union:**

Workers create a union based on the same industry, as the name implies. For instance, employees of the cement industry in Bihar may belong to a union with roots in Gujarat. As an illustration, a Miners Union.<sup>22</sup> An industrial union is a group that advocates for all types of workers who are working in a given industrial setting or sector of the economy. It unites workers at all skill levels—unskilled, semi-skilled, skilled, and highly skilled—under one roof. These unions may also be formed at the levels of the plant, the area, or the business sector. In India, the majority of industrial unions were founded at the plant level. In the USA and the UK, two nations with

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<sup>19</sup> Veer Sharma, 'Trade Unions: History, Role, Objective, Problem, Types', (Sociology Group) <<https://www.sociologygroup.com/trade-unions/>> accessed 21 July 2022.

<sup>20</sup> R Young, *Work Out Economics GCSE* (Palgrave, 1987) 127.

<sup>21</sup> Ibid.

<sup>22</sup> Veer Sharma, 'Trade Unions: History, Role, Objective, Problem, Types', (Sociology Group) <<https://www.sociologygroup.com/trade-unions/>> accessed 21 July 2022.

lengthy histories of the development of craft unions, the number of industrial unions has increased dramatically during the past several years. The United Automobile Workers is a typical industrial union in the USA. A few industrial unions in Bangladesh include the G&T industry Union and the National Coordination Committee for Workers' Education (NCCWE).<sup>23</sup> The following are some of the industrial unions' weaknesses: difficulties in satisfying all member groups; greater focus on the interests of the group that provides the majority of membership; encouragement of the formation of small-sized unions due to the ease of doing so; this leads to a multiplicity of unions and union rivalries even in a small-sized establishment, and this makes it difficult to recognize representative unions.

#### **d) White Collars Union:**

Skilled workers are represented by professional or white-collar unions in primarily service-related industries.<sup>24</sup> One instance is the National Union of Teachers. Compared to low-skilled or manual labour, white-collar occupations often pay more and require more education and training. Management positions or careers like doctors or lawyers are a couple of examples. The distinction between white-collar and blue-collar work is frequently used to imply a stratification of the working class.<sup>25</sup> "White-collar union" includes workers across the nation who are reputable professionals doing the same or related work.<sup>26</sup>

We have observed that there are different kinds of trade unions worldwide. But every kind of trade union is not common in Bangladesh. Among others, industrial union and general union are heavily noticed in the country. However, it is important to understand the theoretical perspective of trade union also in order to identify how it is formed. Therefore, the following section will discuss so.

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<sup>23</sup> International Labour Organisation, 'Workers' Organisation in Bangladesh' <<https://www.ilo.org/dhaka/Areasofwork/workers-and-employers-organizations/lang--en/index.htm>> accessed 24 July 2022.

<sup>24</sup> Veer Sharma (n 19).

<sup>25</sup> Investopedia, 'White Collar Union', <<https://www.investopedia.com/terms/w/whitecollar.asp>> accessed 20 July 2022.

<sup>26</sup> R Young (n 20).

## 2.3 Theoretical Perspective of Trade Union

Industrialization, which accelerated during the Industrial Revolution in England throughout the middle of the nineteenth century, is where trade unionism originated. Different authorities have analyzed the development of unions in various ways. According to John T. Dunlop, a useful theory of trade unions must address the following issues: What conditions result in the formation of a union? What circumstances support the formation of a union? What variations exist in the unions' growth objectives?<sup>27</sup>

### a) Class Struggle Theory of Karl Marx

About 170 years back Karl Marx provided his famous Class Struggle Theory. Marx believed that class conflict is an expression of history's dialectical essence. As capitalism grows, class conflict becomes more pronounced. The bourgeoisie, or owners of the means of production, and the proletariat, or workers, are the two primary classes that compete with one another in the capitalist economy.<sup>28</sup> In relation to trade union, Marx said that the organized labour movement is an intermediate step in the class struggle, the fight for power by the proletarian class (workers) to overthrow the capitalist class (bourgeois).<sup>29</sup> Karl Marx believed that the emergence of industrial capitalism was the catalyst for the birth of trade unionism. He believes that the main weapon in the struggle between proletariat workers and capitalists is the trade union.<sup>30</sup> Karl Marx referred to the union as an “organizing center.”<sup>31</sup>

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<sup>27</sup> Philip Thomas, 'Towards a General Theory of Industrial Relations' (Economic and Political Weekly, 1959)

<[https://www.epw.in/system/files/pdf/1959\\_11/51-52/towards\\_a\\_general\\_theory\\_of\\_industrial\\_relations.pdf](https://www.epw.in/system/files/pdf/1959_11/51-52/towards_a_general_theory_of_industrial_relations.pdf)> accessed 21 July 2022.

<sup>28</sup> Eddie McCabe, 'Karl Marx's Theory of Struggle' (Socialists Alternative, 2018)

<<https://www.socialistalternative.org/2018/05/05/karl-marxs-theory-class-struggle-working-class-revolution/>> accessed 23 July 2022.

<sup>29</sup> Karl Marx, *The Communist Manifesto* (Simon and Schuster 1848) 220.

<sup>30</sup> Karl Marx, *Das Kapital*, (Regnery Publishing 1864) 364.

