

INTERNATIONAL TRADE UNION CONFEDERATION (ITUC)

INTERNATIONALLY RECOGNISED CORE LABOUR STANDARDS IN BANGLADESH

**REPORT FOR THE WTO GENERAL COUNCIL REVIEW OF THE
TRADE POLICIES OF BANGLADESH
(Geneva, 24 and 26 September, 2012)**

EXECUTIVE SUMMARY

Bangladesh has ratified seven of the eight core ILO labour Conventions. In view of restrictions on the trade union rights of workers, discrimination, child labour, and forced labour, determined measures are needed to comply with the commitments Bangladesh accepted at Singapore, Geneva and Doha in the WTO Ministerial Declarations over 1996-2001, and in the ILO's Declaration on Fundamental Principles and Rights at Work and its 2008 Social Justice Declaration.

The law of Bangladesh does not adequately provide for freedom of association, the right to collective bargaining and the right to strike. The law establishes excessive requirements and complicated procedures in order to register a trade union and, in practice, the registrar rejects many applications. Employers are not impeded from using various anti-union practices including threats, dismissals, legal suits against unionists and intimidation. The police often use excessive force to disperse protesting workers, in some cases causing deaths and often causing injuries. Export Processing Zones (EPZs) fall under special labour legislation whereby basic rights are not permitted and workers are prevented from organising and bargaining collectively.

Some forms of discrimination against women are prohibited but the law does not extend adequate protection to women, disabled persons and persons living with HIV/AIDS. Women are not protected against sexual harassment at the workplace, which is a serious problem in Bangladesh. Women face a big gender pay gap and tend to be concentrated in low paid sectors of the economy.

Child labour is not regulated in compliance with international standards and enforcement is ineffective. 7 million children are at work of whom 1.3 million are engaged in the worst forms of child labour. Children perform a wide range of jobs in all sectors.

The law imposes penalties involving compulsory labour as a punishment for breaches of labour discipline and for having participated in strikes. It does not protect migrating workers from fraudulent recruitment and many such workers are coerced into bonded labour. There are reports of complicity by authorities and politicians with organised crime in trafficking. The law does not permit Bangladeshi migrant workers to maintain union membership or association with their trade union after migrating abroad.

INTERNATIONALLY RECOGNISED CORE LABOUR STANDARDS IN BANGLADESH

Introduction

This report on the respect of internationally recognised core labour standards in Bangladesh is one of the series the ITUC is producing in accordance with the Ministerial Declaration adopted at the first Ministerial Conference of the World Trade Organisation (WTO) (Singapore, 9-13 December 1996) in which Ministers stated: *"We renew our commitment to the observance of internationally recognised core labour standards."* The fourth Ministerial Conference (Doha, 9-14 November 2001) reaffirmed this commitment. These standards were further upheld in the International Labour Organisation (ILO) Declaration on Fundamental Principles and Rights at Work adopted by the 174 member countries of the ILO at the International Labour Conference in June 1998 and in the Declaration on Social Justice for a Fair Globalisation adopted unanimously by the ILO in 2008.

The ITUC affiliates in Bangladesh, which have a membership of 526,000 persons covering various areas of employment, are the Bangladesh Free Trade Union Congress (BFTUC), Bangladesh Jatyatabadi Sramik Dal (BJSD), Bangladesh Labour Federation (BLF), Bangladesh Mukto Sramik Federation (BMSF), Bangladesh Sanjukta Sramik Federation (BSSF) and Jatio Sramik League (JSL).

I. Freedom of Association and the Right to Collective Bargaining

In 1972, Bangladesh ratified ILO Convention No.87 (1948), the Freedom of Association and Protection of the Right to Organise Convention and ILO Convention No.98 (1949), the Right to Organise and Collective Bargaining Convention.

The Right to Organise

The Constitution and the 2006 Bangladesh Labour Act provide for the right to join unions and, with government approval, the right to form a union; however, there are many restrictions and the government does not ensure respect for these rights in practice.

The 2006 Labour Act that replaced an older law did not comply with ILO Conventions No. 87 and No. 98. The ILO Committee of Experts on the Application of Conventions and Recommendations (CEACR) has noted *"with deep regret that the Labour Act did not contain any improvements in relation to the previous legislation and, in certain regards, contained even further restrictions which were contrary to the provisions of the Convention."* The Labour Act excludes domestic servants from its scope. Other categories of employees that do not enjoy these rights include many public workers, many categories of employees in health care and education, agricultural workers in farms with less than 10 employees, house-based workers and employees in shops in public fairs, as well as telex and fax employees. These workers do not have the right to organise or collective bargaining.

