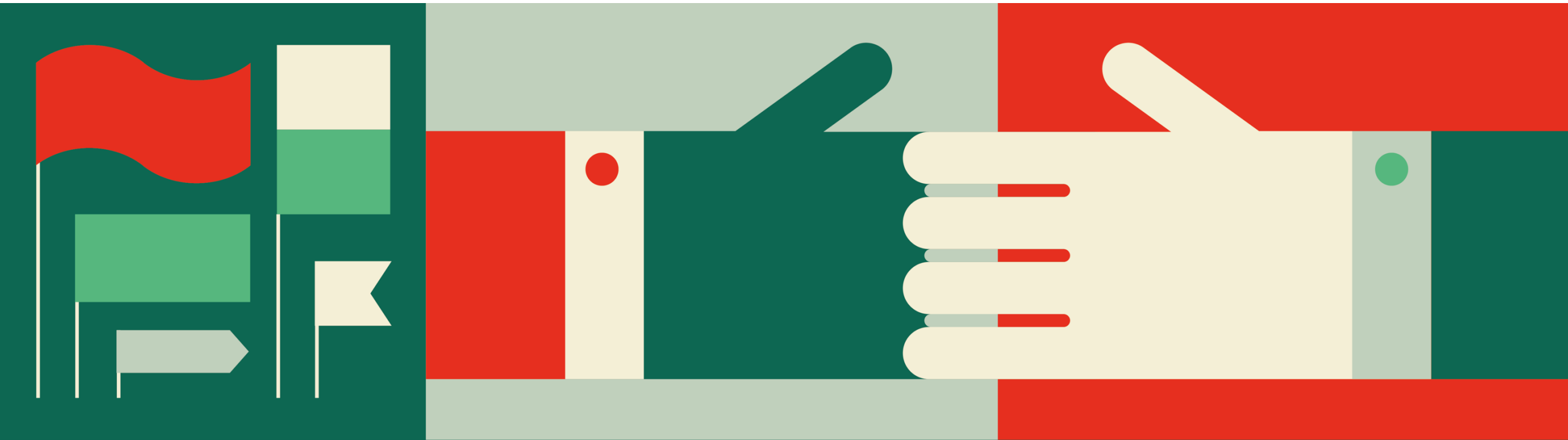


UNFAIR LABOUR PRACTICES, ANTI-UNION DISCRIMINATION, AND WORKPLACE VIOLENCE

Module 1: Introduction to Unfair Labour Practices



Structure of this module:

- Legal Framework: Bangladesh Labour Law (BLA & EPZ).
- Definition and types of unfair labour practices.
- Unfair Labour practices on the part of the employers.
- Unfair Labour practices on the part of workers.
- Anti-trade union discrimination.
- Penalties for unfair labour practice or anti-trade union discrimination.
- Administration, Inspection, Etc. - Powers Of The Director General.

Legal Framework: Bangladesh Labour Law

THE BANGLADESH LABOUR ACT, 2006 [ACT NO. XLII OF 2006]



THE BANGLADESH LABOUR ACT, 2006

[ACT NO. XLII OF 2006] (as amended in 2018).

“The Bangladesh Labour Act, 2006, consolidates and amends the laws relating to employment of labour, relations between workers and employers, payment of wages and compensation for injuries to workers, and other matters related to labour.”

Definition and types of Unfair Labour Practices



Unfair Labour Practices can be broadly defined as actions taken by employers, workers, or trade unions that violate the rights of employers or workers as established by labour laws, regulations, and/or international standards.

These practices can include interfering with the workers' right to organize, discriminating against workers for participating in trade union activities, or commencing with illegal industrial action.

Compilation of decisions of the Committee on Freedom of Association:

“1074. No person shall be prejudiced in employment by reason of trade union membership or legitimate trade union activities, whether past or present.”

“1075. No person should be dismissed or prejudiced in employment by reason of trade union membership or legitimate trade union activities, and it is important to forbid and penalize in practice all acts of anti-union discrimination in respect of employment.”

Unfair Labour Practices and Anti-Union Discrimination are interlinked



Anti-Union Discrimination can be broadly defined as any action taken with the aim of prejudicing workers because of their trade union activities or dissuading them from forming or joining unions and/or taking part in future union activities. Discriminatory action — including the threat of discriminatory action — can take three forms:

1. making the hiring of a worker conditional on their not being a trade union member or refusing to hire workers with a history of union activity (blacklisting);
2. subjecting a worker to some form of prejudice or disadvantage during employment because of their union membership or activity;
3. dismissing or not renewing a worker's contract because of their union membership or activity

Compilation of decisions of the Committee on Freedom of Association:

“Anti-union discrimination is one of the most serious violations of **freedom of association**, as it may jeopardize the very existence of trade unions.”