<sup>31</sup> Ibid.

## **b) Webb's Theory of Industrial Democracy**

Webs' theory of Industrial Democracy was given in the book 'Industrial Democracy' in 1897.<sup>32</sup> The main point of his theory is that the extension of democracy from the political to the economic domain is the trade union. Therefore, in his opinion, trade unions establish a democratic procedure for the workers where they may assert their rights and the cause of the class conflict is unequal bargaining power and collective bargaining.<sup>33</sup> The goal was simply to replace industrial autocracy with industrial democracy. Therefore, a trade union ensures that workers can collectively bargain and exercise their negotiating power in a democratic manner at work.<sup>34</sup>

## **c) Cole's Theory of Industrial Unionism and Control of Industry**

Cole's gave his famous theory of Industrial Unionism in his book "World of Labour" in 1913.<sup>35</sup> His opinions fall somewhere between those of Marx and Webb. He concurs that unionism is a class struggle and that the best course of action—rather than a Marxist revolution—is for labour to take control of industry.<sup>36</sup> Cole thus challenges the notions of Marx and Webb. Cole adopted the democratic process as a solution for workers, while Marx's theory called for revolutionary changes for industrial capitalists and proletariat workers. Conversely, Cole's theory aims to occupy a middle ground between Marx's and Cole's. To address the worker's problem, he wanted to employ a hybrid approach.<sup>37</sup>

It can be observed from the above discussion that different theories have been provided in relation to formation of trade union. And the given theories have demonstrated how trade unions play a role in ensuring workers' rights. However, it is

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<sup>32</sup> Human Resource, 'Theories of Trade Union' <<https://www.whatishumanresource.com/theories-of-trade-unionism>> accessed 25 July 2022.

<sup>33</sup> Michael Poole, 'Theories of Industrial Democracy: The Emerging Synthesis', *The Sociological Review* (30) 2.

<sup>34</sup> Theories of Trade Union <<https://www.simplinotes.com/theories-trade-union/>> accessed 25 July 2022.

<sup>35</sup> Human Resource (n 32).

<sup>36</sup> G. Cole, *World of labour: A Discussion of the Present and Future of Trade Unionism* (Routledge, 1917) 480.

<sup>37</sup> *Ibid.*



also important to know the historical background of the formation of trade union to locate how trade unions have evolved throughout history in both national and international context and the following section will highlight such.

## **2.4. History of Trade Union: A Global and National Perspective**

The numerous revolutions have given rise to trade unions. The labour union movement began predominantly in the middle of the 18th century. A prosperous labour movement requires the presence of an urban and industrial proletariat wholly reliant on the factory system for work and subsistence.<sup>38</sup> Between the 40th and 60th years of the 19th century, English employees were expected to work 13–16 hours every day for a very low wage. One such group was the Madras Labor Union, which was established on April 27, 1918 at the Binni Karnatic Mills in Madras as “the first trade union of the modern type in India”.<sup>39</sup> Following that, a sizable number of trade unions emerged but were unable to last for an extended period of time due to a lack of protection for trade union operations from civil and criminal liability. However, it took the government five years to study it, and in February 1926 the Indian Trade Union Act (Act XVI of 1926) was finally passed. The Act didn't go into effect until the first of May 1927, which was another fourteen months later.<sup>40</sup>

In the time of Pakistan, the Trade Unions Act of 1926, which placed more limitations on the freedom of association and the ability to organize, was repealed by the East Pakistan Trade Unions Act of 1965. After that, the Industrial Relations Ordinance, 1969, which created provisions for the recognition of collective bargaining agents for establishments or groups of establishments, replaced the Industrial Disputes Act, 1965, and the Trade Unions Act, 1965. The Labour Policy, 1972, which was established after India gained independence in 1971, advised reducing trade union activities in social organizations.<sup>41</sup> The Trade Unions Act, of 1926 which placed more limitations on the freedom of association and the right to organize, was repealed during the Pakistani era by the East Pakistan Trade Unions Act, which was passed in 1965.

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<sup>38</sup> Ronald Costa, *The Role of Trade Union in Developing Countries* (Nivellies, 1953) 85, 172.

<sup>39</sup> S.D Punekar, *Trade Unionism in India*, (New Book, 1948) 408.

<sup>40</sup> Mukhtar, Ahmed, *Trade Unionism and Labor Dispute in India* (Longman, 1935) 92.

<sup>41</sup> Md. Abu Taher, ‘Legal Environment for Industrial Relations in Bangladesh: A Critical Evaluation’ (1997) *The Chittagong University Journal of Law*, 124, 133.