In order to get registered, trade unions in the process of organising need to prove that they represent at least 30 per cent of workers in the enterprise. Also, the list with the names of union officers who apply for a union needs to be submitted first to the employer for verification. The procedure for application is long and complex and requires a trade union statute that complies with a long list of requirements. Even when such requirements are met, the union organisers need to submit the list of their names to their employer, enabling the employer to dismiss or threaten those persons and in general impede the union's registration. The Director of Labour or registrar has to give approval in order for a union to be legally recognised and no trade union action can be taken or be encouraged prior to registration. The union can be dissolved if its membership falls below 30 per cent of the enterprise's employees or if the government decides that the union did not respect its charter. Would-be unionists are not protected by law from employers' retaliation during the period when a registration application is pending.

The Bangladesh Labour Act obliges the establishment of Participation Committees (PCs) in companies with more than 50 employees. The PCs comprise employers' and employees' representatives. The employees' representation is chosen by the trade union. If there is no trade union, the law stipulates that "*representatives of the workers on a participation committee shall be chosen in the prescribed manner from amongst the workers engaged in the establishment for which the participation committee is constituted.*" The "prescribed manner" is not defined anywhere in the law's text. The role of the PCs is to promote mutual trust and understanding, ensure application of labour laws, improve occupational health and safety, encourage vocational training as well as "*fulfil production target, improve productivity, reduce production cost and wastes and raise quality of products.*" Reportedly, the Participation Committees have been used by employers to discourage and impede the formation of genuine unions at the enterprise level. Such practices have been particularly employed in the ready-made garments (RMG) sector.

The Director of Labour has wide powers to interfere in internal union affairs and can enter union premises and inspect documents. The Director may cancel the registration of a union, with Labour Court approval. There are numbers of applications for registration to which the Director of Labour has not acted upon without any stated reason. In cases where there are deficiencies in an application, applicants do not receive a reply that would allow them to amend their application and retry. Further to this, the registrar of trade unions does not register new unions in the ready-made garments (RMG) sector which is the leader of Bangladeshi exports. Moreover, the office of the Director of Labour has made use of its power to revoke the registration of unions. For instance, in 2010 the registration of the Bangladesh Garments and Industrial Sramik Federation (BGIWF) was cancelled for alleged violation of its constitution and unfair labour practice.

The law does not protect unions from interference by employers. The CEACR had previously noted that "*the Labour Act 2006 did not contain a prohibition of acts of interference designed to promote the establishment of workers' organizations under the*

domination of employers or their organizations, or to support workers' organizations by financial or other means with the object of placing them under the control of employers or their organizations, and had requested the Government to indicate the measures taken to adopt such a prohibition." The authorities have not answered to the CEACR.

Unions do not have full freedom to elect their officers. The Labour Act prohibits anyone from running candidate for office if she or he is not employed or engaged in that establishment in which the trade union is formed. Therefore, electing persons outside the enterprise that could be employed full time on trade union matters is impossible.

The law forbids anti-union discrimination on the part of the employer. The application of this provision in practice has been weak.

The Right to Collective Bargaining

Only registered unions can engage in collective bargaining, and each union must nominate representatives to a collective bargaining authority, subject to approval by the Director of Labour. Where there is only one trade union in an establishment, it is automatically the collective bargaining agent. Where there are more trade unions in one establishment, the Director of Labour holds a secret ballot to determine which one of the trade unions shall be the collective bargaining agent. This procedure for the determination of the collective bargaining agent must be initiated by any trade union in the enterprise or by the employer.

In the public sector there are two categories of workers, those working in industries such as jute, textiles and so on, numbering less than 100,000, and workers in the services sector such as water, electricity, municipality and other state employees, numbering over one million. A government-appointed tripartite commission determines wages and some conditions of workers in the first category, whilst a pay commission with no workers' representation fixes and adjusts the wage of the second, much larger category of public sector workers.

