

► Policy Brief

April 2020

Labour Administration in Bangladesh: Department of Labour (DoL)

1. Background

A sound labour administration and inspection system is fundamental for good labour market governance, equitable economic development and the effective implementation of international labour standards. Over the past few decades, the context in which these institutions operate has changed fundamentally and, as a result, this has placed increasing pressure on governments to review not only their respective organizations but also their roles and operational models. In this regard, Bangladesh is no different.

It is therefore key to strengthen the role of labour administration to implement various elements of Bangladesh's national labour policy. This is done through improving both human and institutional capacity, generally with limited resources but better efficiencies, in order to improve its performance.

In Bangladesh, the legislative basis for labour administration derives from the Bangladesh Labour Act (BLA), 2006 (amended in 2013 and 2018). The Ministry of Labour and Employment (MoLE) has ultimate responsibility for labour administration in Bangladesh through the Department of Labour (DoL), the Department of Inspection for Factories and Establishments (DIFE) and the Labour Judiciary.

This brief provides an overview of the structure of labour administration in Bangladesh by outlining the roles and responsibilities of the Ministry of Labour and Employment, and more specifically, the Department of Labour (DoL).

In addition, key ILO interventions at the DoL are highlighted. The key responsibilities of the DoL are presented against the DoL's key functions, that is, to endeavour to *“continuously facilitate effective labour management relations, collective bargaining and negotiation, and ensure the prompt and efficient settlement of labour disputes in the industrial sectors of Bangladesh”*. Lastly, the recommendations for improving the future delivery capacity of the DoL are also provided.

2. Structure of Labour Administration in Bangladesh

There are various authorities and agencies responsible for labour administration in Bangladesh, under the administrative control of MoLE.

2.1 Ministry of Labour and Employment (MoLE)

The objective of MoLE is to alleviate poverty through the creation of employment opportunities for the poor, unemployed and unskilled labour force of the country. The functions of the Ministry are implemented through various activities, including:

- i. Promoting training aimed at up-skilling workers;
- ii. Facilitating improved labour relations, including at workplace level, in order to achieve enhanced productivity;
- iii. Undertaking labour research, including the compilation of labour statistics; and
- iv. Promoting the welfare of workers through formulating and implementing labour laws, setting labour wages, etc.

The main implementing agencies under the administrative control of MoLE (see Annex 1) are: (i) the Department of Labour (DoL), (ii) the Department of Inspection for Factories and Establishments (DIFE), (iii) Labour Court/Labour Appellate tribunal, (iv) Minimum Wage Board, and (v) the Bangladesh Labour Welfare Foundation.

2.2 Department of Labour (DoL)

The DoL provides national services in support of regulating the labour market and labour relations therein. The key responsibilities of DoL are:

- i. to provide conciliation machinery to deal with labour disputes, including strikes and lockouts, to ensure industrial peace in the interest of increased productivity;
- ii. registration and regulation of trade unions and collective bargaining agents (CBA);
- iii. to provide support to elections and the functioning of Participation Committees; and
- iv. management and prosecution of complaints related to anti-trade union discrimination and unfair labour practices.

There are many challenges associated with the promotion of a conducive environment for harmonious industrial relations, including low unionization rates and the lack of capacity for collective bargaining agents as well as limited access to Freedom of Association and Collective Bargaining. These render efforts of the DoL to deliver on its core mandate 'difficult'.

3. ILO Interventions at DoL

The ILO, over a number of years, has been engaged in building the capacity of DoL through its development cooperation interventions, including the development of an on-line/publicly accessible database on the registration of trade unions and the management of complaints related to unfair labour practices.

Other interventions include:

- Upstream analysis, which assessed capacity and capability of the DoL (including existing legal framework) to deal with labour disputes.
- Training and creation of a pool of 30 DoL official:
 - on effective conciliation of labour disputes
 - on effective investigation and prosecution of complaints of unfair labour practices
 - as master trainers on workplace cooperation.
- Development of standard operating procedures on union registration and unfair labour practices.
- Facilitating the establishment of the RMG-Tripartite Consultative Committee (TCC).
- Development of enterprise-level grievance handling guidelines.
- Development of guidelines for the transparent establishment of Participation Committees (PCs).