Unfair Labour Practices on the part of the employers



195. Unfair Labour practices on the part of the employers -

1. No employer or the trade union of employers [employers' organization] or any person acting on their behalf shall-
 - a) impose any condition in a contract of employment restraining the right of the worker concerned to join a trade union or continue his membership of a trade union;
 - b) refuse to employ or refuse to keep in employment any worker on the ground that such worker is, or is not, a member or officer of a trade union;

195. Unfair Labour practices on the part of the employers -

- c) discriminate against any worker in regard to any employment, promotion, conditions of employment or working conditions on the ground that such worker is, or is not, a member or officer of a trade union;
- d) dismiss, discharge or remove any worker from employment or threaten to do so, or threaten to do any harm to his [or her] employment by reason that he [or she] is, or proposes to become, or persuades any other person to become, a member or officer of a trade union, or that he [or she] participates in the formation, activities and expansion of a trade union;

195. Unfair Labour practices on the part of the employers -

- e) induce any worker or any other person to refrain from becoming a member or officer of a trade union or to quit such post, by conferring or offering to confer any advantage or by procuring or offering to procure any advantage for him [or her];

195. Unfair Labour practices on the part of the employers -

- f) compel or attempt to compel any officer of the collective bargaining agent to arrive at a settlement or to sign a memorandum of settlement by intimidation, coercion, pressure, threat, confinement to a place, physical injury, disconnection of water, power and telephone facilities or by any other means;
- g) interfere with or in any way influence the election held under section 202;

195. Unfair Labour practices on the part of the employers -

- h) recruit any new worker during the continuance of strike under section 211 or during the continuance of strike which is not illegal, except where the Arbitrator is satisfied that the complete cessation of work is likely to cause serious damage to the machinery or any other installation, he [or she] may permit temporary employment or a limited number of workers, in the department or section of the establishment where the damage is likely to occur;
- i) deliberately fail to take measures recommended by the participation committee;

195. Unfair Labour practices on the part of the employers -

- j) fail to give reply to any communications made by the collective bargaining agent in respect of any industrial dispute;
- k) transfer the Chairman, general secretary, organizing secretary or treasurer of any trade union in contravention of the provisions of section 187; or commence or continue or instigate others to take part in any illegal lock-out.

195. Unfair Labour practices on the part of the employers -

2. In order to enquire into unfair labour practice, the Government shall frame [a] **Standard Operating Procedure** in keeping with the provision of this section.

Unfair Labour practices on the part of workers



196. Unfair Labour practices on the part of workers -

1. No worker shall engage himself [or herself] in any trade union activities during his [or her] working hour without the permission of his [or her] employer:

Provided that nothing in this sub-section shall apply to the trade union activities of the Chairman or the General Secretary of the collective bargaining agent of an establishment, if such activities relate to any committee, negotiation, arbitration, mediation or any other proceeding under this Act, and the employer has been duly informed thereof.

196. Unfair Labour practices on the part of workers -

2. No worker or a trade union of workers or any person acting on behalf of such trade union shall -
 - a) intimidate any worker to become or not to become a member or officer of a trade union or to continue in or to refrain from such post;
 - b) induce any worker or any other person to refrain from becoming a member or officer of a trade union or to quit such post by conferring or offering to confer any advantage or by procuring or offering to procure any advantage for him [or her];

196. Unfair Labour practices on the part of workers -

- c) compel or attempt to compel any worker to pay or refrain from paying any subscription to the fund of any trade union by intimidation, coercion, pressure, threat, confinement to a place, physical injury, disconnection of telephone, water or power facilities or by any other means;

196. Unfair Labour practices on the part of workers -

- d) compel or attempt to compel the employer to sign a memorandum of settlement or to accept or agree to any demand by intimidation, coercion, pressure, threat, confinement to or eviction from a place, dispossession, assault, physical injury, disconnection of water, electricity, gas or telephone facilities or by any other means;
- e) commence or continue an illegal participation in strike or a go-slow; or instigate others to take part in it; or resort to gherao, obstruction to transport or communication system or destruction of any property in furtherance of any demand or object of a trade union.