Collective bargaining is limited as there is no legal provision for collective bargaining on a sectoral and national level. Collective bargaining occurs occasionally in large private enterprises in sectors such as pharmaceuticals, jute or textiles, but due to concerns over job security, most workers do not practice collective bargaining. Collective bargaining in small private enterprises is virtually inexistent and the overall coverage of collective agreements is negligible. The CEACR has noted one of the government's answers on collective bargaining that "*there are currently 7,297 trade unions registered with the Department of Labour, 32 national federations, 112 industrial federations and 36 garments industries federations and a total of 11 collective bargaining agreements.*"

Dispute Settlement and the Right to Strike

When labour disputes emerge the employers and employees need to try to solve the problems internally with dialogue. When this effort fails the government can appoint a conciliator to continue the settlement negotiations. Failing to appear before the

conciliator is punishable by penalties of imprisonment. The Director of Labour has the right to assume competence in a case whenever he or she wants. In case the conciliator fails, the two parties in the dispute need to agree on an arbitrator whose decision is final and binding. A strike or a lock-out can be called after conciliation has failed and an application to the labour court for adjudication is allowed either when industrial action or a lock-out is going on or when the two parties have not reached agreement on the arbitrator.

Calling a strike is allowed only in cases where the dispute was originally initiated by the trade union and after conciliation has failed. The law requires a secret ballot specially held for the purpose of the strike where at least three fourths of the members vote for the strike. If the dispute was caused by the employer, the management can apply to impose a lock-out. If a strike or lock-out lasts for more than 30 days, the government may prohibit the action.

The law prohibits strikes that could be considered prejudicial to the national interest and in such cases the 1974 Special Powers Act can be employed in order to detain strikers without charges. Strikes in public utility services like railways, airways and banking are also prohibited. Strikes are not allowed for a period of three years in new establishments and in establishments owned by foreigners or established in collaboration with foreigners. Other forms of industrial action like go-slows are also prohibited. Any worker who commences or continues an unauthorised strike is punished with imprisonment for a year and/or a fine of BDT5000. However, in case it involves obstruction of transportation it can be punished with up to 14 years' imprisonment with forced labour. The law prohibits hiring of replacement labour in case of a strike.

In 2008 there were less than 80 labour inspectors for the whole country to inspect thousands of registered enterprises. Also, unregistered production facilities and informal economic activities, unregulated by the labour inspectorate, account for about 80 per cent of the economy. Furthermore, the system of labour justice in Bangladesh is slow and sometimes cases have to stay for years in the backlog. Courts usually fail to provide remedy for labour abuses.

Export Processing Zones

Special legislation on unionisation has prohibited the formation of unions in the country's eight Export Processing Zones (EPZs) which are exempt from the application of the Labour Act and the Factories Act, thereby excluding workers in the zones from the coverage of laws governing trade union rights, wages, hours and safety and health standards. Instead, the government enacted the EPZ Workers' Association and Industrial Relations Act in 2004 that allows only for limited freedom of association in the EPZs. The law initially envisaged the establishment of 'Workers Associations' in the EPZs. A 2010 amendment renamed the 'Workers Associations' as 'Workers' Welfare Societies' but essentially did not change anything. The CEACR noted "*with deep regret that in August 2010, the Parliament passed the EPZ Workers' Welfare Society and Industrial Relations Act 2010 (EWWSIRA) without addressing any of its previous comments and*

that the EWWSIRA does not contain any real improvement in relation to the previous legislation.” The associations or societies do not have collective bargaining rights but could negotiate with the employer on working conditions, remuneration or payment for productivity enhancements and worker education programmes.

The CEACR has identified several provisions of the 2010 EPZ Act that need to be amended in order to comply with ILO core labour standards. Among others, the Act establishes complicated procedures and excessive requirements for the establishment of Workers’ Welfare Societies and it stipulates that there should be only one Workers’ Welfare Society per factory. The minimum requirement of 30 per cent of the workforce stands for the EPZ workers too. Moreover, the Executive Chairperson of the Bangladesh Export Processing Zone Authority (BEPZA) needs to verify the application and the submitted list of names of the organisers and then conduct a vote in which more than 50 per cent of the workers should vote for. The Executive Chairperson of BEPZA also has power to approve or reject the drafting committee of the Society’s charter. When the voting procedure fails to result in a Welfare Society the next effort to organise cannot be made until at least a year after the failed effort.

The Welfare Societies cannot receive funds from outside sources and they cannot be affiliated to wider trade union formations outside the zones. In order to form a council of Welfare Societies inside an EPZ, the organisers need to have the support of at least half of the Welfare Societies of the EPZ which the CEACR has found excessively high. In case a Society’s membership falls below 30 per cent at any time the registrar, it can be de-registered and the organising of another one can take place only a year after the de-registration is complete. Workers’ Societies are not protected from interference. Also, the law establishes a moratorium on industrial action in EPZs until October 2013.