Alongside these capacity building initiatives, in 2019 the ILO organized a sub-regional experts' workshop on labour dispute resolution in Dhaka. The purpose of the workshop was to develop a practical and implementable action plan to strengthen labour dispute resolution in South Asia, informed by the selected country experiences and expert insights. The workshop aimed at drawing on the collective international experiences and expertise to help develop a coherent and effective mechanism for addressing labour disputes in the country.

4. Key Issues

As part of the labour administration framework of Bangladesh, DoL plays an important role and is responsible for facilitating the process of collective bargaining, and maintaining industrial relations through mechanisms for dispute resolution and the management of unfair labour practices and trade union registration under the existing legal structure of the Bangladesh Labour Act, 2006 (as amended in 2013 and 2018). In addition, the legal mandate of the DoL also extends to supervise the election and activities of participation committees.

To deliver on its legal mandate, the DoL commenced with a process of upgradation that will include an expansion of its geographical coverage by opening up new offices. It is important that this expansion aligns with national needs, the demands of the labour market and the timely registration of all trade union registration applications. In its 2019 observation (published in 2020), the Committee of Experts on the Application of Conventions and Recommendations (CEACR) also welcomed the increase of personnel at the DoL from 721 to 921.

In its 2019 observation (published in 2020), the CEACR observed that despite the Government's efforts to simplify the process and ensure its transparency, trade union registration seemed to remain overly complicated, obliging the applicants to comply with stringent conditions and submit numerous documents. While further noting the reported increase in the rate of trade union registrations, the Committee observed that the rejection rate remained high (26 per cent). The CEACR also observed that, according to the International Trade Union Corporation (ITUC), the registration process remained extremely burdensome, the SOPs failed to prevent arbitrary denial of applications, the Registrar routinely imposed conditions not based in the law or regulations and the Joint Director of Labour retained total discretionary power to refuse registration for false or fabricated reasons. The CEACR encouraged the Government to continue to take all necessary measures to ensure that registration was, both in law and practice, a simple, objective, rapid and transparent process, which did not restrict the rights of workers to establish organizations without previous authorization. It invited the Government to explore, in cooperation with social partners, concrete ways of simplifying the registration process to make it more user-friendly and accessible to all workers, as well as to provide, where necessary, training to workers on submitting complete and duly documented applications for trade union registration. It also encouraged the Government to provide comprehensive training to divisional and regional Department of Labour (DoL) officers who were responsible for registration of trade unions, so as to ensure that they have sufficient knowledge and capacities to handle applications for registration rapidly and efficiently.

Further, in its 2019 observation (published in 2020), the CEACR addressed the issue of violence against workers, although not in the context of registration but following legitimate trade union activities (workers' protests). The CEACR expressed concern at the allegations of violent suppression by the police of several workers' protests in 2018 and 2019, as well as massive dismissals and the filing of false criminal complaints against hundreds of named unionists and thousands of unnamed persons. It emphasized in this regard that, a truly free and independent trade union movement could only develop in a climate free from violence, pressure and threats of any kind against the leaders and members of such organizations.

In light of the above, it is key that additional training is required to upgrade the online database-systems for both the registration of trade unions and the complaint management procedures for unfair labour practices and anti-union discrimination. The entire process of on-line registration systems has to be easier and more user friendly in order to support the principles of freedom of association and collective bargaining.

*In its 2017 observation (published in 2018), the CEACR noted with interest the creation of a public database on union registration, which had the potential to improve the rapidity and transparency of the registration procedure. However, in its 2019 comments (published in 2020), the CEACR observed that the online registration system was not yet fully functional and while noting the technical difficulties, **it expressed trust that the online registration system and the publicly available database would be fully operational in the near future so as to ensure total transparency of the registration process.***

It would appear that neither the online registration system and registration database, nor the database on Unfair Labour Practices (ULP) is currently accessible or functioning due to numerous software issues. Emphasis should be put on urgently completing the IT upgrade to have both databases up and running. Once the databases are functional, training must be provided to DoL officials on how to use the online tools and how to feed/input correct data into the systems. Training is also required for workers to successfully complete the online registration system, which has been said to be quite complex. Efforts should also be made to simplify the online registration process for applicants.