196. Unfair Labour practices on the part of workers -

3. It shall be an unfair practice for a trade union to interfere in the election held under section 202 by the exercise of undue influence, intimidation, impersonation or bribery through the officer of that trade union or any other person acting on its behalf.

196. Unfair Labour practices on the part of workers -

4. In order to enquire into unfair labour practice, the Government shall frame [a] **Standard Operating Procedure** in keeping with the provision of this section.

Legal Framework: Bangladesh Labour Law

THE BANGLADESH EXPORT PROCESSING ZONE (EPZ) LABOUR ACT



EPZ Labour Act, Sec. 94 states:

1. “The **workers** employed in any enterprise in any Zone shall, subject to the provisions of this Chapter, for the purpose of performing functions relating to **industrial relations, have the right to form and join the Workers’ Welfare Association subject** to its constitution.
2. If the workers employed in an industry in any Zone intend to form a Workers’ Welfare Association, not less than 20% (twenty percent) of the permanent workers of the industry shall apply to form a Workers’ Welfare Association on behalf of all workers in a prescribed form with signatures or thumb impressions, to the Executive Director (Labour and Industrial Relations).
3. **No employer shall in any manner discriminate any worker for being a party to application under sub-section (2)** and if any such discrimination is made, it shall be deemed to be an **unfair labour practice** of the employer under section 115...”.

EPZ Labour Act, Sec. 115. Unfair practices on the part of employers -

1. If an employer or any person authorized by the employer or any person acting as employer does any of the following acts shall be deemed to be **an unfair practice**, namely:-
 - a) to impose any condition in a contract of employment to **restrain the right of any person** who is a party to such contract to **join in any Workers' Welfare Association or continue his [or her] membership** of any Workers' Welfare Association;

EPZ Labour Act, Sec. 115. Unfair practices on the part of employers -

- b) to refuse to continue in employment** of any worker on the ground that such person **is or is not a member or representative** of any Workers' Welfare Association;
- c) not to give promotion or to dismiss, discharge or remove or threaten to dismiss, discharge or remove or threaten to injure the employment of any worker on the ground that such worker-**
 - i. is or intends to become a member or representative** of any Workers' Welfare Association, or persuade any other person to become a member or representative;

EPZ Labour Act, Sec. 115. Unfair practices on the part of employers -

- ii. participates in the promotion, formation or activities of any **Workers' Welfare Association**; or
- iii. exercises any **right** under this Act;

EPZ Labour Act, Sec. 115. Unfair practices on the part of employers -

- d) to **induce any person to refrain from becoming or to cease to be a member or representative** of any Workers' Welfare Association or to **resign** if he is a member or representative and for that purposes give or not to give extra advantage;
- e) to **compel** any representative of the Workers' Welfare Association to sign any agreement or memorandum by **intimidation, coercion, pressure, threat, confinement to a place, physical injury, disconnection of water, power or telephone** or resorting to any other **similar technique**;

EPZ Labour Act, Sec. 115. Unfair practices on the part of employers -

- f. to **interfere** with or **influence** on any manner in the process of voting in any election held under this Act; or
- g. to **recruit any new worker during the period of strike** under section 131, or during the continuation of a strike which is not illegal: provided that if the Executive Chairman is satisfied that complete cessation of work in an industry is likely to cause serious damage to the machinery or unit, he may permit temporary employment of limited number of workers in the concerned section.

EPZ Labour Act, Sec. 115. Unfair practices on the part of employers -

2. Nothing in sub-section (1) shall prejudice the right of an employer from requiring any person on being appointed or promoted to managerial post of the enterprise **shall cease to be or be disqualified** from being a member or representative of any Workers' Welfare Association.

EPZ Labour Act, Sec. 116. Unfair practices on the part of workers or Workers' Welfare Association -

1. No worker or member or any representative of the Workers' Welfare Association shall be engaged in any activities of the Workers' Welfare **Association without the permission of his employer**; if engaged it shall be an act of **unfair practices** for any worker or member or representative of the Workers' Welfare Association:

Provided that nothing in this sub-section shall apply if the President or General Secretary of a Collective Bargaining Agent of any enterprise engage in the activity of any **committee, discussion, arbitration, conciliation or any other proceedings** of any Workers' Welfare Association under this Act, if duly informed the employer thereof.