The BEPZA has greatly discouraged collective bargaining in EPZs because they say that minimum wages and working conditions are already set in laws and other statutes. According to the government there have been referenda for Workers’ Welfare Societies and Workers Associations in 205 out of 366 enterprises in operation. However, collective bargaining in the EPZs is virtually nonexistent.

Anti-union practices and their results

In practice, Bangladesh has a strong anti-union culture. During a recent ACTRAV Mission to Bangladesh (12-14 February, 2012) the State Minister of Labour stated that *“negative perceptions about trade unions existed especially among the new generation of entrepreneurs in Bangladesh”*. Moreover, workers are not sufficiently aware of their rights and many of them are illiterate.

In such an environment, it is almost impossible to comply with the above-mentioned requirements to organise at least 30 per cent of a factory’s workforce and prepare a lengthy catalogue of documents to apply for union status. Even after registration, workers are routinely suspended for conducting union activities, complaining or trying to collectively bargain. For instance, in April 2011, the President of

a power plant in Dinajpur District was dismissed for having complained over the regularisation of several workers. In 2010, the ITUC recorded more than 5000 such dismissals in the garment sector alone. One popular ploy is to dismiss workers for misconduct, as they are then no longer entitled to become trade union officers. A complaint to the Labour Court is of little use given the underlying corruption and serious backlog of cases which, in some instances, can stretch back several years or more.

In 2010 several members of newly organised unions in the shrimp industry were dismissed in acts of clear anti-union discrimination. In a garment enterprise in one EPZ, the BGEE Garments' management dismissed three executive committee members of the workers' association of the company and issued warning against two more effectively barring them from the factory's premises for allegedly attempting to organise a strike. The warning letter read: *"following the findings of the enquiry committee and for your other anti-company activities you are hereby warned for the last time that you do not provoke the workers to go for an illegal strike. If you fail to comply with the above, severe disciplinary action shall be taken against you."*

Another EPZ-based enterprise, Dhaka/Beijing Dyeing and Weaving Industries, dismissed a union official for demanding that the workers be paid according to the EPZ's new wage regulation. The company complied with the new wages but only after firing 24 workers. A Secretary of the workers' welfare society was called on to resign and was subsequently dismissed after he refused to do so in front of BEPZA officials. Such cases are frequent in Bangladesh.

Lockouts are also a frequent practice used against workers. In only one of many cases, in February 2011, after a strike over wages in arrears, three garment factories locked out more than 6,600 workers in the Dhaka EPZ.

As a result, in the ready-made garments (RMG) sector there are only 63,000 unionised workers out of 3.5 million, mostly young women. In some 5,000 factories there are 140 unions but only 20-30 of these unions are active. In the whole RMG sector, there were only two new union registrations in 2008, none in 2009 or 2010, and just one in 2011. The sector accounted for 75 per cent of the country's exports in 2000 and 79 per cent in 2011. The situation is similar in other economic sectors engaged in exports or production in general.

The lack of unions contributes to the extremely bad labour conditions in Bangladesh. For instance, a recent assessment of workers' conditions in the RMG sector based on newspaper reports collected during 3 months¹ found that 7 garment workers were killed and 119 workers got injured in workplace accidents, 3 women workers were raped and 5 factories closed down due to labour unrest.

As enterprises compete in delivering quickly in low prices to international buyers, the management of these factories pays low wages, imposes extremely long hours

¹ from December 2011 to February 2012

(sometimes even by locking employees inside until the production goals are met), forbids breaks for lunch and does not provide adequate facilities like latrines. The lack of health and safety procedures and equipment is another way of avoiding expenses. The costs of these abysmal conditions are counted in human lives and severe injuries. In 2010, the local press reported 383 deaths in 270 workplace accidents and in 2009, 265 deaths in 227 accidents.

Violence against unions

The authorities often use violence to disperse workers or force them to return to work. In the Advanced Chemical Industries (ACI) Pharmaceuticals plant in Narayanganj about 400 employees protested the use of temporary workers when they were assaulted by police who fired tear gas and rubber bullets against them. The police caused one death, about 100 injuries and 130 workers were arrested. On July 16, security guards opened fire against 3000 protesting bidi workers in Kushtia. Three persons died, one of whom succumbed to his injuries some days after the event. Another 35 persons were reported injured, some of them by bullets. The workers were protesting for a pay rise.

In other cases police have baton charged protesting workers causing injuries and have detained protesters. Some usual causes for protesting are wages in arrears, application of minimum wage regulations, overtime pay, regularisation and solidarity with dismissed workers. The authorities also file charges against workers under the Penal law when gatherings, protests and other industrial action have not been authorised.