The slowdown in the number of trade union applications, coupled with the continuing high rejection rates remains an ongoing concern. Hence the importance of providing sufficient human and financial resources to this effort, as well as training the relevant DoL officials, both at DoL headquarters and the regional and divisional offices.

The Standard Operating Procedures (SOPs) for union registration need to be put into full effect and the applicants should be provided with clear, transparent and legitimate reasons for the rejection of their applications.

Regular updates to the online registration system should be made to ensure transparency and confidence in the system. The process of registration should be made simpler to ensure that workers can complete the process with ease, while on-line registration needs to be made more user-friendly. The database should present, at a glance, all the figures and information relating to TU registration in the country.

The Bangladesh Labour Rules (BLR) 2015 and the operating procedures will need to be updated to reflect the recent amendments relating to TU registration in the BLA (e.g. 20 per cent minimum membership requirement).

4.1 Participation Committees

The Participation Committee (PC) is a medium for effective labour-management relations; it is not a supplement to trade unions. The PCs could play a critical role in identifying and mitigating day-to-day affairs in an establishment, including productivity.

5. Way forward

Based on the current situation, the following suggestions are being put forward to help improve the institutional capacity of DoL.

5.1 Institutional capacity of DoL is strengthened to: (i) improve the quality of and (ii) increase access to its services through

- Ensuring the availability of a supply of capable staff that are ready to assume key roles. This could be done via forecasting of human resource requirements; assessment of employee competence and identification of competence gaps; implementation of learning and development programmes; performance management; and recruitment of staff both from internal and external sources. The DoL should also develop a strong justification for increased funding and approvals to ensure the staffing gaps are filled.

- Taking effective steps to establish compliance, monitoring and enforcement procedures to ensure that DoL officials effectively comply and meet job responsibilities.
- Taking effective steps to address the current human resources capacity shortages through competency-based staff development initiatives (technical skills and service delivery oriented), with required support from the ILO and other development partners.
- Setting up awareness programmes on statutory and judicial advocacy on legislative enforcement requirements by using the Industrial Relations Institute (IRI), which is housed in DoL, to educate stakeholders on broader labour legislation.
- Enhancing capacity of other stakeholders to understand and apply international labour standards and BLA, i.e., intervention in legal education through selected law schools, Bangladesh Bar Council, Judicial Administration Training Institution, selected Bar Associations, Professional Organizations, etc.

In its 2019 observation (published in 2020), the CEACR noted the detailed information provided on training and capacity-building activities provided to the concerned stakeholders and workers, including through the Workers' Resource Centre (WRC). It encouraged the Government to continue to provide the necessary training and awareness raising to labour officials and other State agents, and to inform about the functioning in practice of the WRC.

5.2 Registration of trade unions

The registration of TUs is one of the fundamental mandates of the DoL. This function can be enhanced by:

- Capacity building/training of the Registrars of Trade Unions to undertake their legal duties expeditiously and professionally.
- Taking effective steps to continue to review and simplify both the BLA and the BLR in regard to the registration of trade unions. Focus should be on simplifying the registration procedure to make it a simple, objective, rapid and transparent process. Registration should not be a cumbersome procedure requiring the applicants to submit numerous documents, but should be based solely on clear legal requirements and in line with the C087 – Freedom of Association and Protection of the Right to Organise Convention, 1948 (No. 87). In addition, it is important to ensure that the new minimum membership requirement (20 percent of the workforce) is applied in practice.
- Taking effective steps, in conjunction with all stakeholders, to review both the content and the structure of the online system for trade union registration in alignment with the amended BLA and the SoPs. Thereafter, promoting the online system for trade union registration, through capacitating DoL staff and workers about TU registration, SoPs and operation of the online trade union registration system.
- Taking effective steps for the development and implementation of a comprehensive framework for the monitoring and evaluation mechanisms at DoL and to measure the efficiency and effectiveness of the trade union registration function of DoL.

In its 2019 comments (published in 2020), the CEACR also expressed its expectation that the Government would engage in meaningful discussions with the social partners in order to: continue to review the BLA with the aim of reducing the minimum membership requirements to a reasonable level, at least for large enterprises and trade unions in a group of establishments; amend section 179(5); and repeal section 190(f) that allows for cancellation of a trade union if its membership falls below the minimum membership requirement.