EPZ Labour Act, Sec. 116. Unfair practices on the part of workers or Workers' Welfare Association -

2. If any worker or Workers' Welfare Association and any person assigned or acting on behalf of such worker or Workers' Welfare Association does any of the following acts shall be deemed to be an **unfair practice**, namely:-
 - a) to **incite a worker** to join or refrain from joining Workers' Welfare Association during working hours;
 - b) to **intimidate** any person to become, or refrain from becoming, or to continue to be or to cease to be a member or representative of Workers' Welfare Association;

EPZ Labour Act, Sec. 116. Unfair practices on the part of workers or Workers' Welfare Association -

- c) to induce any person to refrain from becoming, or cease to be member or representatives of Workers' Welfare Association, by **conferring or offering to confer any advantage** on or **by procuring or offering to procure any advantage** for, such person or any other person;
- d) to **compel or attempt to compel** the employer to sign a memorandum of settlement by **intimidation, coercion, pressure, threat, confinement to place, physical injury, disconnection of telephone, water or power facilities** or resorting to any other **similar technique**;
or

EPZ Labour Act, Sec. 116. Unfair practices on the part of workers or Workers' Welfare Association -

- e) to **compel or attempt to compel** any worker to pay or refrain from paying any subscription to the fund of any Workers' Welfare Association by **intimidation, coercion, pressure, threat, confinement to a place, physical injury, disconnection of telephone, water or power facilities** or resorting to any other **similar technique**;
- f) to **commence or continue an illegal strike** or a **go-slow** or **instigate** any other person to take part in it;

EPZ Labour Act, Sec. 116. Unfair practices on the part of workers or Workers' Welfare Association -

- g) to resort to **gherao** (confinement), **obstruction to transport or communication system** or **destruction of property** to achieve any demand or objects of any Workers' Welfare Association.
- 3. If any worker or Workers' Welfare Association exercises any **undue influence** on voting of an election under this Act or interferes by **intimidation**, **impersonation** or by **bribery** through its Executive Council or through any person acting on its behalf shall be an **unfair practice** for the worker or Workers' Welfare Association.

Anti-trade union discrimination

196A. Anti-trade union discrimination -

1. During the process of trade union by the workers or during pendency of the application for registration or violation of service conditions by the employer after registration and any retaliation work is adopted at the workplace it shall be anti-trade union discrimination on the part of employers. [sic]
2. In order to enquire into anti-trade union discrimination, the Government shall frame [a] Standard Operating Procedure in keeping with the provisions of this section.

Penalties for unfair labour practice or anti-trade union discrimination.

Compilation of decisions of the Committee on Freedom of Association:

“No one should be subjected to discrimination or prejudice with regard to employment because of legitimate trade union activities or membership, and the persons responsible for such acts should be punished.”

291. Penalty for unfair labour practice or anti-trade union discrimination -

1. If any person contravenes any provision of section 195 or 196A, he [or she] shall be punished with imprisonment for a term which may extend to 1 (one) year, or with fine which may extend to 10,000 (ten thousand) taka, or with both.
2. If any worker contravenes any provision of section 196, he [or she] shall be punished with imprisonment for a term which may extend to 6 (six) months, or with fine which may extend to 5,000 (five thousand) taka, or with both.

291. Penalty for unfair labour practice or anti-trade union discrimination -

3. If any trade union or any person, other than a worker, contravenes any provision of section 196, it or he [or she] shall be punished with imprisonment for a term which may extend to 1 (one) year, or with fine which may extend to 10,000 (ten thousand) taka, or with both.

ADMINISTRATION, INSPECTION, ETC. Powers of the Director General



CHAPTER XX

ADMINISTRATION, INSPECTION, ETC.

317. (4) The Director General shall have the following powers and functions, namely:-

- a) to submit complaints to the Labour Court against any offence or **unfair labour practice or anti-trade union discrimination** or violation of any provision of Chapter XIII;

Conclusion

In conclusion

- The Bangladesh Labour Law provides a framework of rights and responsibilities for both employers and workers.
- Recognizing and avoiding Unfair Labour Practices and Anti-Union Discrimination is fundamental to respecting these rights.
- This module has highlighted the specific prohibitions and potential penalties outlined in the BLA & EPZ.
- Effective administration and inspection are essential for ensuring compliance.
- By understanding our obligations and the legal recourse available, we can contribute to preventing unfair labour practices.

End of Module 1

See Activities 1.1 to 1.4