Afterwards, the Industrial Disputes Act of 1965 and the Trade Unions Act of 1965 were repealed and replaced with the Industrial Relations Ordinance of 1969, which included provisions for the recognition of collective bargaining agents for an establishment or group of establishments. Following the declaration of independence in 1971, the Labour Policy, in 1972 was adopted and advocated for a decrease in union activities in social organizations.<sup>42</sup> The Industrial Relations (Regulation) Ordinance of 1975 placed limitations on the rights to bargain and strike. Due to the provisions of the Industrial Relations (Amendment) Ordinance, 1977, and the Labour Policy, 1980, the restriction placed on the right to freedom of association was subsequently gradually removed. The right to exempt such zones from the application of certain laws is provided under the Bangladesh Export Processing Zones Act, 1980, as modified in 1984.<sup>43</sup>

The Employment of Labour (Standing Order) Act of 1965 and the Industrial Relations Ordinance of 1969 were the two labour laws in effect at the time, and they were suspended in the EPZs by the government of Bangladesh in 1986. As a result, until 2004 trade unionism was not permitted to form in EPZs. The EPZ Workers Association and Industrial Relations Act, 2004, was passed in 2004 with the intention of recognizing workers' rights to form associations, regulating workplace interactions, and resolving conflicts that may arise between employers and employees in the Export Processing Zones, as well as for issues related to and incidental to those zones.<sup>44</sup> With the passage of the Bangladesh Labour Act in 2006, trade unionism's legal framework finally took on a more official form. The Bangladesh Labour (Amendment) Act, 2013, which was passed in 2013, includes provisions for women's representation on trade union executive committees and the simplification of the process for registering as a union.

It can be observed that Bangladesh has enacted many legal frameworks concerning workers right to trade union over time. However, Bangladesh has also ratified many international conventions in this regard. Based on that, in the next chapter, there will be a discussion on what obligations Bangladesh have under international law in relation to workers' right to trade union.

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<sup>42</sup> Ibid.

<sup>43</sup> The Export Processing Zones Act, 1980 as amended in 1984 s 11(a).

<sup>44</sup> Preamble to the EPZ Workers Association and Industrial Relations Act, 2004.

## Chapter 3

### International Laws on Trade Union and Bangladesh's Obligation

The right to freedom of association includes political parties, labour unions, public groups, and non-governmental organizations with employees. It also covers entities with or without a legal identity as well as organizations that depend on volunteers. States must make sure that people are free to create and join any kind of organisation, as well as to independently engage in any legal and legitimate activity. This involves having the ability to organize, obtain resources, and peacefully advance and defend human rights.<sup>45</sup> The workers' right to join and form trade unions is protected in international human rights law within the right to freedom of association as well as under the ILO Conventions. Trade unions help workers protest and protect their interests. By protesting through trade unions, workers can demand the fulfilment of their rights from the industries and companies. However, since joining the ILO in 1972, Bangladesh has ratified 35 ILO conventions, including seven of the organization's eight core conventions. In 2013, the government updated the Bangladesh Labour Act 2006 to follow the ILO standards.<sup>46</sup> Most of the fundamental ILO labour standards have been ratified by Bangladesh, including Convention No. 87 on freedom of association and Convention No. 98 on the right to collectively bargain. Apart from ILO, ICCPR and CEDAW also guarantees the rights of workers to join trade union. Bangladesh also ratified these conventions. The followings will demonstrate the discussion on right to trade union both under international law and ILO conventions and Bangladesh's obligation towards it.

#### a) Universal Declaration of Human Rights

Universal Declaration of Human Rights provides the right to association and assembly and states that no one shall be forced to join any association or

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<sup>45</sup> Human Rights House, 'Freedom of Association' (Human Rights House) <<https://humanrightshouse.org/we-stand-for/freedom-of-association/>> accessed 20 July 2022.

<sup>46</sup> Nadia Islam, 'RMG Workers in Bangladesh: Violation of the rights or overlooking the law?', LCLS South, <<https://lcls-south.com/rmg-workers-in-bangladesh-violation-of-the-rights-or-overlooking-the-law/>> accessed 20 July 2022.

organisations.<sup>47</sup> According to Article 23 of the UDHR, to protect interests, everyone has the right to create and join a union.<sup>48</sup>

## **b) International Covenant on Civil and Political Rights**

According to Article 22 of the International Covenant on Civil and Political Rights, “everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests”.<sup>49</sup> In every democratic society, freedom of association is fundamental because this right allows people to express their opinion and concerns about the issue that affects them. The right to association also promotes the rule of law of a country. A trade union is a form of association. By joining a trade union, workers can enjoy their right to association given by the ICCPR. Because of this right worker can speak for their justice and rights from their employers. But the right will be restricted if it creates a problem for national security and safety.

However, the right to freedom of association is dependent on freedom of assembly. General comment No. 37 (2020) on the right of peaceful assembly (article 21), it is said that freedom of assembly and freedom of association are related to each other.<sup>50</sup> Peaceful assembly is a fundamental human right that allows people to express themselves collectively and take part in the development of their societies. Workers can express themselves through peaceful assembly and participation in discussions. By this right, human rights, rule of law and democracy will be reflected in the society. Workers as the members of trade union can make their complaints know to the employers by arranging peaceful demonstration or protest.<sup>51</sup> But peaceful assembly will be banned if it becomes violent and causes security and safety issue. However, the states must protect and protect the rights and must not interfere with such right unlawfully. Because by exercising freedom of assembly right, workers can fulfil their

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<sup>47</sup> Universal Declaration of Human Rights (adopted 10 December 1948 UNGA Res 217 A(III)) (UDHR) art 20.

<sup>48</sup> Ibid, art 23(4).