A recent case shows how security forces of Bangladesh may be involved in silencing the unions. Aminul Islam was the President of the Bangladesh Garment and Industrial Workers' Federation (BGIWF) in Savar and Ashulia. He was also a member of the Bangladesh Centre for Worker Solidarity (BCWS). Aminul Islam was detained, beaten and faced criminal charges in several occasions. In June 2010 he was detained by the National Security Intelligence (NSI) which asked him to falsely accuse in writing some of his colleagues for being involved in criminal activities related to the unrest in the garments sector. In 2012 he was helping workers of a garment manufacturer in an EPZ to resolve labour disputes. His body was found on April 5, one day after his disappearance, brutally tortured. Although the government has been under international pressure from governments, unions and industry groups to resolve the case and bring those responsible to justice, the murderer(s) is still to be found. Family and colleagues of Islam Aminul believe that national security forces are involved in the incident and they have called for the case to be transferred to the Criminal Investigation Department (CID) which has more resources and skills to shed light on this murder.

Summary

The law of Bangladesh does not adequately provide for freedom of association, the right to collective bargaining and the right to strike. The law establishes excessive requirements and complicated procedures in order to register a trade union and, in practice, the registrar rejects many applications. Employers are not impeded from using

various anti-union practices including threats, dismissals, legal suits against unionists and intimidation. The police often use excessive force to disperse protesting workers, in some cases causing deaths and often causing injuries. Export Processing Zones (EPZs) fall under special labour legislation whereby basic rights are not permitted and workers are prevented from organising and bargaining collectively.

II. Discrimination and Equal Remuneration

Bangladesh ratified ILO Convention No. 111 (1958), Discrimination (Employment and Occupation) in 1972 and ILO Convention No. 100 (1951), Equal Remuneration in 1998.

Laws specifically prohibit some forms of discrimination against women. The law also stipulates equal remuneration between men and women for work of equal value; however, remuneration is interpreted rather narrowly as ‘wage’. There are no laws to prohibit discrimination on the grounds of race, colour, religion, national or social origin. Moreover, vats categories of workers, like domestic workers, are not protected because they are excluded from the scope of the major laws establishing these protections.

Women in Bangladesh face a gender pay gap that has been measured to be as wide as 30 to 45 per cent depending on the area and sector. In many female-dominated sectors of the economy wages are lower than those where men are the majority. Women are affected by higher levels of illiteracy and they do not have equal opportunities in various aspects of employment such as hiring and promotions.

There is no law prohibiting sexual harassment at the workplace. The Labour Code prohibits behaviour “*which may seem to be indecent or repugnant to the modesty and honour of the female worker*” but fails to provide an appropriate definition of sexual harassment. In May 2009, the Bangladesh High Court issued a historic decision that can be used as a guideline on sexual harassment. The CEACR reports that the High Court considered that “*equality in employment can be seriously impaired when women are subjected to sexual harassment at the workplace and in educational institutions, and that protection from sexual harassment and the right to education and work with dignity are universally recognized human rights, and the common minimum requirement of these rights has received global acceptance.*” The Court issued guidelines that should be observed in all workplaces and educational institutions. The guidelines require employers and school masters to take steps to prevent sexual harassment, establish complaints mechanisms such as complaints committees, and implement sanctions. The Court said that the guidelines should be observed like law until the government enacts proper legislation on the matter. In practice, sexual harassment at the workplace is a serious problem in Bangladesh.

The law prohibits some forms of discrimination against persons with disabilities. However, due to lack of law enforcement disabled persons face discrimination in employment, education and other aspects of life.

The law prohibits homosexuality and lesbian, gay, bisexual, and transgender (LGBT) persons must hide their sexual orientation, including at the workplace, out of fear for being stigmatised or even assaulted.

There is no law to protect persons living with HIV/AIDS from discrimination and such persons face discrimination when their positive status is revealed.

Summary

Some forms of discrimination against women are prohibited but the law does not extend adequate protection to women or to disabled persons, gay and lesbian workers and persons living with HIV/AIDS. Women are not protected against sexual harassment at the workplace, which is a serious problem in Bangladesh. Women face a big gender pay gap and tend to be concentrated in low paid sectors of the economy.

III. Child Labour

Bangladesh has not ratified ILO Convention No. 138 (1973), the Minimum Age Convention but ratified No.182 (1999), the Worst Forms of Child Labour in 2001.