The Committee on Freedom of Association also examined allegations of continued arbitrary denial of trade union registrations (see 382nd Report, Case No. 3203, para. 172).

The 2017 Committee on the Application of Standards also called on the Government to ensure that applications for union registration are acted upon expeditiously and are not denied unless they fail to meet clear and objective criteria set forth in the law.

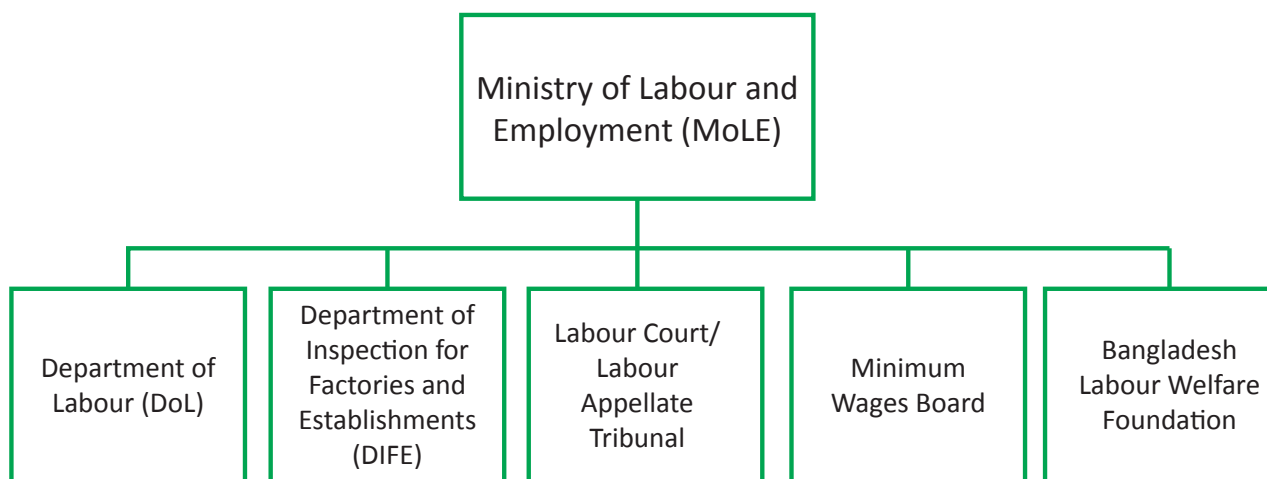
5.3 Industrial Relations including dispute resolution mechanisms and the management of unfair labour practices

In its 2019 observation (published in 2020), the CEACR requested the Government to continue to provide detailed statistics on the number of complaints of anti-union discrimination received by the relevant authorities and their follow-up, including time taken to resolve the disputes, remedies imposed, the number of complaints settled amicably compared to those referred to labour courts, the results of judicial proceedings and the sanctions ultimately imposed following full proceedings. The CEACR encouraged the Government to continue to provide the necessary training to labour officials on dealing with anti-union and unfair labour practices complaints with a view to ensuring their efficient and credible handling.

- Taking effective steps for the introduction of compulsory, court sponsored Alternative Dispute Resolution (ADR) systems to reduce the current backlog of labour disputes. As such, reference of the labour cases by trial judges for mediation should be encouraged.
- Ensure adequate resourcing of the DoL, with the requisite competencies and skills (conciliation, labour law and modern ADR methodologies) to deal with dispute resolution.
- The development and implementation of case management systems, standard operating procedures and recording and reporting mechanisms for dispute resolution.
- Consideration given to extend the legal aid scheme to include labour disputes, since most of the claimants are poor.
- Taking effective steps for DoL to give consideration to establishing an independent agency to deal with labour disputes.
- Promotional activities on mandate and functions of the DoL, in regard to conciliation of labour disputes and increased transparency and accountability. DoL should be mainstreamed and appreciated by stakeholders, i.e., employers' organizations, trade unions etc.
- Capacitating the labour judiciary in order to enhance the access to justice.

Annex 1

Implementing agencies under the administrative control of MoLE



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