<sup>49</sup> International Covenant on Civil and Political Rights (adopted 16 December 1966, entered into force 23 March 1976) 999 UNTS 171 (ICCPR) art 22.

<sup>50</sup> UNHRC, ‘General comment no. 37’ in ‘Note by the Secretariat, Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies’ UN Doc CCPR/C/GC/R.37.

<sup>51</sup> Ibid.

rights. The workers can speak for their demands and needs.<sup>52</sup> In this regard, *Anatoly Poplavny and Leonid Sudalenko v. Belarus*<sup>53</sup> worth mentioning. The UN Human Rights Committee stated that the restriction to freedom of assembly could only be invoked if it threatens national security, public safety, public order, public moral or health. However, in this case the municipal authorities did not provide any sufficient grounds to limit the right to assembly of the authors, hence article 21 of the ICCPR was violated. Again, in *Yuriy Bakur v. Belarus*<sup>54</sup>, the Committee provided that when a State party establishes constraints to balance a person's right to assembly with public interest, there should not be any attempt to unnecessarily or disproportionately restrict the right. Therefore, it is required of the State Party to provide justification for any restrictions placed on the rights guaranteed by Article 21 of the Covenant.<sup>55</sup>

### **c) Convention on the Elimination of All Forms of Discrimination**

#### **Against Women**

The Convention on the Elimination of All Forms of Discrimination Against Women focuses on the protection of women and prohibits discrimination towards women. The Convention is also beneficial for female workers as the convention provides protection from any discrimination and prejudice. There are various rights given in the Convention. Article 7(c) of the Convention deals with women's right to join organisation.<sup>56</sup> It states that women have the right to join non-governmental organisation and associations and shall not face any discrimination while joining the organisation. As a result, the right will enable women to participate in political and public life.<sup>57</sup> This right empowers women workers to raise voice against discrimination in their workplace. As women are always vulnerable in their professional life and many times do not have the access to the benefits, this right will

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<sup>52</sup> Ibid.

<sup>53</sup> *Anatoly Poplavny and Leonid Sudalenko v. Belarus* (2016) selected decision of the UN Human Rights Committee <<https://www.refworld.org/cases/HRC.591ea9d64.html>> accessed 24 July 2022.

<sup>54</sup> *Yuriy Bakur v. Belarus* (2015), selected decision of the UN Human Rights Committee <<https://www.refworld.org/cases/HRC.593156904.html>> accessed 24 July 2022.

<sup>55</sup> Ibid.

<sup>56</sup> Convention on the Elimination of All forms of Discrimination Against Women (adopted 18 December 1979, entered into force 3 September 1981)1249 UNTS 13 (CEDAW) art 7(c).

<sup>57</sup> Ibid.

help them to speak for their rights and needs. By joining trade union women will be able to have voice for the fulfilment of their needs and demands from the employers.<sup>58</sup>

#### **d) International Labour Organisation's Conventions**

International Labour Organisation works for workers' rights. The organisation promotes guidelines and principles for the welfare of workers. ILO Declaration on Fundamental Principles and Rights at Work (1998)<sup>59</sup> says that workers have freedom of association. The Freedom of Association and Protection of Right to Organise Convention (1948) also ensures the same right. The Convention has three parts. The first part focuses on freedom of association. The second part provides the protection of the right to organise and the last part deals with miscellaneous provision. Article 2 of the Freedom of Association and Protection of Right to Organise Convention (1948) says that both workers and employers have the right form organisation without facing any discrimination.<sup>60</sup> Article 4 of the convention states that no administrative authority can suspend or cancel the organisation.<sup>61</sup> Article 5 states that the organisations of both employers and workers have the right to set up federations and confederations and also join these and such organisations can have affiliation with international organisations.<sup>62</sup> The convention also provides that the members of the International Labour Organisation have to take steps to ensure that workers can enjoy their right to organise without any interference.<sup>63</sup>

There is also another convention by International Labour Organisation and the title is Right to Organise and Collective Bargaining Convention, 1949. Article 1 of the Convention says that no employer shall force or compel any workers to prohibit themselves from joining a trade union or organisation or to leave the current

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<sup>58</sup> International Labour Organisation, 'Women's Participation in Trade Unions in Bangladesh' <[https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-dhaka/documents/publication/wcms\\_125374.pdf](https://www.ilo.org/wcmsp5/groups/public/---asia/---ro-bangkok/---ilo-dhaka/documents/publication/wcms_125374.pdf)> accessed 24 July 2022.

<sup>59</sup> ILO Declaration on Fundamental Principles and Rights at Work (adopted in 1998) <<https://www.ilo.org/declaration/lang--en/index.htm>> accessed 24 July 2022.

<sup>60</sup> ILO, Freedom of Association and Protection of Right to Organise Convention (No 87) (adopted 9 July 1948, entered into force 04 July 1950) art 2 <<https://www.ilo.org/legacy/english/inwork/cb-policy-guide/freedomofassocandrighttoorganisen87.pdf>> accessed 24 July 2022.

<sup>61</sup> Ibid, art 4.

<sup>62</sup> Ibid, art 5.