The Bangladesh Labour Act sets the minimum age for admission to work at the age of 14, though children from 12 to 14 may perform light work for a few hours per day. It is prohibited for children to perform “hazardous work”, but the law does not define hazardous work. The government has indicated that they are working on a list of hazardous occupations and tasks. The penalties for offenders against these child labour provisions are fines of less than BDT5000. The Act does not apply to domestic service, agricultural work and house-based economic activities, so children employed in those sectors do not benefit from the Act’s protection.

By the Children’s Act of 1974, prostitution is prohibited for girls below the age of 16, although there is another law from 1860 that sets the minimum age for prostitution at the age of 18. The Suppression of Violence against Women and Children Act (SVWCA) of 2000, amended in 2003, prohibits the sale and trafficking of women and children for purposes of prostitution or immoral acts. However, the Act defines ‘child’ as a person below the age of 16. It is not clear which law the courts and law enforcers use in order to prosecute those who force persons below the age of 18 into prostitution or other criminal activities. None of the three laws explicitly protects boys from prostitution. Moreover, the CEACR has observed that *“the provisions under the SVWCA cover only trafficking for sexual exploitation and do not prohibit the sale and trafficking of children, both boys and girls, for labour exploitation.”* *“The Committee once again reminds the Government that, under Article 3(a) of the Convention, the sale and trafficking of children under 18 years of age for labour or sexual exploitation is considered to be one of the worst forms of child labour and that, under the terms of Article 1 of the Convention, immediate and effective measures must be taken to secure the prohibition and elimination of the worst forms of child labour as a matter of urgency.”*

Primary education is free and compulsory but the implementation of compulsory education falls short, in part because parents on low incomes may keep children out of school to have them working for money or helping with household chores. Under the law, children between ages 6 and 10 must attend school up to the fifth grade or the age of 10 years.

However, there is no effective mechanism to enforce this provision. Moreover, children between 10 and 14 years old are not required to be at school while at the same time they are not allowed to work. These children are in a particular risk of being exploited. The net enrolment ratio in primary schools is 86 per cent for boys and 93 per cent of girls. However, only 67 per cent of children make it to the last class of the primary school. The net enrolment ratio for all children in secondary school is below 43 per cent.

The ILO estimates there to be 7 million child workers in Bangladesh of whom 1.3 million are engaged in hazardous work. Children work mostly in agriculture, manufacturing, services including domestic service, and street-based activities. In agriculture and manufacturing, children sometimes have to deal with dangerous pesticides and chemical substances, operate heavy machinery and carry heavy loads without training, knowledge of safety procedures or protective gear.

According to the 2006 ILO Baseline Survey on Child Domestic Labour (CDL), in Bangladesh there are 2 million domestic workers of whom more than 421,000 are children of 5 to 17 years of age. 6 per cent of these children are younger than 8 years of age, 21 per cent younger than 11 years old and 74 per cent below the age of 17 years. Numerous reports show that domestic workers in general are the first to wake up and the last to go to bed; child domestic servants are no exception: the Survey indicated that more than 99 per cent of the child domestics worked 7 days a week for exceedingly long hours. There are also reports of abuses of domestic workers: as these workers' workplace is not visible, many domestic workers, among them children, are particularly vulnerable to labour violations and sexual abuse. The Survey estimated that 78 per cent of child domestic workers are girls and that 94 per cent of them work full time. More often than not, child workers give their entire salary to their parents if their salary is not paid directly to their parents or guardians. Indeed, the Survey estimated that more than half of them did not receive any wages.

Children are also involved in other services, such as restaurants, hotels and entertainment. There are many children forced into prostitution or trafficked for the purpose of commercial sexual exploitation in India and other countries.

In manufacturing, children work in shrimp processing, furniture making, brick kilns, textiles and footwear, automobile reparations, glass industry, salt mining, recycling, dismantling of old metal structures and remanufacturing, among other sectors. These occupations usually provide poor working conditions in crowded places, sometimes with little light and abysmal hygiene conditions. Many children suffer and die from occupational diseases, such as diarrhoea in the shrimp industry, and several types of accidents like cuts and mutilations when operating machinery.

Street children usually perform beggary or they work in vending stands. They may be involved in garbage picking, scavenging, portering and rickshaw pulling, petty crime and other illicit activities like drugs smuggling.

The labour inspectorate and other law enforcers are not adequately equipped and trained to monitor all the workplaces for child labour. As 80 per cent of the economy is not recorded or regulated and broad categories of workers are excluded from the scope of the Labour Act, enforcement has been poor and inefficient.

