

Dear Director General,

We thank you for your letter to all ILO Member States dated 31 August that was brought to our attention. In this letter you confirmed that you have received the request from the ILO Workers' group of 12 July 2023 for the urgent referral of the dispute over the interpretation of the Freedom of Association and Protection of the Right to Organize Convention, 1948 (No 87) (C.87) in relation to the right to strike to the International Court of Justice (ICJ) for decision, in accordance with article 37(1) of the ILO Constitution. The Workers' group also requested this matter to be put urgently on the agenda of the Governing Body for decision. This request has in the meantime received support from 36 Governments from different regions, recognising the importance of legal certainty on this issue for all constituents.

We also express our appreciation for the background report that was prepared by your Office to inform the decision during the Special Meeting of the Governing Body on 10 November 2023 and welcome your invitation to all Governments and employers' and workers' organisations concerned to send in comments.

Indeed, the right to strike is of the utmost importance for workers in Bangladesh and the inability of the ILO to supervise this right, as a consequence of the dispute, in our national context is potentially seriously affecting labour relations in our country.

In Bangladesh recently introduced in the Parliament of Bangladesh a Bill No. 12/2023 on April 6, 2023, states that, "Notwithstanding anything contained in any other law apparently in force, the provisions of this Act shall prevail." As a result, if this Bill becomes law, this Act shall prevail over the Labour Act; whereas the Labour Act states that "except as otherwise provided elsewhere in this Act, this Act shall apply to the whole of Bangladesh". Therefore, if this Essential Services Bill becomes law, it will render the Labour Act null and void, effectively taking away any statutory right to strike in the Labour Act, will be taken.

It is mentioned in the beginning of this bill as a bill to amend the Act of 1952 and the Ordinance of 1958 to declare certain jobs or classes of jobs or services as essential services, to regulate the persons concerned and to make necessary provisions for other incidental matters'. This bill is inconsistent with the democratic functioning of trade unions and amounts to taking away the fruits of the long-standing movement of the workers of this land. This bill is contrary to the fundamental right to strike as recognized by the ILO Convention and international recommendations.

We, therefore, wholeheartedly support the request for a referral from our Workers' representatives in the Governing Body and call for an urgent decision by the Governing Body to ensure an immediate referral of the dispute to the ICJ. In addition, since we firmly believe that the right to strike is an essential part of freedom of association and already elaborated by the ILO supervisory bodies, there will be no added value in a protocol complementing the convention to qualify the right to strike. On the contrary, any such attempt would generate a conflict with C.87 already guaranteeing the right to strike as a fundamental principle and right at work. This would further exacerbate the dispute rather than solve it. We are convinced that legal certainty through an advisory opinion of the ICJ that is binding on the ILO is urgently required.

Yours sincerely,


(Anwar Hossain)

President
Bangladesh Jatiyatabadi Sramik Dal-BJSD