<sup>63</sup> Ibid, art 11.

organisation.<sup>64</sup> The workers should be able to enjoy their right to join the organisation without any interference from the organisation of their employers.<sup>65</sup> Article 3 says that appropriate machinery by taking into account the conditions of the condition of the country to ensure the right to organise.<sup>66</sup> Measures should also be adopted for the development of voluntary negotiation and collective agreements.<sup>67</sup>

ILO has also enacted a convention for rural workers called Rural Workers' Organisations Convention, (1975). Rural worker means "any person engaged in agriculture, handicrafts or a related occupation in a rural area, whether as a wage earner."<sup>68</sup> The Convention ensures that the right of rural workers to join and form an organisation is enjoyed independently.<sup>69</sup> The organisation of rural workers need to be voluntary and independent.<sup>70</sup> The organisation must follow national laws. But national laws should not be hampering the rights of the workers and should respect the right to organise.<sup>71</sup> The role of the rural workers' organisation is given in Article 4. It provides that the organisation of rural workers need to be able to defend their rights and interest and they should be able to participate in and access vocational training.<sup>72</sup> Overall, Bangladesh has ratified numerous human rights convention that deal with right to trade union of workers. The country has also obligations under various ILO conventions in order to follow an international legal standard in a relation to the right to join and form a trade union of workers. Therefore, in the next discussion, it will be identified whether such international standards have been properly reflected in national legal frameworks.

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<sup>64</sup> International Labour Organisation, Right to Organise and Collective Bargaining Convention, (adopted 8 June 1949, entered into force 5 July 2022) (No. 98) art 1  
<[https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C098](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C098)>  
accessed 24 July 2022.

<sup>65</sup> Ibid, art 2.

<sup>66</sup> Ibid, art 3.

<sup>67</sup> Ibid, art 4.

<sup>68</sup> International Labour Organisation, Rural Workers' Organisations Convention, (adopted 4 June 1975) (No. 141) art 2.  
<[https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100\\_ILO\\_CODE:C141](https://www.ilo.org/dyn/normlex/en/f?p=NORMLEXPUB:12100:0::NO::P12100_ILO_CODE:C141)>  
accessed 24 July 2022.

<sup>69</sup> Ibid, art 3.

<sup>70</sup> Ibid.

<sup>71</sup> Ibid.

<sup>72</sup> Ibid, art 4.

## Chapter 4

### Critical Analysis of Labour Laws of Bangladesh

#### 4.1 An Overview of the Existing Labour Laws in Bangladesh

To address the rights and secure a safe and healthy environment for workers, Bangladesh has enacted laws and policies. These legal frameworks have reflected the right of workers to join and form trade union. The Constitution of Law of Bangladesh is the highest law of the country and it has ensured freedom of association of all citizens of the country. Therefore, workers can also enjoy such right. Besides that, the Labour Act 2006 has also been enacted and is the main statutory law to regulate workers' rights.

##### 1. Constitutional Law

The fundamental goal of the State is to realize a socialist society free from exploitation, where the rule of law, fundamental human rights and freedom, equality, and justice will be guaranteed for all citizens, according to the preamble of the Constitution of Bangladesh.<sup>73</sup> All forms of forced labour are clearly prohibited by the Constitution as one of the fundamental rights, and any violation of this prohibition is a crime subject to legal punishment.<sup>74</sup> The right to freedom of association is also guaranteed.<sup>75</sup> The distinction between freedom of association and other fundamental rights is that the former does more than only safeguard an individual's actions. Instead, it safeguards group actions that an individual cannot carry out alone. This acknowledges the possibility for a group of individuals to acquire "a life of its own" and needs that go beyond those of its individual members. Thus, the right to freedom of association encompasses both group and individual rights.<sup>76</sup>

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<sup>73</sup> The Constitution of Bangladesh, 1972, the Preamble.

<sup>74</sup> Ibid, art 34.

<sup>75</sup> Ibid, art 38.

<sup>76</sup> Centre for Constitutional Studies, 'Freedom of Association'  
<<https://www.constitutionalstudies.ca/2019/07/freedom-of-association/>> accessed 27 July 2022.



## 2. The Labour Act 2006

The Bangladesh Labour Act of 2006 serves as the main statutory basis for trade unionism. The Bangladesh Labour Act of 2006 is applicable throughout the country. However, the Bangladesh Labour Act of 2006's provisions on the freedom of association and the right to organize are not applicable to a number of worker groups.<sup>77</sup> Employees in managerial, administrative, or supervisory roles are not considered workers and are therefore not covered by trade unionism.<sup>78</sup> For the purpose of obtaining an affiliation with any recognized international organization, workers employed in any specialized and skilled trade, occupation, or service in the sphere of civil aviation establishments in Bangladesh are only permitted to form one trade union.<sup>79</sup>

The term “trade union” as defined in Section 2(xv), includes a federation of trade unions as well as a trade union of employees or employers that have been founded and registered under Chapter XIII of this Act.<sup>80</sup> Employers or employees may establish a trade union by registering under chapter XIII of the Bangladesh Labour Act, 2006. Under the Act, federations of trade unions may also be established and registered. Any international organization, confederation of worker's organizations, and employer's group may affiliate with the federation.<sup>81</sup> A worker's trade union will be established to control relations between employees and employers, or between employees and other employees, and an employer's trade union will be established to control ties between employers and employees, or between employers and employees.<sup>82</sup> The creation of a trade union requires registration.<sup>83</sup>

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<sup>77</sup> The Labour Act 2006, s 1(4).