However, the government has implemented the National Time-Bound Programme - Urban Informal Economy (TBP-UIE) (2007–2011) with a view to preventing and eliminating the worst forms of child labour in the urban informal economy. The programme offered rehabilitation services to more than 5,000 working children and rescued 276 children from hazardous work and received training and education. Another 9000 children received training and vocational education. The Eradication of Hazardous Child Labour project provided non-formal education to 40,000 child workers in the Dhaka and Chittagong areas and 5,000 parents of child workers received microcredit. The programme is now in its third phase which intends to withdraw 30,000 more children from work. The Technical and Vocational Education and Training Reform (TVET) project (2007–2011) aimed at reducing poverty through reforms in technical and vocational education. The Empowerment and Protection of Children (EPC) project targets orphans and the Primary Education Development Programme-II (PEDP-II) attempts to improve access to schooling. Other programmes intend to educate and train special categories of children, like street children, urban working children and indigenous children.

Summary

Child labour is not regulated in compliance with international standards and enforcement is ineffective. 7 million children are at work of whom 1.3 million are engaged in the worst forms of child labour. Children perform a wide range of jobs in all sectors.

IV. Forced Labour

Bangladesh ratified, in 1972, both ILO Convention No. 29 (1930), the Forced Labour Convention and ILO Convention No. 105 (1957), the Abolition of Forced Labour Convention.

The law prohibits forced and bonded labour and the Factories Act and Shops and Establishments Act provide for inspection mechanisms that contribute to implementation of the laws against forced labour. With regard to children in forced labour, the Labour Act of 2006 prohibits debt bondage but only in respect of children under 14 years old. In February 2012, the parliament passed a comprehensive anti-trafficking law, the Human Trafficking Deterrence and Suppression Act. The Act establishes penalties of 12 years' imprisonment and fines for trafficking with the purpose of forced labour and imprisonment of at least five years, or even the death penalty, for sex trafficking.

Bangladeshi law has provisions that allow penal sanctions involving compulsory labour as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system. Other provisions impose penalties involving compulsory labour as a punishment for breaches of labour discipline and for having participated in strikes. These provisions do not comply with ILO Convention No. 105.

In practice, forced labour and trafficking take place in Bangladesh. Women and girls are trafficked for prostitution and domestic servitude. Men and boys are trafficked for forced labour and beggary.

The Human Trafficking Deterrence and Suppression Act does not have any provisions targeting local fraudulent recruiters. About 1100 local recruiting agencies are affiliated to the Bangladesh Association of International Recruiting Agencies (BAIRA). The government does not prevent such agencies from charging exorbitant recruitment fees, which may be as high as a year's salary. These agencies also illegally charge additional costs to the migrating workers' bills. As a result, the workers have to borrow money from family and friends to pay these expenses and they arrive in the receiving country enormously indebted, practically forced to work as debt-bonded labour. They are often forced to accept different jobs from those described in their recruitment procedure, or with lower wages. When complaints are made about violations in recruitment or labour abuses, BAIRA rarely - if ever - provides remedy to the workers.

In 2011, the authorities reported 14 convictions in 129 prosecutions for trafficking of women and girls for prostitution. The authorities do not use standardised procedures for the identification of victims of trafficking. However, reports show increasing levels of complicity with traffickers by law enforcers, recruitment agencies, labour brokers and politicians. There have been no investigations or prosecutions of any of these actors for their role in facilitating trafficking. In 2009, the National Police Academy provided anti-trafficking training to 2,875 police officers.

There were 181 identified victims of trafficking in 2011. The government operates nine shelters for abused women and some victims were referred to them. However, other victims were charged for crimes that resulted from their trafficking.

Summary

The law imposes penalties involving compulsory labour as a punishment for breaches of labour discipline and for having participated in strikes. It does not protect migrating workers from fraudulent recruitment and many such workers are coerced into bonded labour. There are reports of complicity by authorities and politicians with organised crime in trafficking.