<sup>78</sup> Ibid, s 2(65).

<sup>79</sup> Ibid, s184.

<sup>80</sup> Ibid, s 2(xv).

<sup>81</sup> Ibid, s 176(c).

<sup>82</sup> Ibid, s176(a) and 176(b).

<sup>83</sup> Ibid, s 192.

## 4.2 Compliance of Labour Law with International Standards

Bangladesh has tried to amend labour laws to make it compatible with international standards by following ILO Conventions and other international treaties. But the law still does not reflect such standards completely. Right to join and form trade union is not properly reflected in the national laws such as The Labour Act 2006. Though the labour act has been amended more than once, the law still has some problems with the workers right to trade union. Due to numerous flaws and loopholes, Bangladesh's domestic labour laws broadly address the fundamental aspects of international labour standards but offer only limited protection and little to no enforcement.<sup>84</sup> However, significant portions of the Labour Act continue to fall short of those requirements. Only a few problematic aspects of the previous law are addressed by the new revisions, leaving others unaffected.<sup>85</sup> The following discussion will highlight the incompatibility of national framework namely Labour Act, 2006 and its following amendment with international standards.

### a) Higher Number of Membership Requirement

To be recognized by the government, a union would still need to have at least 30% of the workers in an industry. But the ILO Convention states that the workers must be given permission even if only 10 workers wish to organize a union.<sup>86</sup> In accordance with this amendment, the government has suggested lowering the requirement for forming a union from the current 30 percent to 20 percent after consulting with various stakeholders. However, the ILO Convention mentions that they must be given permission even if only 10 workers wish to organize a union. In this aspect, the proposed provision does not follow the ILO rules. Even in our neighbouring country like India has revised its Trade Unions Act of 1926 in 2001, to comply with international trade unions by stating that a trade union can be formed by at least 100 employees or 10% of all employees in a certain establishment, whichever is lower

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<sup>84</sup> Muhammod Shaheen Chwodhury, 'Compliance with Core International Labour Standards in National Jurisdiction: Evidence from Bangladesh', *Labour Law Journal* (2017) 78, 93.

<sup>85</sup> Human Rights Watch, 'Bangladesh: Amended Labour Law falls Short', (Human Rights Watch, 2013) <<https://www.hrw.org/news/2013/07/15/bangladesh-amended-labor-law-falls-short>> accessed 28 July 2022.

<sup>86</sup> Md Azhar Uddin Bhuyian, 'Analysing the Draft Bangladesh Labour Law Amendment' (The Daily Star 2018) <<https://www.thedailystar.net/law-our-rights/law-analysis/news/analysing-the-draft-bangladesh-labour-amendment-act-2018-1638034>> accessed 28 July 2022.

(subject to a minimum of seven employees).<sup>87</sup>

## **b) Exclusive Nature of the Right**

The 2013 amendment also expands the list of industries in which employees are not allowed to organize unions by including non-profit educational and training institutions as well as "hospitals, clinics, and diagnostic centers".<sup>88</sup> According to Article 2 of the ILO Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87), there shall be no distinction between employees and employers with respect to their rights to establish and, subject to the applicable organization's norms, to join organizations of their choice without prior authorization. That means the expanded list exclude a wide range of workers to join and from association.

## **c) Unfair Dismissal of Trade Union Leader**

The 2013 amendment of the Labour Act, 2006 suggested that only employees of the industry may be chosen by unions as its leaders. This will make it possible for employers to dismiss union officials for a reason that is not related to the union, a practice that is commonplace throughout the world. Article 1 of the ILO Right to Organise and Collective Bargaining Convention, 1949 provides that "workers shall enjoy adequate protection against acts of anti-union discrimination in respect of their employment".<sup>89</sup> But this amendment is problematic for workers as workers can only be trade union leaders, it will give the employer a power to terminate the worker from the employment for a reason not related to work and ultimately they will be prohibited to act as trade union leader as well. In the case of Bangladesh Parjatan Corporation

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<sup>87</sup> Shyam Sundor, 'Trade Unions in India: From Politics of Fragmentation to Politics of Expansion and Integration', [https://www.researchgate.net/publication/331064672\\_0\\_Trade\\_unions\\_in\\_India\\_From\\_politics\\_of\\_fragmentation\\_to\\_politics\\_of\\_expansion\\_and\\_integration](https://www.researchgate.net/publication/331064672_0_Trade_unions_in_India_From_politics_of_fragmentation_to_politics_of_expansion_and_integration)> accessed 1 August 2022.

<sup>88</sup> Human Rights Watch (n 85).

<sup>89</sup> International Labour Organisation, Right to Organise and Collective Bargaining Convention, (adopted 8 June 1949, entered into force 5 July 2022) (No. 98) art 1.

Vs. Md. Ali Hossain & another<sup>90</sup>, when a trade union leader was dismissed without any valid reason, the court held that the order of termination of the trade union leader is inherently unlawful because it doesn't make clear that the petitioner has been terminated as a result of a proper authority's decision. The natural justice concept had been violated.<sup>91</sup>

#### **d) Limited Enjoyment of Right to Strike**

The right to strike is interrelated with right to trade union as the members of the trade union demand their rights and interests by protest or strike. However, according to the 2013 amendment, the right will be limited by a time-consuming administrative procedure and the requirement that two-thirds of the union's membership vote in favor of a strike, which is a little improvement over the previous requirement of three-quarters of the membership.<sup>92</sup> Also, if the government determines that a strike would result in "severe hardship to the community" or is "prejudicial to the national interest," too vague but often abused expressions, it will be empowered to end the strike.<sup>93</sup> Article 3 of the ILO Convention Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) states that the public authorities shall not interfere with this right or prevent from any interference that hamper the enjoyment of the right.<sup>94</sup> Article 8 of the Convention says that the national laws should not hamper the enjoyment of the right. But this amendment will allow the Government to restrict the rights on the grounds of national interests and severe hardship.

In this regard, ILO Case No 3084 (Türkiye) - Trade Union of Glass, Cement and Soil Workers of Turkey<sup>95</sup> is relevant. In this case, the trade union's right to peaceful strike was repeatedly suspended by the Council of State and a complaint was filed. The

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<sup>90</sup> Bangladesh Parjatan Corporation Vs. Md. Ali Hossain & another. (Md. Abdul Wahhab Miah-J.) 18 MLR (AD) 2013.

<sup>91</sup> Ibid.

<sup>92</sup> Human Rights Watch (n 85).

<sup>93</sup> Ibid.

<sup>94</sup> International Labour Organisation (n 89).

<sup>95</sup> ILO, Case No 3084 (Türkiye) - Complaint date: 15-JUL-14<[https://www.ilo.org/dyn/normlex/en/f?p=1000:50002:0::NO:50002:P50002\\_COMPLAINT\\_TEXT\\_ID:3282116](https://www.ilo.org/dyn/normlex/en/f?p=1000:50002:0::NO:50002:P50002_COMPLAINT_TEXT_ID:3282116)> accessed 26 July 2022.

Committee reminded the Government that suspension of right to strike of union can only be limited when it is necessary and essential for services.<sup>96</sup> Again, in ILO Case No 3176 (Indonesia)-The International Trade Union Confederation<sup>97</sup>, the company was accused of violation right to organise public assembly and strike at national level on October 2016, Indonesia. The allegation is also that the complainant organisation intimidated and abused workers by hired goons and police arbitrarily arrested and dismissed workers for joining the strike. The ILO Committee stated that governments are responsible for upholding the principle that workers' and employers' organizations' rights can only be exercised in an environment free from pressure, threats, or any form of violence targeted at workers.

The amendment also states that the strikes are prohibited in any establishment during the first three years of operation if it is "owned by foreigners or is established in conjunction with foreigners," according to discriminatory anti-strike clauses in the law that benefit foreign investors.<sup>98</sup> Again, the 2018 amendment of the Act 2006 stipulates that in order to organize a strike, employees must also give employers 21 days' notice. Then, the entire strike process would involve a drawn-out bureaucratic procedure, which could undoubtedly put a stop to legal strikes.<sup>99</sup>

### **e) Procedural Barriers**

At present, it is mandatory to register a trade union under the Labour Act, 2006. However, there is no such formal requirement under the ILO conventions.<sup>100</sup> In India, for example, registration is voluntary and all unions in India hardly actually register.<sup>101</sup> Additionally, the draft provides that a worker in a given industry may only

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<sup>96</sup> Ibid.

<sup>97</sup> ILO Case No 3176 (Indonesia) - Complaint date: 08-DEC-15  
<[https://www.ilo.org/dyn/normlex/en/f?p=1000:50001:0::NO::P50001\\_COMPLAINT\\_FILE\\_ID:3258141:NO](https://www.ilo.org/dyn/normlex/en/f?p=1000:50001:0::NO::P50001_COMPLAINT_FILE_ID:3258141:NO)>accessed 26 July 2022.

<sup>98</sup> Business Standard, 'Bangladesh Amended Labour Law falls Short' (Business Standard, July 2013)  
<[https://www.business-standard.com/article/news-ians/bangladesh-amended-labour-law-falls-short-rights-body-113071600884\\_1.html](https://www.business-standard.com/article/news-ians/bangladesh-amended-labour-law-falls-short-rights-body-113071600884_1.html)> accessed 29 July 2022

<sup>99</sup> Ibid.

<sup>100</sup> See for instance, Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87).

<sup>101</sup> Sundor (n 87).

belong to one trade union, and the new rule suggests one month in jail in the event of dual membership.<sup>102</sup> Article 5 of the Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87) workers' and employers' organizations have the freedom to form and join federations and confederations and it does not provide any limitations. The workers from the informal sector are required by the current law to have an identity card in order to organize a union, but there is no authority to provide them one.<sup>103</sup>

## **f) Lack of Gendered Perspective**

The freedom to associations is recognized as a principle to be preserved and practiced in the Bangladesh Labour Act 2006, yet a sizable number of establishments are still exempt from its coverage. In the Bangladesh Labour Act of 2006, the industries where women comprise a significant portion and frequently the majority include domestic work and teaching.<sup>104</sup>

Apart from that poor working conditions, low pay, and long hours are commonplace for workers in Bangladesh. They can't successfully organize because of government repression. The government's slow implementation of labour laws encourages businesses to intimidate and harass employees as well as local trade unionists who are trying to exercise their freedom to collectively negotiate and organize. Over a dozen labor rights leaders currently face criminal charges on a variety of spurious grounds, including under the Explosive Substances Ordinance Act, 1908<sup>105</sup> which carries the death penalty as a sentence. Labor rights groups are facing registration problems, which in turn affects their funding and operations.<sup>106</sup>

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<sup>102</sup> Bhuiyan (n 86).