Recommendations

1. The Labour Act should be amended in order to include domestic workers, all public workers, workers in health care and education, agricultural workers in farms with less than 10 employees, home-based workers and all other categories of employees that are currently excluded.
2. The 30 per cent representation requirement for establishing a union should be replaced by a short, simple procedure for application. The Director of Labour should routinely register unions that apply instead of delaying or obstructing approval, and the Director's powers to interfere in internal union affairs should be revoked.
3. The law should be amended in order to grant protection of unions from interference by employers and the requirement for submission of names of union organisers to the employers should be revoked. The authorities should take measures to protect union members from anti-union discrimination including by quickly investigating complaints regarding anti-union actions and prosecuting the employers involved.
4. Unions should be granted full freedom to elect their officers.
5. Public sector employees should be granted full rights to organise and collectively bargain.
6. Collective bargaining on a sectoral and national level should be allowed and promoted.
7. Calling a strike should be allowed in all disputes settlement and collective bargaining processes. The excessive requirement of a three fourths majority in polls for going on strike should be lowered.
8. The penalties of imprisonment for failing to appear before the conciliator in case of a dispute should be removed; detention of workers without charge should not be allowed under any circumstances. Workers should not be detained, imprisoned or otherwise punished for taking part in strikes, even in unauthorised strikes.
9. The government should not have the power to terminate strikes and other industrial action after 30 days of action.
10. Strikes that could be considered prejudicial to the national interest need to be defined according to international standards for "essential services" and not arbitrarily.

11. The penalties for “obstruction of transportation” should be abolished.
12. The special clauses prohibiting strikes in new establishments and those owned by or established in collaboration with foreigners should be removed. The Export Processing Zones (EPZs) should be governed by the same Labour Act that applied in the rest of the country and special EPZ laws should be amended in order to comply with international standards. Such amendments should include but not be limited to granting full rights to organise, bargain collectively and strike, the revocation of the powers of the Executive Chairperson of the Bangladesh Export Processing Zone Authority (BEPZA) to verify the application and the list of names of organisers of unions, and the revocation of the powers of the Executive Chairperson to approve or reject the drafting committee of a union’s charter. The Workers’ Welfare Societies need to be replaced by free trade unions that can genuinely represent workers’ rights and interests. Trade unions should be granted full freedom to affiliate to wider trade union formations outside the zones.
13. Police violence against trade union members must stop.
14. The torture and murder of Aminul Islam should be thoroughly investigated and the perpetrators, including the moral authors of the crime, must be brought to justice.
15. New laws should be enacted in order to prohibit discrimination on the grounds of race, colour, religion, national or social origin.
16. The legal framework should be strengthened in order to prevent all forms of discrimination against women. The term ‘remuneration’ should be given a broad definition in line with international standards.
17. The government should take urgent measures to improve women’s participation in the workforce and women’s access to highly skilled and high paid jobs, and to close the gender wage gap.
18. A comprehensive law prohibiting sexual harassment at the workplace should be enacted. It should include adequately stringent penalties and complaints’ mechanisms.
19. The law should be amended in order to prohibits all forms of discrimination against persons with disabilities and to require affirmative action to promote equal opportunities for such persons. Similarly, laws should protect LGBTs and persons living with HIV/AIDS.
20. The list of hazardous occupations and tasks should be enacted after it is discussed with social partners.

21. The penalties for offenders against the law's child labour provisions should be increased drastically.
22. Prostitution should be prohibited for girls below the age of 18. The laws on prostitution and sexual exploitation should be extended to cover boys.
23. The age of compulsory education should be raised to coincide with the minimum age for admission to work.
24. The Human Trafficking Deterrence and Suppression Act should be amended in order to prevent and punish local fraudulent recruiters. The Bangladesh Association of International Recruiting Agencies (BAIRA) should be monitored by state authorities so as to ensure that the migrants who use the services of recruitment agencies are not exploited. The maximum fee for employment services provided should be radically lowered and a cap of other fees should be established.
25. The provisions of the Labour Act and other laws that allow penal sanctions involving compulsory labour as a punishment for holding or expressing political views or views ideologically opposed to the established political, social or economic system, for breaches of labour discipline and for having participated in strikes should be repealed.
26. The authorities should urgently begin investigations and prosecute state officials, recruiters and law enforcers who are complicit in trafficking and exploiting Bangladeshi workers.
27. The government should reinforce their authorities' capacities to recognise and provide assistance to victims of trafficking.
28. The government should build up their law enforcement and judicial capacities in order to monitor and enforce labour laws, including legislation on violations of trade union rights, child labour and forced labour and trafficking, and start punishing those who commit these crimes.
29. The Labour Inspectorate needs to be adequately funded and the inspectors should be properly trained to identify victims of violations.
30. The WTO should draw the attention of the Bangladesh authorities to the commitments they undertook to observe core labour standards at the Singapore and Doha Ministerial Conferences. It should request that the ILO intensify its work with the Government of Bangladesh in these areas and provide a report to the WTO General Council on the occasion of the next trade policy review.

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