<sup>103</sup> Ibid.

<sup>104</sup> International Labour Organisation (n 89).

<sup>105</sup> The Explosive Substances Ordinance Act, 1908.

<sup>106</sup> International Labour Organisation (n 89).

## Chapter 5

### Concluding Remarks, Findings and Recommendation

#### **Findings**

- 1) It is seen that Bangladesh has from time to time tried to comply with the international labour standards and brought two amendments to the Labour Act 2006 in this regard. The 2013 amendment required that 30% of the members are required to form a union but ILO states that only 10% of workers in a workplace would be adequate.
- 2) The 2013 amendment has given wide power to arbitrarily dismiss the leaders of unions from the work for reasons not related to the trade unions since workers can only be the leaders of the trade union.
- 3) The right to strike which is an important right for trade union to demand and protect their interests has also been limited by putting it subject to administrative procedures such as prior approval of the authority that might take a lengthy period of time.
- 4) The amendment also empowered the Government to call for a strike of workers if the strike seems threatening to the national interest or causes difficulty to the common people of the country. These grounds are vague and give the statewide power to limit the right.
- 5) In 2018, the Government of Bangladesh attempted to make the national labour laws comply with the standards provided by ILO. It reduced the membership requirement of 30% for forming a trade union to 20%. But it still does not meet the standard given by the ILO which is 10%.
- 6) The 2018 amendment of the Labour Act, 2006 also stipulates that in order to create a union, workers from the informal sector must possess an identity card, yet there is no authority to issue them one.
- 7) It is seen that a worker in a specific industry is only permitted to belong to one trade union, according to the amendment, and the new law stipulates a one-month jail sentence for dual membership which does not comply with ILO standards.

- 8) It is seen that Bangladeshi workers are frequently subjected to poor working conditions, low pay, and long hours. Government repression prevents them from successfully organizing. Due to the government's tardy implementation of labour legislation, employers are compelled to intimidate and persecute workers as well as local trade unionists who are attempting to exercise their right to freedom of association and collective bargaining.

## **Recommendations**

- 1) It is imperative that existing laws are amended in light of international laws so that workers can enjoy their right to trade union properly and without any interference. In the amendment, the government must reflect its commitment toward international obligations, especially ILO obligations. Necessary changes must be brought to comply with the ILO conventions.
- 2) The requirement of 30% membership to form and join a trade union should be reduced to 10% in accordance with the standard of ILO through the amendment of laws.
- 3) There should be a relevant authority in order to provide the trade union members with the required identity cards.
- 4) A well-explained justification should be given in order to restrict the right to strike workers.
- 5) Since women constitute the majority of the workers in domestic and teaching sectors, the law should be amended to allow them to form and join trade union in these fields.
- 6) The government should open data access to the fullest extent and educate employees about their rights and benefits and ensure that labour regulations are being followed.
- 7) It should also be ensured that procedures for worker representation and collective bargaining take advantage of emerging technologies.
- 8) Effective steps should be taken to organise workers in emerging, quickly expanding industries and businesses.
- 9) Mechanism should also be adopted to enhance the ability to organize freelancers and people working in unconventional jobs in the digital economy.



10) Platforms should be established for the exchange of knowledge and best practices. If implemented, Bangladesh will be able to offer workers a better and safe work place including the enjoyment of their trade union in light of international laws and standards.

## **Final thoughts**

A supportive and enabling environment is needed for the exercise of the rights to freedom of association and collective bargaining. A legislative framework providing the necessary protections and guarantees, institutions to facilitate collective bargaining and address possible conflicts, efficient labour administrations and, very importantly, strong and effective workers' and employers' organizations, are the main elements of a conducive environment. Governments have a crucial role in creating an atmosphere that is favorable to business.<sup>107</sup> Everyone is entitled to the freedom to associate. States are not permitted to restrict this right for particular groups based on their race, color, sex, language, religion, political beliefs, socioeconomic rank, national origin, or any other characteristic. The only exception is for police and military personnel, whose right to the association may be legitimately curtailed by international law. States are required to take proactive steps to create and maintain an environment that is enabling associations. Additionally, states must respect the privacy of associations and refrain from unnecessarily interfering with the exercise of the right to freedom of association.<sup>108</sup>

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<sup>107</sup> International Labour Organization, 'Freedom of Association and Effective Right to Collective Bargaining' <<https://www.ilo.org/declaration/principles/freedomofassociation/lang--en/index.htm>> accessed 20 August 2022.

<sup>108</sup> Front Line Defender, 'Freedom of Association' <<https://www.frontlinedefenders.org/en/right/freedom-association>> accessed 20 August 2022.

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